

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
December 20, 2005**

A meeting of the Fayetteville City Council will be held on December 20, 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**

Consider bringing off the table the City of Elkins Sewer Agreement: APPROVED TO ADD TO AGENDA AS NEW BUSINESS ITEM NO. 15.

Nominating Committee Report: APPROVED

A. CONSENT:

1. **Approval of the October 20, 2005 and October 27, 2005 Special City Council meeting minutes and the November 1, 2005 City Council meeting minutes.**

APPROVED.

2. **Airport SAAG Grant:** A resolution authorizing Airport Staff to apply for and accept a SAAG Grant in the amount of \$100,000.00 from the Arkansas Department of Aeronautics to fund a portion of the cost to remodel the Terminal Building at the Fayetteville Municipal Airport; and approving a budget adjustment recognizing the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 238-05.

3. **Arkansas American Roofing Bid Award #05-83:** A resolution awarding Bid #05-83 to Northwest Roofing Company D/B/A Arkansas American Roofing in the amount of \$30,977.89 for replacement of the roof of the Arkansas Air Museum Hanger Building; approving a project contingency in the amount of \$3,098.11 and approving a budget adjustment in the amount of \$18,012.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 239-05.

4. **Equipment Resource Management - Asphalt Roller Equipment:** A resolution approving the purchase of one (1) Medium Double Drum Vibratory Asphalt Roller from Equipment Resource Management in the amount of \$78,692.00 for use by the Transportation Division (Trails); and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 240-05.

5. **North Point Ford - Police Patrol Sedans:** A resolution authorizing the purchase of eight (8) Police Patrol Sedans from North Point Ford of North Little Rock at a total cost of \$164,928.00; and authorizing the Mayor and City Clerk to execute a waiver with the Ford Motor Company.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 241-05.

6. **Washington County Emergency Operations Center:** A resolution approving an Inter-Local Agreement and authorizing payment not to exceed \$30,000.00 to Washington County as the City of Fayetteville's share of the cost of establishing an Emergency Operations Center in Washington County; and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 242-05.

7. **Hansen Software Maintenance:** A resolution to authorize payment of \$57,987.04 to Hansen for 2006 Software Maintenance Fees.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 243-05.

8. **New World Systems, Inc. Software Maintenance:** A resolution to approve a three year Software Maintenance Contract with New World Systems, Inc. in an amount of \$64,777.40 for 2006.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 244-05.

9. **ESRI Software Maintenance Fees:** A resolution to approve the purchase of the 2006 ESRI Software Maintenance Fees in the amount of \$31,073.38.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 245-05.

10. **Fayetteville/Springdale Area Transit Authority Dissolution:** A resolution approving the dissolution of the Fayetteville/Springdale Area Transit Authority.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 246-05.

- 11. Lufkin Trailers – Noland Wastewater Treatment Plant Trailer:** A resolution approving the purchase of one (1) trailer from Lufkin Trailers in the amount of \$19,600.00 for hauling sludge from the Noland Wastewater Treatment Plant; and approving a budget adjustment in the amount of \$20,851.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 247-05.

B. PUBLIC HEARINGS:

- 1. Public Hearing for Monthly Sewer Rate Ordinance.**

THERE WAS NO PUBLIC COMMENTS MADE.

C. UNFINISHED BUSINESS:

- 1. Amend § 51.137 Monthly Sewer Rates:** An ordinance to amend § 51.137 of the Code of Fayetteville by lowering the sewer rate charged for Elkins, Arkansas and postponing the scheduled system wide rate increase for four months. *This ordinance was left on the Second Reading at the December 6, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4803.

- 2. C-PZD 05-1610 (East Square Redevelopment):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1610, East Square Development, located at the north west corner of Mountain Street and College Avenue, containing approximately 1.01 acres; amending the Official Zoning Map of the City of Fayetteville; waiving any possibly conflicting development ordinances; and adopting the Associated Planned Zoning District. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4804.

D. NEW BUSINESS:

- 1. Stephens Inc. Contract - WSIP:** A resolution approving an amendment to the Financial Advisory Services Agreement with Stephens, Inc., in an amount not to exceed \$20,000.00 to assist with the financing of the Wastewater System Improvements Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 248-05.

- 2. Fayetteville Municipal Property Owners Improvement District #12 – Belclaire:** An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District #12 – Belclaire

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4805.

3. **Amend Chapter 159: Fees, UDC:** An ordinance amending Chapter 159: Fees, Unified Development Code, Code of Fayetteville limiting certain building fee exemptions.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4806.

4. **Reserve LLC - Cost-Share Agreement:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development; and approving a budget adjustment in the amount of \$577,453.00.

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

5. **OMI Contract Approval:** A resolution approving Amendment No.13 to the contract with Operations Management International (OMI) in the amount of \$4,674,829.66 for the operation and management of Fayetteville Wastewater Treatment Facilities for 2006.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 249-05.

6. **Environmental Consulting Operations, Inc. Contract:** A resolution approving an amendment to the engineering contract with Environmental Consulting Operations, Inc. in the amount of \$579,343.00 for construction and post-construction phase services for the entire Wastewater System Improvement Project (WSIP); and approving a contingency of \$20,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 250-05.

7. **ADM 05-1848 Vacating A Utility Easement:** An ordinance approving ADM 05-1848 for property located at the southwest corner of St. Charles Avenue and Watson Street, vacating a utility easement as indicated on the attached map and legal description.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4807.

8. **ANX 05-1811 Summer Resources:** An ordinance annexing that property described in annexation petition ANX 05-1811 for property located north of Highway 16E, north of Deerfield Way, containing 3.75 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4808.

9. **C-PZD 05-1704 First Baptist Church:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1704 First Baptist Church, located at 20 East Dickson Street, 325 and 321 North College Avenue, and 350 and 354 North Highland Avenue, containing approximately 4.08 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

- 10. R-PZD 05-1734 Paradise Point:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1734, Paradise Point, located west of Crossover, south of Joyce Boulevard, containing approximately 1.55 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

- 11. R-PZD 05-1797 Bungalows at Cato Springs Road and Cline Avenue:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1797, Bungalows at Cato Springs, located northwest of Cato Springs Road and Cline Avenue, west of 71 Business/South School Avenue, containing approximately 5.52 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4809.

- 12. R-PZD 05-1798 DePalma Addition:** A ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1798, DePalma Addition, located at the south end of Anson Street, containing approximately 10.04 acres, more of less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4810.

- 13. Amend § 97.070 Lake Recreation Fees:** An ordinance amending §97.070 of the Code of Fayetteville to clarify permitting requirements for the recreational use of city-owned lakes.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4811.

- 14. 2005 Re-Budgeting Request:** A resolution amending the adopted 2006 budget to re-authorize funding from 2005, in order to retain project funding for identified, scheduled and on-going Capital Improvements.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 251-05.

- 15. Elkins Sewer Agreement:** A resolution to approve a contract with the City of Elkins concerning their sewer rates and other matters.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 252-05.

- 16. 2006 Bond Purchase Agreement - Wastewater Treatment Facility:** An ordinance authorizing the issuance and sale of not to exceed \$20,000,000 of a Sales and Use Tax Capital Improvement Bond, Series 2006, by the City of Fayetteville, Arkansas for the purpose of financing a portion of the costs of acquiring, constructing and equipping pipelines in connection with a new Wastewater Treatment Facility and related sewerage improvements; providing for the payment of the principal of and interest on the Series

2006 Bond; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the Series 2006 Bond; authorizing the execution and delivery of a Continuing Disclosure Agreement ; and prescribing other matters relating thereto.

THIS ITEM WAS TABLED TO JANUARY 3, 2006 CITY COUNCIL MEETING.

E. PUBLIC HEARINGS:

1. **Dan Nelson Revocable Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Dan Nelson Revocable Trust.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 253-05.

2. **Barbara J. Heyliger Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Barbara J. Heyliger Trust.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 254-05.

3. **Dan Nelson Revocable Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the dan Nelson Revocable Trust.

THIS ITEM WAS RECONSIDERED AND PASSED. THE NUMBER STAYS THE SAME AS ABOVE.

4. **Lori S. Taylor Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Lori S. Taylor.

THIS ITEM WAS TABLED INDEFINITELY.

5. **MSB Properties, LLC and Nanchar, Inc. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by MSB Properties, LLC and Nanchar, Inc.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 255-05.

6. **Lindsey, Sexton, and J.W. Reynolds Lumber Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by James E. Lindsey and Nita V. Lindsey; Giles A. Sexton and Elsie D. Sexton; and J.W. Reynolds Lumber Company; all as tenants in common.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 256-05.

7. **Commonwealth-Goshen Theatre Corporation Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Commonwealth-Goshen Theatre Corporation.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 257-05.

- 8. John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC.

THIS ITEM WAS TABLED TO THE JANUARY 3, 2006 CITY COUNCIL MEETING.

F. INFORMATIONAL:

Council Tour: NONE

MEETING ADJOURNED AT 10:05 P.M.

City Council Meeting December 20, 2005

Subject:	John D. Lindsey, LLC Condemnation				
Motion To:		Amerd.		Table til	the 1st meeting in Jan
Motion By:		Rhoads		Rhoads	
Seconded:		Cook		Cook	
E. 7. Public Hearing This res was tabled until Jan 3, 2005	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Mayor Coody				

8-0

8-0

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

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

8-

Subject:	Nominating Committee Report			
Motion To:	Approve			
Motion By:	Cook			
Seconded:	Marr			
Approved	Thiel	✓		
	Cook	✓		
	Marr	✓		
	Rhoads	absent during the vote		
	Ferrell	✓		
	Lucas	✓		
	Jordan	✓		
	Reynolds	✓		
	Mayor Coody			

7-0

Subject:	Consent				
Motion To:					
Motion By:		Reynolds			
Seconded:		Lucas			
passed Res 238-05 to 247-05	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject:	Public Hearing for Monthly Sewer Rate				
Motion To:					Ordinance
Motion By:					
Seconded:					
B.I. Public Hearing	Thiel				
	Cook	NO	Public	Comment	
	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Mayor Coody				

Subject:	Amend 51.137 Monthly Sewer Rates				
Motion To:		3rd read			
Motion By:		Thiel			
Seconded:		Reynolds			
C.I. Unfinished	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject:	Amend 51.137 Monthly Sewer Rates				
Motion To:		Amend		Pass	
Motion By:		Cook			
Seconded:		Ferrell			
C.I. Unfinished Amendment passed 8-0 4803	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Mayor Coody				

8-0

8-0

Subject:	C - P2D 05-1610 (East Square Redevelopment)				
Motion To:		2nd read			
Motion By:		Reynolds			
Seconded:		Marr			
C. 2. Unfinished	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject:	C - P2D 05-1610 (East Square Redevelopment)				
Motion To:		Amend		Amend	
Motion By:		Reynolds		Ferrell	
Seconded:		Marr		Marr	
	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Mayor Coody				

8-0

8-0

City Council Meeting December 20, 2005

Subject:	C - P2D 05-1610 (East Square Redevelopment)				
Motion To:		3rd read	Pass		
Motion By:		Marr			
Seconded:		Reynolds			
<u>Passed</u> 4804	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Mayor Coody				
		8-0	8-0		

Subject:	Stephens, Inc. Contract - WSIP				
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Marr			
D.I. New Business <u>Passed</u> 248-05	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

Subject:	Jayetteville Municipal Property Owners Improvement District				
Motion To:		2nd read	3rd read	Pass	#12 Belclaire
Motion By:		Ferrell	Ferrell		
Seconded:		Marr	Marr		
D.2. New Business <u>passed</u> 4805	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	Amend Chapter 159: Fees, UPC.				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Marr		
Seconded:		Lucas	Reynolds		
D.3. New Business <u>passed</u> 4806	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	Reserve, LLC - Cost Share Agreement				
Motion To:					
Motion By:					
Seconded:					
D. 4. New Business Left on the first reading	Thiel				
	Cook				
	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Mayor Coody				

Subject:	DMI Contract Approval				
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Marr			
D. 5. New Business <u>passed</u> 249-05	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

Subject:	Environmental Consulting Operations, Inc. Contract				
Motion To:		Pass			
Motion By:		Reynolds			
Seconded:		Ferrell			
D. 6. New <u>Passed</u> 250-05	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject:	ADM 05-1848 Utility Easement Vacation				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Marr		
Seconded:		Marr	Lucas		
D. 7. New Business <u>Passed</u> 4807	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	N	N	
	Mayor Coody				

8-0

7-1

7-1

Subject:	ANX-05-1811 Summer Resources				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrull	Ferrull		
Seconded:		Reynolds	Reynolds		
D. 8. New Business passed 4808	Thiel	absent during the vote	✓	✓	
	Cook	✓	N	N	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				

7-0

7-1

7-1

Subject:	C-PZD 05-1704 First Baptist Church				
Motion To:		2nd read			
Motion By:		Marr			
Seconded:		Reynolds			
D. 9. New Business Left on the Second Reading	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject:	R-P2D 05-1734 Paradise Point				
Motion To:		2nd read	3rd read		
Motion By:		Ferrell	Rhoads		
Seconded:		Reynolds	Ferrell		
D.10. New Business Left on the Second Reading	Thiel	✓	N		
	Cook	✓	N		
	Marr	✓	N		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	N		
	Reynolds	✓	✓		
	Mayor Coody				

8-0

4-4 failed reading three

Subject:	R-P2D 05-1797 Bungalows at Cato				
Motion To:		2nd read	3rd read	Pass	Spring
Motion By:		Thiel	Thiel		
Seconded:		Reynolds	Reynolds		
D.11. Passed 4809	Thiel	✓	✓	✓	
	Cook	✓	N	✓	
	Marr	✓	N	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				

8-0

6-2

8-0

Subject:	R - PZD - 05-1798 DePalma Addition				
Motion To:		2nd read	3rd read		
Motion By:		Thiel	Reynolds		
Seconded:		Ferrell	Thiel Ferrell		
D.12. New Business passed 4810	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	Amend 97.070 Lake Recreation Fees				
Motion To:		2nd read	3rd	Pass	
Motion By:		Marr	Marr		
Seconded:		Lucas	Reynolds		
D.13. New Business passed 4811	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	2005 - Re-Budgeting Request			
Motion To:		Approve		
Motion By:		Marr		
Seconded:		Thiel		
D. 14, New Business <u>Passed</u> 251-05	Thiel	✓		
	Cook	✓		
	Marr	✓		
	Rhoads	Absent during the vote		
	Ferrell	✓		
	Lucas	✓		
	Jordan	✓		
	Reynolds	✓		
	Mayor Coody			

7-0

Subject:	Elkins Sewer Rate - Remove from the			
Motion To:		Remove from the table	Approve	table
Motion By:		Cook	Cook	
Seconded:		Ferrell	Marr	
Added to the Agenda <u>Passed</u> 252-05	Thiel	✓	✓	
	Cook	✓	✓	
	Marr	✓	✓	
	Rhoads	Absent during vote	✓	
	Ferrell	✓	✓	
	Lucas	✓	✓	
	Jordan	✓	✓	
	Reynolds	✓	✓	
	Mayor Coody			

7-0

8-0

Subject:	2006 Bond Purchase Agreement				
Motion To:		Table until Jan. 3, 2006			
Motion By:		Cook			
Seconded:		Lucas			
D. 15 New Business By the City Tabled until Jan 3, 2006	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject:	DAN Nelson Condemnation				
Motion To:		Appraise			
Motion By:		Thiel			
Seconded:		Cook			
E. 1. Public Hearing Passed 253-05	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	N			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

7-1

Subject:	Barbara J. Heyliger Trust Condemnation				
Motion To:		Amend to remove dollar amount		Pass	
Motion By:		Thiel		Ferrell	
Seconded:		Cook		Lucas	
E.2. Public Hearing passed 254-05	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Mayor Coody				

8-0

8-0

Subject:	Reconsider > DAN Nelson Revocable Trust				
Motion To:		Reconsider	Amend	Approve	
Motion By:		Marr	Marr	Marr	
Seconded:		Cook	Cook	Thiel	
E.1 Public Hearing passed 254-05 253-05	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	N	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	N	
	Mayor Coody				

8-0

8-0

6-2

Subject:	Lori S. Jaylor				
Motion To:		Table Indef.			
Motion By:		Marr			
Seconded:		Lucas			
E. 3. Public Hearing <u>Tabled</u> <u>Indef.</u>	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject:	MSB Properties, LLC Condemnation				
Motion To:		Amend			
Motion By:		Thiel	Rhoads		
Seconded:		Cook	Lucas		
E. 4. Public Hearing <u>Passed</u> 255-05	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	N		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Mayor Coody				

8-0

7-1

City Council Meeting December 20, 2005

Subject:	Lindsay, Sexton & J.W. Reynolds				
Motion To:		Amend		Pass	Condemnation
Motion By:		Rhoads		Rhoads	
Seconded:		Thiel		Lucas	
E. S. Public Hearing <u>passed</u> 256-05	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Mayor Coody				

8-0

8-0

Subject:	Commonwealth - Goshen Theatre				
Motion To:		Amend		Pass	Condemnation
Motion By:		Rhoads		Rhoads	
Seconded:		Ferrell		Lucas	
E-6. Public Hearing 257-05	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		N	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Mayor Coody				

8-0

7-1

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
December 20, 2005**

A meeting of the Fayetteville City Council will be held on December 20, 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**

Consider bringing off the table the City of Elkins Sewer Agreement

Nominating Committee Report

A. CONSENT:

- 1. Approval of the October 20, 2005 and October 27, 2005 Special City Council meeting minutes and the November 1, 2005 City Council meeting minutes.**
- 2. Airport SAAG Grant:** A resolution authorizing Airport Staff to apply for and accept a SAAG Grant in the amount of \$100,000.00 from the Arkansas Department of Aeronautics to fund a portion of the cost to remodel the Terminal Building at the Fayetteville Municipal Airport; and approving a budget adjustment recognizing the grant revenue.
- 3. Arkansas American Roofing Bid Award #05-83:** A resolution awarding Bid #05-83 to Northwest Roofing Company D/B/A Arkansas American Roofing in the amount of \$30,977.89 for replacement of the roof of the Arkansas Air Museum Hanger Building; approving a project contingency in the amount of \$3,098.11 and approving a budget adjustment in the amount of \$18,012.00.

4. **Equipment Resource Management - Asphalt Roller Equipment:** A resolution approving the purchase of one (1) Medium Double Drum Vibratory Asphalt Roller from Equipment Resource Management in the amount of \$78,692.00 for use by the Transportation Division (Trails); and approving a budget adjustment.
5. **North Point Ford - Police Patrol Sedans:** A resolution authorizing the purchase of eight (8) Police Patrol Sedans from North Point Ford of North Little Rock at a total cost of \$164,928.00; and authorizing the Mayor and City Clerk to execute a waiver with the Ford Motor Company.
6. **Washington County Emergency Operations Center:** A resolution approving an Inter-Local Agreement and authorizing payment not to exceed \$30,000.00 to Washington County as the City of Fayetteville's share of the cost of establishing an Emergency Operations Center in Washington County; and approving a budget adjustment.
7. **Hansen Software Maintenance:** A resolution to authorize payment of \$57,987.04 to Hansen for 2006 Software Maintenance Fees.
8. **New World Systems, Inc. Software Maintenance:** A resolution to approve a three year Software Maintenance Contract with New World Systems, Inc. in an amount of \$64,777.40 for 2006.
9. **ESRI Software Maintenance Fees:** A resolution to approve the purchase of the 2006 ESRI Software Maintenance Fees in the amount of \$31,073.38.
10. **Fayetteville/Springdale Area Transit Authority Dissolution:** A resolution approving the dissolution of the Fayetteville/Springdale Area Transit Authority.
11. **Lufkin Trailers - Noland Wastewater Treatment Plant Trailer:** A resolution approving the purchase of one (1) trailer from Lufkin Trailers in the amount of \$19,600.00 for hauling sludge from the Noland Wastewater Treatment Plant; and approving a budget adjustment in the amount of \$20,851.00.

B. PUBLIC HEARINGS:

1. **Public Hearing for Monthly Sewer Rate Ordinance.**

C. UNFINISHED BUSINESS:

1. **Amend § 51.137 Monthly Sewer Rates:** An ordinance to amend § 51.137 of the Code of Fayetteville by lowering the sewer rate charged for Elkins, Arkansas and postponing the scheduled system wide rate increase for four months. *This ordinance was left on the Second Reading at the December 6, 2005 City Council meeting.*
2. **C-PZD 05-1610 (East Square Redevelopment):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1610, East Square Development, located at the north west corner of Mountain Street and College Avenue, containing

approximately 1.01 acres; amending the Official Zoning Map of the City of Fayetteville; waiving any possibly conflicting development ordinances; and adopting the Associated Planned Zoning District. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting.*

D. NEW BUSINESS:

1. **Stephens Inc. Contract - WSIP:** A resolution approving an amendment to the Financial Advisory Services Agreement with Stephens, Inc., in an amount not to exceed \$20,000.00 to assist with the financing of the Wastewater System Improvements Project.
2. **Fayetteville Municipal Property Owners Improvement District #12 – Belclaire:** An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District #12 – Belclaire
3. **Amend Chapter 159: Fees, UDC:** An ordinance amending Chapter 159: Fees, Unified Development Code, Code of Fayetteville limiting certain building fee exemptions.
4. **Reserve LLC - Cost-Share Agreement:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development; and approving a budget adjustment in the amount of \$577,453.00.
5. **OMI Contract Approval:** A resolution approving Amendment No.13 to the contract with Operations Management International (OMI) in the amount of \$4,674,829.66 for the operation and management of Fayetteville Wastewater Treatment Facilities for 2006.
6. **Environmental Consulting Operations, Inc. Contract:** A resolution approving an amendment to the engineering contract with Environmental Consulting Operations, Inc. in the amount of \$579,343.00 for construction and post-construction phase services for the entire Wastewater System Improvement Project (WSIP); and approving a contingency of \$20,000.00.
7. **ADM 05-1848 Vacating A Utility Easement:** An ordinance approving ADM 05-1848 for property located at the southwest corner of St. Charles Avenue and Watson Street, vacating a utility easement as indicated on the attached map and legal description.
8. **ANX 05-1811 Summer Resources:** An ordinance annexing that property described in annexation petition ANX 05-1811 for property located north of Highway 16E, north of Deerfield Way, containing 3.75 acres.
9. **C-PZD 05-1704 First Baptist Church:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1704 First Baptist Church, located at 20 East Dickson Street, 325 and 321 North College Avenue, and 350 and 354 North Highland Avenue, containing approximately 4.08 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

10. **R-PZD 05-1734 Paradise Point:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1734, Paradise Point, located west of Crossover, south of Joyce Boulevard, containing approximately 1.55 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
11. **R-PZD 05-1797 Bungalows at Cato Springs Road and Cline Avenue:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1797, Bungalows at Cato Springs, located northwest of Cato Springs Road and Cline Avenue, west of 71 Business/South School Avenue, containing approximately 5.52 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
12. **R-PZD 05-1798 DePalma Addition:** A ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1798, DePalma Addition, located at the south end of Anson Street, containing approximately 10.04 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
13. **Amend § 97.070 Lake Recreation Fees:** An ordinance amending §97.070 of the Code of Fayetteville to clarify permitting requirements for the recreational use of city-owned lakes.
14. **2005 Re-Budgeting Request:** A resolution amending the adopted 2006 budget to re-authorize funding from 2005, in order to retain project funding for identified, scheduled and on-going Capital Improvements.
15. **2006 Bond Purchase Agreement - Wastewater Treatment Facility:** An ordinance authorizing the issuance and sale of not to exceed \$20,000,000 of a Sales and Use Tax Capital Improvement Bond, Series 2006, by the City of Fayetteville, Arkansas for the purpose of financing a portion of the costs of acquiring, constructing and equipping pipelines in connection with a new Wastewater Treatment Facility and related sewerage improvements; providing for the payment of the principal of and interest on the Series 2006 Bond; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the Series 2006 Bond; authorizing the execution and delivery of a Continuing Disclosure Agreement ; and prescribing other matters relating thereto.

E. PUBLIC HEARINGS:

1. **Dan Nelson Revocable Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Dan Nelson Revocable Trust.
2. **Barbara J. Heyliger Trust Condemnation;** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Barbara J. Heyliger Trust.

3. **Lori S. Taylor Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Lori S. Taylor.
4. **MSB Properties, LLC and Nanchar, Inc. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by MSB Properties, LLC and Nanchar, Inc.
5. **Lindsey, Sexton, and J.W. Reynolds Lumber Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by James E. Lindsey and Nita V. Lindsey; Giles A. Sexton and Elsie D. Sexton; and J.W. Reynolds Lumber Company; all as tenants in common.
6. **Commonwealth-Goshen Theatre Corporation Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Commonwealth-Goshen Theatre Corporation.
7. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC.

F. INFORMATIONAL:

Council Tour: NONE

Nominating Committee Report
Meeting: Monday, December 12, 2005
Room 326, City Hall 4:30 p.m.
Members Present – Kyle Cook, Shirley Lucas, and Brenda Thiel

The following is being submitted to the entire City Council for consideration.

Airport Board

The Committee recommends the following candidate for appointment:

- ***Richard Green*** – One aeronautical term ending 12/31/10.

Audit Committee

The Committee recommends the following candidate for reappointment:

- ***Bill Golbuff*** – One community citizen-at-large term ending 12/31/08.

Environmental Concerns Committee

The Committee recommends the following candidates for appointment:

- ***Tom Lamotte*** – One unexpired community citizen at large term ending 12/31/07
- ***Mary Gomez*** – One community citizen-at-large term ending 12/31/08.

Housing Authority Board of Commissioners

The Committee recommends the following candidate for reappointment:

- ***Betty Turner*** – One community citizen-at-large term ending 12/28/10.

Parks and Recreation Advisory Board

The Committee recommends the following candidates for appointment:

- Bob Davis – One community citizen-at-large term ending 12/31/07
- Jon Bitler – One community citizen-at-large term ending 12/31/07
- Milton Burke – One community citizen-at-large term ending 12/31/07
- Wade Colwell – One community citizen-at-large term ending 12/31/07.

Sidewalk and Trails Task Force

The Committee recommends the following candidates for appointment:

- ***Karan Freeman*** – One community citizen-at-large term ending 12/31/07
- ***Jennifer Hazelrigs*** – One community citizen-at-large term ending 12/31/07
- ***Scott Mashburn*** – One community citizen-at-large term ending 12/31/07
- ***Shaune Colwell*** – One community citizen-at-large term ending 12/31/07.

Youth Activities Committee

The Committee recommends the following candidates for appointment:

- ***Whitney Hairston*** – One unexpired citizen-at-large term ending 8/31/07
- ***Kim Davis*** – One unexpired parent term ending 8/31/06.

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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
Special City Council
Meeting Minutes
October 20, 2005**

A meeting of the Fayetteville City Council was held on October 20, 2005 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

ABSENT: Aldermen Rhoads, Ferrell and Lucas.

Pledge of Allegiance

New Business:

Brasfield & Gorrie, LLC Contract: A resolution to approve a contract with Brasfield & Gorrie, LLC, to build the Broyles Road Wastewater Treatment Plant, the Broyles Road Twelve Inch Water Main, and other work for a guaranteed maximum price of \$59,994,710.00 and a contingency of \$2,400,000.00.

Ron Petrie, City Engineer: Let me just start by quickly going through some of this background information. I know several of you are members of the Water and Sewer Committee and have heard most of this but if you have not we certainly want to bring you up to date and inform you of the procedure used to get to this point. In response to having to find a new water and sewer director the Mayor decided to form a WSIP team in order to handle the wastewater treatment plant. This team took the place of one person, the water and sewer director that was in charge of the project. That team consisted of six people; myself, Gary Dumas, David Jurgens, Steve Davis, Tim Conklin and Susan Thomas. One of the first things this team had to face was to open bids on July 21st. This was a conventional unit price bid and we had two bidders. The highest

bid was Archer Western with a price of approximately \$72 million; the lowest was \$71 million. The lowest bidder was VanHorn Construction in Russellville with a bid of approximately \$61 million dollars. Keep in mind these prices were pre-Katrina prices. We knew that those prices were well over our certification of funds for the project. We knew as a team we had to find an alternative solution. One thing that we looked into was the new legislation passed by the state in order to pick a contractor and negotiate with that contractor as opposed to having bids.

We have Peggy Vice here. Since this was the first one in the state that used this procedure I wanted Peggy to run through the procedure real quick.

Peggy Vice, Purchasing Manager: Hello. The first thing you do is advertise for three consecutive days. You put your selection committee together and establish a deadline at least ten days out to receive your qualification statements. You have at least three members on the negotiation committee and we had several plus an aldermen. We received eight proposals and we interviewed five and selected Brasfield & Gorrie.

Mayor Coody: Alright thank you. Do we have any questions for Peggy on this? I want to say thanks. I don't get a chance much publicly to say what a good job you're doing here for the City. People don't recognize or they don't see you. You're behind the scenes making the city operate as legal and as streamlined as possible and we just really appreciate all your hard work. You're doing a very, very good job for us.

Peggy Vice: Thank you very much. This process is a great process. It allows us to look real close at the contractor before we contract. It allows us look at how they do business, what their timeframe has been, how on budget they are, how they keep their books and what their financial strength is. It allows us to look at everything before we enter into a contract.

Mayor Coody: Alright. Thank you very much. I know you explained this Ron, at the Sewer Committee but you might go over this for the City Council who weren't at that meeting. Since Peggy brought up the strength of the company, you might compare that to VanHorn.

Ron Petrie: It was very obvious from the committee that we had a company that was ranked 29th in the Engineering News Record out of 400 in the country of contractors as to a contractor who wasn't on that 400 list. It was very obvious the amount of work they do and the quantity and quality they do. It really allowed us to operate as a private company and do it like a private company would do instead of taking the lowest bidder, the lowest qualified bidder. So it was very obvious they were head and shoulders when we selected them and we're very happy to get them.

As for the contract itself, this is a guaranteed maximum price contract. We'll be doing this paying actual cost that the contract is paying within a six and half percent contracting fee on top of that. Throughout the process as the contract is being negotiated it was determined that there were many items that the city could pay for separately, instead of having a markup of six and half percent we could pay directly. The memo from David Jurgens lists those items such as water, electricity, dumpsters, progress photos, fuel, and those types of issues. Those will have to be paid for but we will not be adding a six and half percent on top of that cost.

Two big things that were removed and we want to make sure that we're very clear about this was Broyles Road construction and the wetlands planting. This price does contain the 12 inch waterline along Broyles Road, it does contain the earthwork or the berms associated with the wetlands planting but just not the planting themselves.

The contract was a total maximum not to exceed the amount of \$59,994,710.00. We are requesting a contingency of four percent in the amount of \$2.4 million. The contract contains that the Notice to Proceed will be issued in approximately two weeks, they will break ground. They will be doing work in between but they will actually be on site breaking ground in February, 2006 and a substantial completion date of May, 2008.

We do have representatives from both McGoodwin, Williams & Yates, and Brasfield & Gorrie here tonight if you have any questions for them also.

Mayor Coody: Alright thank you. Now when you say guaranteed maximum that means that if we can find ways to cut costs and save money we get those savings. I think that they would keep a small percentage of it as an incentive to find those savings, but we would be able to have this as a guaranteed maximum not a guaranteed minimum.

Ron Petrie: That's right.

Mayor Coody: We'll be able to cut this if we can.

Ron Petrie: Right and the savings amount is up to one percent under the maximum price the contractor would keep 50% up to one percent of the construction amount, approximately \$50,000.00.

Mayor Coody: Alright thank you. Any other questions?

Alderman Jordan: The odor abatement is it going to be as good as or better than what we originally said it would be?

Ron Petrie: It will not change from the original bid. The specs will be the same under the same specifications.

Alderman Jordan: And I assume it will be the same for the noise abatement too.

Ron Petrie: That's correct. I know we discussed that at the Water & Sewer Committee and they had questions. The engineer, McGoodwin, Williams & Yates, will be reviewing their submittals on those to make sure that they do meet the specs as originally bid.

Alderman Jordan thanked Mr. Petrie.

Mayor Coody: Thank you very much. I know we have representative's from Brasfield & Gorrie here with us here tonight.

Gary Harrington: I'll tell you quick about Brasfield & Gorrie, I'm Gary Harrington. I'm Vice President Division Manager for what we call a utilities group. We do the water and sewer for Brasfield & Gorrie. We'll do, in our group, a \$150 million and \$180 million worth of work per year in water and sewer. We work in eight states including Arkansas. We're actually in seven states right now. The company does \$1.6 billion worth of work a year. Eighty percent of that is negotiated work similar to what we're talking about here.

We think that we bring to the table the ability to do negotiated work. That's been the bread and butter of the company over the years. So much of our work is repeat customers. Right now in our group which is very usual we have probably five or six negotiated jobs taking place in water and sewer. It's happening more and more throughout the United States. The plus is that already in the last six weeks we've become a team, we've worked with your engineer and we've worked with representatives of the City. We've looked at various items and if they could be done differently. By becoming a team we don't go through the six months trying to find out what we're really like. Is the contractor honest, is the engineer really honest, does the owner pay on time, we work as a team. We're limiting the savings that goes to Brasfield & Gorrie. Some contractors could put two or three million dollars in the contract and have a windfall at the end of the job and go home with three or four million extra dollars. I don't care how quickly we've built or what sort of quality you have all of the sudden we've become a very ugly duckling and you're not happy with us. We need an incentive to work to save you money but we max out. That's what we suggested during our first visit over here is we maxed out one percent of the contract is the most that we can take home. Any savings we go 50/50 up to that point. Anything above that all goes back to the city.

Alderman Jordan: So it's a win win.

Mr. Harrington: To hear that from a contractor I know it's sort of scary. We try to be good citizens. We've been extremely impressed with the City of Fayetteville. If I had to live somewhere besides Birmingham this would really be a chose. I think you've really done a great job in putting this together. Your engineers, your city employees and all its been a pleasure. Quite frankly I've been over here nine times now in the last six weeks so I feel like I could vote. We want to be a part of the community and hopefully we will be. We would hope that this would not be the only job we do together. I've been going back to all of the treatment plants every ten years. It's like every ten years there's always an addition. We enjoy this. I promise you we'll mess up but the difference is that when we mess up we're going to correct our mess ups as soon as possible. We don't want them to fester, that's when you have a major dilemma. .

Mayor Coody: Thank you sir. Do you have any questions for Mr. Harrington? Thank you very much for coming tonight. And thanks for doing a good job for us.

Alderman Cook: It's been a long time coming to get to this point and I'm glad that we're finally here. I do have a few issues I just want to mention. One thing about guaranteed maximum price, you mean there are always opportunities for change orders. When the scope of work changes you have change orders so while I know that they will do everything they can to stick within this price they've listed it could technically go up; and it can go down too so either way.

Mayor Coody: And that's why we put a contingency in there.

Alderman Cook: So especially on negotiated prices some of the smaller stuff they'll probably cover themselves to some degree but when the scope changes they're going to look for a change order and that's just the way that works. Three things that sort of concern me about this contract, one of them are the elimination of Broyles Road and then the planting of the wetlands. Hopefully we'll be able to pick up some savings from those when we go out later on and price those by pulling them out of the contract. I hope so but those were eliminated out this contract. Also I hope that we can get our easements together on this as fast as we can. Heaven forbid we get the plant built and not have all the easements together and get all the line work to it. Lastly, and I mentioned this at the Water & Sewer Committee meeting the east line work, it seems like its kind of been pitched to the side and not discussed quite as much and that to me is a critical part of this sewer project. Overall sewer project as much as the west side plant and I don't want to eliminate any of that scope of work either. I know that's a discussion later on down the road. I just want to say now that I don't want to see any of that east line work eliminated from the scope of this whole project. Otherwise I'm glad we finally got to this point.

Mayor Coody: No kidding. Alright thanks and I want to thank the Sewer Committee for all your hard work and I really want to thank the staff for all the hard work that they put into this too. The team approach has been working very well. I'm very pleased with how this is finally come about. Alright, any question or comments.

Alderman Marr: What is the anticipated completion date of this project?

Mayor Coody: May of 2008.

Kit Williams: May 31, 2008 according to the contract.

Alderman Marr: Thank you.

Ron Petrie: That's a substantial completion date.

Jeff Erf: Goody evening Mayor, City Council. About six months ago the current or the estimate for the construction costs for the west side wastewater treatment plant based on data I believe from McGoodwin, Williams & Yates; and reviewed by Burns & McDonnell who at that time was the program manager, the estimated cost was around \$44 million. Now today before you is the contract for around \$60 million, that's about 36% percent higher than six months ago and \$16 million higher. Could someone explain to me the difference?

Mayor Coody: Since the engineers made the estimates I would expect that the engineers would be the ones with that explanation. Mr. Elmer do you have any answer for that?

Mr. Elmer: Mayor. We followed a lot of work in the last six months and I've talked to several people about several projects and I haven't found a single engineer that has had a project come in at their estimate. The reason is that the market place has been in a very significant period of

inflation of price, concrete, steel, and anything that is made out of concrete and steel and when this project was negotiated gasoline was \$1.00 a gallon more than it was the year before. These are the issues that we've had to deal with. We don't make the market. We can't establish the market place. We've had to deal with these issues that the prices continue to change. The prices change from the time you bid the project until you negotiate it. Brasfield & Gorrie told us that suppliers would not hold a price for more than 30 days and some people would not give a price until it is time to deliver the materials and goods. This creates a tremendous amount of uncertainty in the market place and that's reflected in the bidding process. It's unfortunate but that's the climate that we're dealing with right now. That's why our estimate was low. Every single person I've talked to have said you cannot raise your estimating values fast enough to keep up with the market place and even your contractor has to deal with that on a day to day basis and that's why our price was different than what we estimated at the time.

Mayor Coody: Alright. Thank you very much. Any other questions?

Alderman Reynolds moved to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed 5-0. Aldermen Rhoads, Ferrell and Lucas were absent.

Resolution No. 208-05 as Recorded in the Office of the City Clerk.

Mayor Coody thanked every one for coming and adjourned the meeting.

Meeting adjourned at 6:35 p.m.

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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
Special City Council
Meeting Minutes
October 27, 2005**

A meeting of the Fayetteville City Council was held on October 27, 2005 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

ABSENT: Alderman Rhoads.

Pledge of Allegiance

Unfinished Business:

2005 Millage Levy: An ordinance levying a tax on the Real and Personal Property within the City of Fayetteville, Arkansas, for the year 2005 fixing the rate thereof at 2.0 mils for General Fund – Operations, 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund and 1.0 mil for the Fayetteville City Library; and certifying the same to the County Clerk of Washington County, Arkansas. *This ordinance was left on the First Reading at the October 4, 2005 City Council meeting. This ordinance was left on the Second Reading at the October 18, 2005 City Council meeting. This ordinance was tabled at the October 18, 2005 City Council meeting to a Special City Council meeting on October 27, 2005.*

Steve Davis: We have a short presentation. Mr. Mayor and City Council the City must levy the millage prior to end of October even for those that are voted on millages. The county can then incorporate all of the taxing entities millages to a single millage ordinance that they levy during their November meeting so that it can be applied to the property tax bills in January. The City for a number of years has not used a General Fund operating mil for operations. I believe that

the last that we did was in 1992-1993. The only other time that our discretionary mills have been accessed was when City Council chose to fund a portion of the Senior Center with a one year two mil levy. This year we're asking City Council to levy 2 mills for operations for General Fund so that it will provide us with enough resources to essentially balance the budget.

Kevin Springer, Budget & Search Coordinator: We've revised our revenue and expense projects that we gave you back at the September 22nd budget briefing. We've waited until we got the final checks from the state and other revenue sources so we're fairly confident in the assumptions for the rest of this year and for 2006.

This is a fluid process and things change we try to be as conservative as possible because with five months history we don't know how the year is going to go forth. We wait and we do another round of projections as far as having seven or eight month's worth of revenue coming in. We look at last year and the year before to try to make some fairly valid assumptions that are reasonable and that we're confident in. Taking that in consideration, we're looking at sales tax coming in at six percent next year and for the 2007 through 2010 we're looking at five percent revenue. We will continue to update that as events progress. In our assumptions we are also looking at property tax being approved and approval of the proposed millage rate of 2 mills and not changing for the five year period. We are looking at all other revenue sources growing at a rate of 2.5. As far as salaries, the general employees we're projecting them to grow about four percent annually and public safety at five percent. We have other factors in there like health insurance that we believe is going to grow a little bit higher than those rates. But pretty much your pension expense and your other personal type expenses they are tied to the salaries so they projected those rates as well. We've got about \$400,000 in next year's budget for a pay plan study that's being done. It's being conducted right now and Council will be asked in 2006 to approve it.

Mayor Coody: Let's make that clear, that's not for the study itself. That's for the results of the study.

Kevin Springer: That's the results of the study. Pretty much you've got your police and fire that are paid on the step system a certain amount for each year of service. Then you've got general employees which are on a merit type system. They are in a pay range where you've got a minimum and a maximum salary that they can earn. What the study is going to look at is should those minimum and maximum ranges be adjusted upward and the step rates for police and fire should they go up any. We have \$400,000 in the budget and it was based on the average pay plan change over the last ten year. It may come in higher than that, when staff gets the information we'll be able to determine what the cost of that full pay plan increase is or if we want to phase it in. We just need to wait and see what those numbers are going to be. Then all nine salary expenses are projected to grow at two percent annually. With the exception of the new personnel in the 2006 budget we do not have any budgeted or projected to budget in 2007 through 2010. Now we might be slightly conservative on our sales tax numbers not knowing what's going on in the future especially with the growth, the development up north. But I believe if sales tax comes in higher and revenue comes in higher then we might be in a better position to add new people in the outlying years.

Steve Davis: The sales tax projection of six percent is based on our four year trend and we had some years that were well below six percent. We've had several years that are above six percent. I believe our current year is eight and half, nine percent.

Kevin Springer: 8.25%. Right now we've estimating on the county 10.72% growth for 2005 over 2004. Our last couple of months have been a little bit lower but for the most part they've been pretty equal.

Kevin explained the slides in his presentation to the Council.

Mayor Coody: I know you stated this but you might restate that blue line assumes no new personnel for the next five years, four years.

Kevin Springer: Four years, 2007 through 2010. So the two mils will actually get us up within budget for 2006.

Mayor Coody: I'm sorry. I want to make myself perfectly clear. We're going to be talking about a few more personnel for 2006 in this budget.

Kevin Springer: That's correct.

Mayor Coody: But the assumptions after that there are for no new ones after 2006.

Kevin Springer: That's correct. I'm going to hand out a list of those new personnel that we are going to be including in the 2006 budget. Just to give you a recap of what the property tax is going to bring in at two mils and how that compares to our other cities in our region. What I've done is I have put in the operational millage rates for Rogers, Bentonville, Springdale and the amounts that are above them that's what it would bring into the City of Fayetteville if we collected those rates. Rogers is 3.9, Bentonville is 5.5, and Springdale is 5.6.

Mayor Coody: And we're proposing two.

Kevin Springer: And we're proposing two. What I'm passing out right now, this is a total list of new personnel that was requested in the 2006 budget process.

Mayor Coody: That's requested by the division to the budgeting staff and to us.

Kevin Springer: The positions that are highlighted in yellow we are recommending as part of the 2006 budget. The first page is General Fund positions only. That's all the positions that were requested and recommended in the General Fund.

The second page shows the other funds that we have in the city. The enterprise funds like Solid Waste, and Water and Sewer, and also some special revenue funds such as Parks Development, and Street Fund. But we'll pretty much keep all or at least for the first part keep most of this discussion to General Fund since that's what the property tax is for. The total amount of positions that were requested as part of the budget was about 57 full time positions that totaled about \$2.9 million. Most of it is personnel but there are some one time expenses such as vehicles and equipment. What we are recommending in the budget is 13.5 positions at a cost of about

\$750,000; one of them is in Parks and the rest in Public Safety. We've got five positions in the Fire Department and seven and half in the Police Department.

Mayor Coody: They add up to 57 people requested and staff is recommending 13.5 folks only one outside public safety and all the rest are in fire and police, so all the new hires that we have out of the General Fund with the exception of one person would be for fire and police.

Kevin Springer: Yes.

Mayor Coody: I am just restating this to make it perfectly clear for everyone.

Alderman Ferrell: How does that number of people compare to the request for people last year at this time. Do you recall?

Steve Davis: Typically we get about the same number of positions requested each year.

Alderman Ferrell: And the number budgeted last year was?

Steve Davis: I think when we originally proposed the budget it had fewer people but by the time the City Council was finished reviewing we had added ten police officers. I don't remember what the number was that we came in with.

Mayor Coody: Was it ten or six?

Alderman Marr: The budget had four police officers and we added six additional which adds up to ten.

Mayor Coody: That's right.

Alderman Ferrell: So there was a net of ten new positions total last year?

Mayor Coody: Just in the Police Department. How many citywide. Do you know Kevin?

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney, Kit Williams read the ordinance for the third and final reading.

Alderman Thiel: Is there any way at all that we could exempt 65 and older and the disabled? Is there anyone who could be exempted through the Homestead Act?

Kit Williams: I don't think we can. We tell the county what we wish to assess as property taxes, and then they pass an ordinance. They assess it pursuant to the state constitution of state law, and right now I don't think that provision is in there that various taxing entities can choose to exempt property. I think that what property must pay has already been identified by the state authorities and that we can't vary from that. I am not aware of any power that would give us the right to vary from that.

Alderman Reynolds: Utilities are going through the roof and now we're going to raise taxes and we have people who live on \$650 a month, \$750 a month. We're moving people out of town, our pioneers. I don't know how they can do it. They're doing without medicine now. Looks like we need to live within our means. Balance your checkbook like I balance mine at the end of each month.

Mayor Coody: Well we certainly have that option tonight but that would mean not hiring anymore fire and police. That is an option. We could stay within our mean but that means not adding anymore services or even trying to keep up with growth of the community. I mean that is an option.

Alderman Reynolds: Well I was looking at this list here. Community Resources had a code compliance officer and that got cut for some reason, and we know that's needed.

Mayor Coody: Yes.

Alderman Reynolds: And then we add one person to the Parks Department.

Mayor Coody: Gary will you please explain this one person in the Parks Department.

Gary Dumas: The parks system continues to grow. We continue to expect more from Parks maintenance on all the activities that Parks does. The Parks Board made a specific recommendation to add more than this person. But we felt that at least one more maintenance worker would at least help relieve some of the work effort of those activities that they are constantly engaged in. The work load for the Parks is extraordinarily heavy. I think all of you use the parks and see how they maintain them. The number of parks and we're getting more parks every year.

Alderman Reynolds: Tell me why Code Enforcement doesn't need someone?

Mayor Coody: I think Code Enforcement does need someone.

Gary Dumas: I'm not saying that Code Enforcement doesn't need someone. I'm saying that in looking at the priorities, at lease over in the operational part of the budget, the Operations Department, it was felt that Parks had been understaffed for longer than Code Compliance has been understaffed, just like we're catching up on the Police Department this year and last year. We've not been maintaining personnel levels to keep up with the growth and all of the activities that the citizens expect the city to provide. Code Compliance is one of them. I don't disagree that there needs to be more effort in the code compliance section in housing, rehabilitation, housing maintenance, weeds and junk vehicles. I'm not arguing against code compliance by any means.

Alderman Reynolds: I was watching TV a couple days ago and one of the local channels did a project about code compliance about housing and most of it is in Ward One. They shot at the housing code compliances, they didn't say anything about parks but they came after us about housing, inundated housing in the City of Fayetteville.

Gary Dumas: I'm not arguing that. I think that one of the problems that we've had historically is with some funding issues that code compliance has had in just keeping revenue so that they can do some of the major clean ups that they've had this year. We got them more money without them even having to come to Council this time. I think most of the Council will agree that has been an under funded area. There's a significant need out there.

Mayor Coody: I don't know of any division in the city that is not short of personnel. Every division that we have, the budget department, planning department, engineering, everybody, every division that we have, we have not been keeping up with our growth at all because we have been tightening up our belt and living within our means. Which means as the city grows the organization of the government does not and that's why everybody is working at a 110 miles an hour. They're really working more than they should. I mean these guys burn the midnight oil way too often for the amount of money that we pay them. They work hard and they do a very good job. We're very lucky in Fayetteville to have the kind of staff and the dedication that we have otherwise they would quit and go get easier jobs some place else for the same money. So every division that we have is understaffed.

Alderman Reynolds: Thanks Gary.

Gary Dumas: It was a question of priorities and budget. They're hard decisions that have to be made in every budget and I think, on the staff level, we've made some fairly hard decisions.

Alderman Cook: I agree with you.

Mayor Coody: Anyone else? Do ya'll want to make any changes? These are staff recommendations. You can delete anything from these recommendations that you like. That is your prerogative.

Alderman Marr: I don't think we're here tonight to talk about the budget and these 13½ positions because obviously when we get to the point of talking about the budget there's a lot more than these 13½ positions that I think many of us are going to want to talk about.

Mayor Coody: Exactly right.

Alderman Marr: So I don't look at this as a budget discussion other than the fact that we're looking at our revenue line, and whether our revenue line is going to offset our expenses. Whether we believe that gap is purely done through cuts, or whether that gap is done through making sure that we don't have much services, or we maintain a quality of life in Fayetteville that we're use to. The diversification of revenue I will come back to that one more time because I think it's smart. Alderman Reynolds brings up a great point in that when our only revenue stream is sales tax today as our primary stream, sixty-five percent of our budget. It's that age old argument of annexation and whether growth is paying for itself, it's showing us that it isn't. Because if it was I don't think we'd be talking about this shortfall. It is one of the only reasons why I continue to be concerned about our annexation strategy which is later on in this agenda, but more importantly why we have to look at revenue streams that are tied to property tax so that when we're adding these units in these sections of town which cause a cost and service for police coverage and fire coverage, new stations that we have the ability to fund it. These people are already shopping in our city and they're paying the sales tax and yet we get no other benefit from

it. I believe we should have more people doing code enforcement, but the more land you annex the more you've got to code enforce and the more you annex, the more you have to patrol and the more you annex, the more you have to put out fires with. So I do think that part of our budget problem is the fact that we are growing greater than our revenue stream is growing and I don't think that it is new services. To my knowledge I think we sit up here every year and ask about making sure that we are not adding new services. We're trying to maintain the services that we've got. I think Alderman Ferrell at the last meeting brought some good points about cost cutting. I think when we get into the budget we're certainly going to look at that. It's going to help to have another set of eyes looking at it for the first time that hasn't looked at it the last several years. But I don't think that anybody can argue that if annexations and the cost of growth in our city are paying for itself, the line would not look like the line in this chart. The reason it does in this is because right now our revenue stream is sales tax only, primarily sales tax. I own property and I understand the bigger house you buy the more you have to pay and how difficult it is. My parents are retired and live in Virginia and their property taxes make ours look like nothing but I understand how concerning it is. But today we don't capitalize off of any of that and we don't have a diversified revenue stream. I think it is a step in the right direction for that. I think that we need to look at it in our overall revenues and the budget on all these things whether we need them or not is another topic but it's a step that we have to begin to look at. We have a shortfall and now we have a responsibility to manage this shortfall. I do want to cut some expenses but I don't think that I can cut the gap that's showing on this purely at least at this point. I think that we have some real specific things to point to and where it's coming from that I'm not willing to compromise.

Alderman Ferrell: Certainly given the chose to make some cuts or adjustments would always be in support of keeping our police and fire strong. That's a given. I'd just like to say that I've had several emails and calls in the last couple of weeks. Every single email and call that I receive without exception was opposed. I've had more on this than anything. Most everyone from my ward, some were from outside the ward, the preponderance of them seemed to be, to be honest with you, from senior citizens. They were opposed to this. The main thing that came through their message was that they were opposed to it and that they think that we should re-prioritize our spending. So I can't support it and that's it.

Welda Hardin, a Fayetteville resident voiced her concerns about raising taxes and how would the city support assisted living.

Mayor Coody explained to Ms. Harding that the City did not have anything to do with assisted living, and that the Fayetteville Housing Authority might have some subsidized housing but that was completely different. He then asked Steve Davis if he had any information on assisted living.

Steve Davis explained his knowledge of assisted living and that it is privately funded by those that use it.

Ms. Hardin voiced her confusion regarding assisted living. She believed that there were several different levels of assisted living and her understanding that it was government assisted.

Mayor Coody explained that he wasn't sure how it was funded and it may be federal government or HUD.

Ms. Hardin again voiced her concerns for the senior citizens.

Mayor Coody: Oh they get public assistance.

Ms. Hardin: There are different levels.

Mayor Coody: We don't fund public assistance here. That would be mostly federal, maybe some state.

Ms. Hardin: Okay. Alright that's what I wondered. Thank you.

Alderman Ferrell: I've got one more quick question. As I understand it, if this does pass it will go into the General Fund?

Mayor Coody: Yes.

Alderman Ferrell: Is there anyway to earmark it if it does pass or does it have to go into the General Fund?

Steve Davis: It's a discretionary millage that goes into the General Fund undesignated.

Mayor Coody: If the City Council approves this we would hire the people on this list that's the same as designating it because we wouldn't hire 12.5 new public safety personnel.

Steve Davis: Our new money by far has gone to police and fire services and library services over the last several years.

Alderman Marr: And the parks services.

Bob Smith, a citizen, stated that people on fixed incomes could lose their homes if the city raised the property tax and it really put a toll on people who get disability, SSI, and social security. He voiced his opinion that the county and the City of Fayetteville have the highest taxes. He thanked the Mayor and City Council for listening to him.

Mayor Coody: Mr. Smith one thing I'd like to do is correct your misconception that Fayetteville is the most expensive city. As you can see by the chart here, we don't collect a property tax for operations. We're the only city in NW Arkansas that doesn't and our sales tax is at one and three quarter cents. I know that the state collects six, and the county collects one and half. We collect one and three quarters. All the other cities around us collect two. So we have the lowest sales tax and by far the lowest property tax collection of any city in NW Arkansas.

Mr. Smith said that he and others can barely make it each month and sometimes go without prescriptions and that the City needed to consider these people.

Mayor Coody: That is our concern and you are exactly right. Thank you.

Matt Lurch: I'm a resident of Fayetteville. If we're going to help funding with one mil for the public library then why are we also paying county taxes for the same purpose? That's double

taxation in my book. That does not seem right to me at all. We're also paying our property taxes and the county for our automobiles and our real estate. Why do you need this income? Why can't somebody step up to the plate and I will back any one of you if take a 10% cut in pay to balance out this shortfall. If any body decides to take a cut in pay to help balance out this budget problem I will be 100% behind you. Thank you.

Mayor Coody: You bring up couple of good questions. First thing is that a couple of years ago all the senior staff did not take a 17% raise just for this very reason. And that was giving up 17% of their income not just 10%. As far as the county millage for the library, Steve will you define the difference on that please.

Steve Davis: State law prohibits taxpayers from paying twice for the same service. So if there is a county library mil that was charged to Fayetteville residents it had to go off the books when Fayetteville library mil went on. So that one mil that is paid is the same mil, it is the city mil and it is the same mil that was previously paid as a county mil.

Mayor Coody: So they're not double paying it twice.

Steve Davis: No.

Elsa Isaacs: I live in Fayetteville. I'm speaking from an informational reservoir of close to zero. So I hope I can get some information here. Springdale and Bentonville, am I correct that their sales tax is less than ours? Or am I wrong.

Mayor Coody: Their sales tax is two percent sales tax. This is property tax rates here. Two cents on a dollar or two percent, ours is one and three quarters, so ours is lower than every other city out there.

Ms. Isaacs: I see. I was thinking that perhaps they had less city tax because the gasoline appears to be less there but that doesn't mean that it's directly attributable to the city sales tax.

Mayor Coody: No. We don't collect the sales tax on gasoline. The difference in market value in the gas prices, that's private. That's private influence there.

Ms. Isaacs: I sort of wish we could have a cap on the percent of income for the poor and/or elderly. So that no more than X percent of their income can be identified as taxes from all sources. I realize that federal government and state government take precedence over local government but I wish that we could make a policy statement that this is something we are in favor of because the gentlemen who was just here tonight is right. This is the straw that's going to break the camel's back for some poor elderly and they are going to lose their homes because they can't pay their property taxes. So I don't know how useful that is for the purpose of this discussion.

Mayor Coody: Thank you Elsa. I know the state has, if you're over a certain age, below a certain income level your tax limit liability is limited is it not?

Steve Davis: There's the Homestead Credit that applies to homeowner occupied dwellings, residents and then once you are age 65 and perhaps for some other reasons the value of your

property is frozen for no further assessment increase. I'm not sure about any other tax provisions.

Alderman Thiel: Do you or does our city attorney know of any programs or assistance for people. I thought there were programs and assistance for people that were in desperate straights as were talking about here. Federal government? State government?

Steve Davis: I'm not aware of any.

Alderman Thiel: Just the Homestead exemption.

Steve Davis: And freezing of the value.

Mayor Coody: Plus the fact that homes can only go up five percent per year anyway because of the state constitution.

Charlie Sloan: Is the library in this budget or has it been taken out?

Mayor Coody: No. It's in this budget.

Mr. Sloan: It's in this budget. One million and half dollars or so we fund to the library is in this budget?

Mayor Coody: Yes.

Alderman Jordan: This may have been already asked. If I understand it correctly that 80% of operations is personnel. Is that correct?

Mayor Coody: That's correct.

Alderman Jordan: Now of the 80% how much of it does the fire and police take up as far as expense?

Mayor Coody: I think it was 70%.

Kit Williams: That was the amount that it was increased.

Kevin Springer: Sixty percent of the entire General Fund budget is police and fire.

Alderman Jordan: So 60% of the 80% would be fire and police, is that correct?

Kevin Springer: Its actually 60% of the entire budget.

Steve Davis: 60% of the entire budget is police and fire. 80% of the General Fund is also personnel services. So it would be fair to say that of the 60% of budget the fire and police more than 80% of their budgets are actually personnel services. Theirs is closer to 90%.

Alderman Jordan: Okay. So I guess my point is if we start making cuts in that area we just wouldn't hire any new fire and police and we will continue to grow possibly without adequate fire and police protection. That's a concern of mine. So I guess I've said all I need to.

Alderman Marr: The firemen that are added because I've had a lot of people specifically concerned or feel that we are already at adequate fire coverage. People in the budget that are added are for the new fire station that is being built. Is that correct? This is to staff fully the stations we have for a year.

Steve Davis: It's the initial staffing for Fire Station #3. The new one that is to be built.

Alderman Marr: Okay.

Steve Davis: It's not the full compliment. We have three in 2005 and I believe four in 2006. And so we will be adding an addition compliment in 2007 to finish out that staffing.

Alderman Marr: But is for a new station, for a new coverage, of a new area of Fayetteville.

Steve Davis: That's correct. It's an effort to reduce the response times to the outlying areas.

Alderman Ferrell: What does it do to this line here? It says no new hires, if we're going to add some in 2007. It says that there is no anticipated growth in 2007 through 2010.

Mayor Coody: That assumes no growth.

Alderman Ferrell: Oh okay. I misunderstood that.

Mayor Coody: Alright so we're on the third and final reading. In the ordinance before it says to increase from zero to two mils property tax for the City of Fayetteville. Shall the ordinance pass?

Upon roll call the ordinance passed 5-2 vote. Alderman Reynolds, Thiel, Marr, Jordan and Lucas voting yes. Aldermen Ferrell and Cook voted no. Alderman Rhoads was absent.

Ordinance No. 4785 as Recorded in the Office of the City Clerk.

Mayor Coody: Thank you very much, None of us enjoy this but it's something that we have to do I'm afraid.

Alderman Reynolds: I want to mention that the new fire station is in southeast Fayetteville. I do support that.

Alderman Thiel: Staffing it yes.

Mayor Coody: That will be direct protection to your place down there.

Alderman Thiel: That's right.

New Business:

Strategic Annexation/Growth Management Plan: A resolution to approve the Strategic Annexation and Growth Management Plan.

Mayor Coody: This goes back to Alderman Marr's concerns about growth annexation, growth management. I think the staff wants to start with the concern that was raised a couple of weeks ago about the program that was put out about two months about the cost per capita. Revenue versus expenses on annexed properties.

Tim Conklin: You may recall last June we did present to you a fiscal impact analysis based on the 2003-2004 annexations and at that time we also made several recommendations to you with regards to the next steps to move forward with a strategic annexation plan. This evening Karen Minkle in long range planning is going to go through that presentation. We've met with most of you individually and talked about ideas of trying to manage planned growth within the City and outside the City. This evening we will be presenting to you a series of recommendations and policy issues for discussion. We do not intend for you to adopt this actual strategic annexation growth management plan this evening, but this would be a starting point for discussions of how to best manage and plan growth within our city and planning area.

Karen Minkle: This presentation is to present a Strategic Annexation Plan for planning and managing growth. First I want to go over Fiscal Impact Study that was done in June because there were some questions and concerns about operations cost per capita. I'm just going to walk through that methodology so that it's all out on the table and if there are any questions about that you can ask me.

I want to start off by saying this was a methodology that was developed by researchers at the University of Wisconsin in Madison. It is now available on software and a number of cities around the country use it. The Regional Planning Commission uses it, it's also used by Nashville, Tennessee, by Kansas City, Missouri and communities in Florida, Utah, Minnesota, and Wisconsin also uses it. So it's widely used. There are some assumptions that are made in the methodology. One is that it assumes the current public service levels are acceptable. Another assumption is that it assumes current zoning for the annexed areas will remain the same. So the charge was to look at the fiscal impact of the 2003-2004 annexations. Short of using advanced statistical analysis this is probably the sophisticated analysis he could use. I'm going to walk through this step to show how the numbers were calculated. First each item from the General Fund was taken and this lists the revenues and expenditures. The second step was to determine what percentage of each item was due to residential development or residences. So you look at the entire city and you want to say well what percentage of each of these items is being used to service residences versus commercial establishments. The way the methodology goes about this is looking at parcels through the city and determining what percentage of those parcels are used for residences and what percentage are used for commercial establishments. Sixty-nine percent of our parcels are used for residences. So each of these items was multiplied by .69 for both years, there were three exceptions. Two of those exceptions were police and fire. The methodology recommends that you use this overall estimation which is where we got this 69%, but if you have additional information where you can come up with a better approximation of what percentage of that money is being used to serve residences then you use it. At that time

the fire department said that about 39% of their calls for response were residential calls so that number was used, and the police department agreed with that for their department as well. The third adjustment that was made was for sales tax revenue for the city and that was based on the University of Arkansas study. It said that 50% of our sales tax revenue can be attributed to city residences, fifty percent was coming from outside. Those were the adjustments that were made to those numbers. The figures were added and then they were divided by estimated populations for 2003 and 2004. These population estimates are the same estimates that the budgeting department uses. They are an average of the U.S. Census in NW Arkansas Regional Planning Commission predictions and the reason budget uses those is because they've looked at those predictions over time and estimated that our population usually falls in between those two numbers. This was the slide that you saw in June. After that there were concerns raised because it shows that per capita revenues exceed the per capita costs and there were questions about that. Because there are one time transfers in and transfers out of the budget but it was suggested that maybe they not be included. So we redid the analyses, took the one time transfers in and transfers out which includes any money from our reserve funds. Those new calculations everything else is held the same, these are the new numbers. In both cases per capita revenues exceed per capita costs, but you can see in 2004 the gap between the two is narrower. As part of that analysis we also look at capital costs for predicted growth, in this we used the Duncan Associates impact fee studies. I've added roads because that was recently completed. The total capital costs are about \$3.8 million when we were only looking at fire, police water and sewer. We added roads into that and it becomes \$11.3 million. The finally net cost of growth that you saw in June is about \$1.1 million. If we take out the one time transfer in and transfers out it becomes \$1.3 million. If we add the road impact fees or that cost for roads then that cost is around \$7.3 million. One of the points to take away from this these costs is mostly driven by capital costs of growth in this study. We can talk about the assumptions of the methodology and we can also talk about the way the numbers are adjusted definitely. But this is just going over what was presented in June and how those numbers were derived.

Alderman Marr: Then how as Alderman should we use the tool. When we just had a presentation that showed us that our costs to operate no new services, the same services we have been offering and the only additional head count relate to police and fire services and one other head count in parks maintenance which is attributed to more parks which are operating costs that exceed our revenue. It doesn't make sense to me that if your analysis is true that our growth is paying itself that our budget would have the line that it has today. So either there isn't a correlation or a way to rank what you're doing against what we're having to fund or there's something missing from one of the other's calculation.

Karen Minkle: Right and I think, first of all this is a snapshot. This is looking at 2003 and 2004. It's not looking at our growth over a longer period of time. Second, one of the key assumptions was that we assume public services are acceptable. I included in the packets in front of you the memo that was sent out on this methodology shortly after the presentation. In that memo it says that several of the departments expressed that there were service gaps currently. That is not captured in this analysis and that maybe one explanation for that discrepancy.

Alderman Marr: I think in the future when we have presentations made that are trying to present a position of the positive side or the negative side of annexation or the budget that it needs to be footnoted in to how it impacts against our overall financials. I feel like I'm using this

word a lot lately, but it's disingenuous to throw up a spade that citizens watch and see revenues higher than costs to turn around and have a budget request that speaks the exact opposite position to it. I think it puts us in a bad situation.

Alderman Jordan: It does. A real bad situation.

Alderman Thiel: It does.

Alderman Marr: And it presents a case that is not accurate.

Karen Minkle: It is the actual numbers that were in the 2003, at the end of the year. Actual numbers for the 2003-2004 budgets.

Mayor Coody: Kevin we have some disgruntled Aldermen up here that don't like the projection of this study versus the numbers we just saw for the millage increase. We need to find a way to explain to the Council why these things are related and they aren't disjointed and conflict with each other.

Kevin Springer: The costs are what they are and that's what we go by. I think maybe the area for debate and maybe needs to be looked is your assumptions.

Karen Minkle: The current service levels were acceptable. I'll go back to this.

Kevin Springer: That one right there. We do have a survey information from the University that said 50% of our sales tax comes from Fayetteville residents and the rest from outside this region. But we have other assumptions that it could depend on the budget year and it could depend if, how close they are as far as the amount of police and fire. How much time did they spend doing residential? I think what we're looking at is the cost per capita versus the revenue per capita. Depending on how your assumptions are laid out it could look at your business or your residents are subsidizing your commercial interest. But I think most of the focus should be on just the basic assumptions. It doesn't really change the cost, the total cost of General Fund and that's what we look at.

Alderman Thiel: I think one the main assumption here are the limitations to this methodology. It's assuming that current public service levels are acceptable which last year and this year we increased our public service. So obviously we did not feel like they were acceptable and it assumes current zoning for annexed areas will remain the same and they have not. All that we have annexed has almost been increased density over what it was prior to being annexed. So those might also factor into your methodology not matching up with what is actually happening and what we're actually seeing. I guess the points here are to criticize what you presented to us but how do we really analyze the cost of annexation and how we want to proceed with it.

Mayor Coody: Now is this including cost of operations and capital?

Karen Minkle: The entire fiscal impact analysis?

Mayor Coody: Yes.

Karen Minkle: Yes.

Mayor Coody: Okay. So do you have any explanation why the slide would say one thing yet all of our graphs show the opposite.

Karen Minkle: This was looking at two years only. For 2003 and 2004 so it's only a snapshot. It is not a comment about growth in general. It comments specifically about the 2003-2004 annexations which are a limited picture in terms of our total growth throughout the city. I think that also the assumption is that current public service levels are acceptable.

Mayor Coody: Back in 2003 and 2004?

Karen Minkle: When you use this methodology. Yes.

Mayor Coody: I don't believe that they would present anything as disingenuous. If it appears like that then that's too bad. I believe since 1998 the budgeting staff has been pointing to the day that we would be here and if this methodology is flawed then that's one thing but I would not think that our staff would be the least bit disingenuous.

Gary Dumas: I think that what the Council is struggling with is what all communities in the country struggle with which is the cost of growth. It is hard to get a handle on what that actual cost is and this is a model that was generated in an effort to provide some guidance on what that growth costs. It's as accurate really as probably we're going to get. There was an annexation committee that struggled with that for a year plus on what annexation costs. I'm not sure what conclusion you came to. What we're trying to do is give you some idea of what that cost is and if you will look here, there is a cost. Its \$7 million on roads that there's a negative cost with including the impact of roads which was not included before. There was a negative impact including the cost of water and sewer. That's why we are looking at impact fees on both of those elements to try to level that cost but the earlier slide looking at the operational costs it was slightly positive. Not a big number but slightly positive but when you add in the capital cost that's when it becomes negative and that's why we have problems with our road system. That's why all our systems complain about that, that's why were building a multi-million dollar sewer improvement project. This gives you that and I think this does tie into the discussion you just had that since we're basing all of our income on sales tax we're gathering the sales tax that we can from the region. There maybe a little more that we can get and there maybe some we lose because of leakage to our surrounding communities. The one thing that we can control is property tax and with that that gives us a way to generate revenue that is going to offset the expenses that growth generates and the impact that they cause to the already developed part of the city.

Alderman Jordan: I've been to some tractor pulls in my life but I believe this is the darnest thing I've seen in awhile. I can not get wrapped around here folks, why we get a report that says the total cost is this and the revenue is this and it cost more than what we're taking in revenues and yet I see a slide that says just the opposite. Now if I'm sitting at home and it's a constituent in my ward I would have me called first thing in the morning. I want to know what's going on here. Now I know that's for a couple of years but we can't just do everything on a couple years. We need the long haul here.

Gary Dumas: These numbers are negative numbers.

Alderman Jordan: Well they're negative numbers tonight I can tell you that.

Gary Dumas: But the \$1.4 million, the \$1.1 million in June, 2005 was a negative number. It was \$1.1, negative and \$1.3.

Alderman Jordan: Now how are you going to explain that to the general public? I don't know how to justify it.

Gary Dumas: This excludes the capital costs.

Alderman Marr: So does our budget, our General Fund.

Alderman Jordan: Exactly.

Gary Dumas: Excludes the capital costs but the General Fund budget has capital costs included in it.

Alderman Jordan: Excuse me?

Alderman Marr: No it doesn't. Can we have Mr. Davis answer that question for us? Does our General Fund have capital costs in it?

Steve Davis: No.

Kevin Springer: It depends from year to year. It may have new vehicles in there. We know we have a few new vehicles in this year's budget for the police officers that we've got in the budget.

Steve Davis: When we talk about capital costs we generally talk about infrastructure, roads, and things of that nature. The only time that we have money in the budget for capital is like we have this year when we have a half million dollars for Skull Creek and we have other one time type of appropriations. As a general rule we do not budget money out of General Fund for capital type improvements. It really goes back to a result of the Town Center lawsuit where we were told as part of the rulings that we could have capital in General Fund because everything, all of our sales taxes talk about, our county sales tax specifically talked about critical needs for operational monies, it did not mention capital. When we do have capital we make sure that it is directly linked to the revenues that produced that capital so that we don't get into a situation where we have to explain to a judge why we're doing capital out of General Fund.

Alderman Marr: Steve when you look at this chart, I think Lioneld has the same question I'm having. When a person at home looks at this chart and they see us show per capita revenues exceed per capita expenses to operate and we see a budget gap projected that even back in 2003 and 2004 we had a budget expenditure greater than rest of the budget that we planned on. We didn't end the year that way but that's what we budgeted.

Steve Davis: That's right.

Alderman Marr: Help me. I am trying to understand how I would use this information when it appears to me that I can't rely on this growth that we're bringing in which says it pays for itself operationally not nearer in the budget as paying for itself operationally.

Alderman Jordan: Exactly.

Alderman Marr: Because we're not adding services, we're adding people to maintain the same services for new areas that we're bring on and the normal rise in costs of payroll which is 80% to 86% of our budget depending on the numbers.

Steve Davis: Right. How do you reconcile this number?

Alderman Jordan: Yeah.

Alderman Marr: How does a person at home, why would they say annexation is paying for itself when they just watched your other slide that showed a gap line?

Alderman Jordan: Exactly.

Steve Davis: Right. I'm not sure. I haven't looked at the assumptions or the numbers but my guess is because we're talking about per capita revenue and per capita expenditures. If we look at the per capita revenue and we've taken the total sales tax generated as line item we may not be capturing how much of the sales tax is generated in our city comes from folks who don't live here. If we attribute all of that sales tax revenue to our citizens then we're discounting all those folks that live around us that contribute to our sales tax.

Alderman Marr: But this methodology doesn't it have 50%? You've used 50% based on the University's study for that number.

Mayor Coody: Yes. Is there a chance that this methodology from the University of Wisconsin might not fit for Fayetteville's reality? Is this a science?

Karen Minkle: I think that information may be being used to answer a different question. The question that this methodology answers is what was the fiscal impact of the 2003-2004 annexations not how its growth, what is growth costing the city overall. Annexations are one piece of that and this methodology does show that it is costing us significantly in capital costs. I think that the question that's being asked or that I'm hearing right now what does growth cost the city? But that is not what this methodology was intended to answer. This methodology is used to answer what is the cost of a specific development and so it assumed that all these annexations were assumed.

Mayor Coody: In the annexed areas only?

Karen Minkle: Right.

Mayor Coody: Not the 43 square miles that is the City of Fayetteville before the annexations?

Karen Minkle: Right. So you could apply this methodology to any new development that is being built any where in the City and say what is the cost going to be and then you would apply this methodology. It is not a comment on how is growth over time. What is the fiscal impact of growth over time since we began growing so rapidly? That is not the question it answers.

Mayor Coody: So what you have on the screen is an apple in what this City Council is seeing as an orange.

Karen Minkle: Right.

Mayor Coody: Because the Council's looking at it when we looked at this last set of charts and graphs that was citywide and you're just talking about annexed areas. Mostly just a few hundred areas wasn't it. How many acres?

Karen Minkle: It was about 2,000 acres.

Mayor Coody: 2,000 acres.

Kit Williams: I think we annexed islands in 2004.

Mayor Coody: Oh that's right.

Karen Minkle: It did include island annexations, yes.

Mayor Coody: And the reason we couldn't look at 2005 is because 2005 is not finished yet. This was 2003 and 2004 because those are the only actual numbers that we have.

Karen Minkle: It was 2,000 acres.

Alderman Thiel: And we were looking at the effect during those two years.

Karen Minkle: Right.

Alderman Thiel: You're not projecting the future.

Karen Minkle: Right. Based on the numbers for those two years that's what you could expect.

Alderman Thiel: And I remind everyone again that you're basing that, remember we added significantly to our emergency, to our police and fire both. Actually not within that budget. Right.

Mayor Coody: In the 2005 budget. Yes.

Alderman Thiel: And this is 2005?

Karen Minkle: This was 2003 and 2004.

Alderman Thiel: So what I'm saying is that in 2003 and 2004, you go back to this assumption that the public service levels were acceptable. They weren't because we increased them almost right after this study was done.

Karen Minkle: Right.

Alderman Thiel: So what I'm saying is those two years we were not meeting our standards at all. They were not satisfactory or acceptable. So that assumption is incorrect plus we significantly changed everything in 2005. I guess the question here is exactly how we use this information. You need to explain to us how we can use it.

Mayor Coody: And even if we hadn't annexed one square foot in 2003 and 2004 Fayetteville still would have grown even within the city limits. We would have grown in population which means we had an increased need for fire and police and all the other services we provided even if we hadn't annexed another square foot. And if we don't continue to annex another square foot for the 20 years we will continue to grow in population within the existing city limits. We'll still need to hire more fire and police, more personnel all over the charts if don't annex another foot. I think that would be a fair assumption wouldn't you agree?

Karen Minkle: I want to say before I show you the next slide that as part of the comprehensive plan process I've been holding focus groups of people from different parts of the city. And this next slide shows a quote, verbatim from an east Fayetteville resident. The question was, "What issues do you want to see addressed in the Comprehensive Plan 2025?" "In east Fayetteville I think the city needs to annex fast. The way to uncontrollable sprawls is to ignore land that's being developed and let it developed unregulated. It's happening whether we want to recognize that it's happening or not and it will be Fayetteville's problem at some point. We need to manage it on the front end rather than deal with it on the back end which I'm afraid that is where we're heading."

I'm going to give some background information on the city's planning area. This is approximately 25,000 acres or 39 square miles is what you see outlined in blue and to put it into context with the cities around us Fayetteville is bumping against the borders of five other municipalities. Our planning area bumps up against all of them. The question has been asked before when will Fayetteville stop growing. I think this slide gives us an indication that Fayetteville couldn't keep growing indefinitely. There are going to be limits. Also you should know that we've been annexing at a rate of about 625 acres per year. That's based on last year and 2005. If we keep annexing at that rate or 50% of the planning area will be annexed over the next 20 years. In 2006 I have 800 with a question mark because Southpass alone is 800 acres. So that one annexation would exceed the average of our previous two years of annexation. We would also argue that planning areas are developing in urban densities. And by urban densities we mean the densities we see in the planning area are becoming identical to the densities we see within our city boundaries. These are pictures of our developments in the planning area currently. The density is also increasing. Last year there were about 217 units approved in the planning area. That was 8% of our total residential development. This year at the end of third quarter it's 12% of our residential development and the expected units are about 450. This is an example I was talking about the densities being quite similar. Here is it difficult to tell from the developments alone where the city boundary is.

Mayor Coody: I find it fascinating that the more urban development area is just outside the city. I'm sure it's not like this all over the city limits but it's an interesting justification that the more underdeveloped rural looking land is within the city and the opposite is on the outside.

Karen Minkle: Right.

Alderman Thiel: No it's not.

Mayor Coody: Yeah. If you'll look at where it says city on the left and planning area is on the right.

Alderman Thiel: The City just has more trees. That's all I can see.

Mayor Coody: Maybe that's right.

Karen Minkle: It's also exhibiting patterns of sprawl of where you have low density leap frog development. I should say before presenting this plan that we are not recommending formal Council action this evening. We think this is a big topic that deserves a lot of public discussion as well which we hope will happen throughout the comprehensive planning process.

These are some concerns that we're also included in the fiscal impact study. The cost of annexing after land has already developed is greater than the cost of annexing land before it has been developed. We talked about the infrastructure costs that we incur when we annex land. When we annex some property after a subdivision is there then we have additional infrastructure costs because then we're dealing with decentralized sewer systems. There's also the loss of future sales tax revenue. We talked about corridors where commercial development is likely to happen. Because our planning area is not sacrosanct other cities can annex that area. There is a lot of uncertainty there and potential loss of future sales tax revenue. There's also cost of infrastructure to retrofit areas that have already developed. I mentioned uncertainty and there is a lot uncertainty in terms of land use. This is a picture of residential property right next to storage units and that's a picture of our planning area currently. It's also difficult to plan for infrastructure needs in the future. For example the Fire Department has mentioned it is difficult to plan for future fire stations when you are not sure which part of the planning area is going to be annexed.

There is also potential environmental threats. The EPA released a report in January of 2005 that have these statistics, that between 10% and 20% of all onsite systems are not adequately treating waste and that state water quality agencies have said that septic systems are the greatest threat to ground water quality.

There's also increase traffic congestion that we're dealing with and this was also in the physical impact presentation. These traffic counts are from two different studies and we can assume that not all the traffic was being generated by Fayetteville residents. Its people coming from our planning areas that live there partly.

These are the goals of the Strategic Annexation Plan and they are almost identical to the guiding principles of the Fayetteville Vision 2020 Plan is to have a financially sustainable city government avoid those back end costs of annexation that I mentioned and to have a well

maintained city infrastructure and to make sure as much as possible you have concurrency between development and infrastructure availability. Make sure we have a diverse growing economy to maintain our high quality of life, naturally beautiful city and to manage our future.

The first step in this recommendation is to annex the islands that are bounded by two cities. This includes or actually only one piece of land between Farmington and the City of Fayetteville. According to Arkansas state code you can now annex islands that are bounded by two cities with City Council vote. The second step is to annex the planning area. This is approximately 2400 households. The third step is to make sure we capture strategic corridors. This was also mentioned in the fiscal impact analysis presentation. And you will notice that to the west we come outside of our planning area slightly that line extends to Harmon Road.

However this is a lot of land to take in all at once and especially since we just talked about infrastructure costs as well as other concerns about annexation. So we proposed that the planning area be zoned in two different ways. One would be a growth area. This is about 50% of our planning area to plan and manage growth over 20 years.

We'd also direct capital improvements to this growth area. Next would be to establish a future growth area which you see in the purple where we would use low density zoning. For example, one unit per 20 acres. There are a number of policy options for dealing with that future growth area, one is low density zone. Current density in that area is about one unit per 19 acres. This is just to give some graphical representations of what would happen with the different policy options. So on the left you have what is currently in that future growth area. On the right you have a low density zoning policy where you would see additional development but on 20 acres of land. Another policy option is cluster development where you retain overall density but homes are clustered together. So this is low density zoning with the same amount of development compared to cluster development where it is clustered and you have greenspace. Another option is transfer development rights and you all have received literature on both cluster development and transfer of development rights. In transfer of development rights and transfer of development rights is definitely the most complexed of all the policy options where you separate property rights from development rights. So you would choose an area to be your spending area, for example, the future growth area. You would designate a receiving area where you might want to increase density within the city, say for example if I was a person living on five acres of land and I developed on one acre, I would have four units of credit that I could sell to an interested developer and the market would determine the price. Then the developer who would be in the receiving area could then increase the density of a development whether it meant adding stories to a property or increasing the density within that development.

Mayor Coody: So the way that this was described to me seems similar to clean air trade credits.

Karen Minkle: Right.

Mayor Coody: This is an interesting concept. Do you know of folks in the world that are doing this in the United States?

Karen Minkle: The State of Maryland. A number of their counties have adopted transferred development and it's being piloted in other counties around the country. It's a newer tool so counties are piloting it.

Mayor Coody: It's an interesting concept.

Karen Minkle: Right and what we wanted to do here was at least find all the tools that were being used around the nation and present them. This is what that map would look like if we put all the steps together. Future growth area is 12,697 acres. The density is currently one unit per 19 acres. In the growth area the total acreage is 13,766 acres and the density is one unit per 8 acres. I wanted to close with this quote by Edward McMann who is a senior fellow at the Urban Land Institute. "Growth is inevitable and desirable but destruction of community character is not. The question is not whether your part of the world is going to change. The question is how."

Mayor Coody: Thanks. I know the staff put a lot of effort into gathering all this information. It's an interesting concept to bring forward. It will be good to have a lot of discussion about it to see if it will work for Fayetteville or what the over all scope of the future of annexation is. The Council might decide not to annexation anything ever again or they might annex everything or something in between. It's going to be an interesting conversation.

Alderman Thiel: I understand this is a presentation for discussion and thought.

Karen Minkle: It's more conceptual.

Alderman Thiel: It's up to the City Council at some time to establish the future growth areas. Someone, legally the City Council makes that decision.

Mayor Coody: Yes.

Kit Williams: Well to some extent it does. We're limited by state law how far out we can go.

Alderman Thiel: Right.

Kit Williams: Within that area yes, it's your prerogative.

Alderman Thiel: But the annexation part that would take a vote of the people.

Karen Minkle: With the exception of the islands bounded by two cities.

Kit Williams: But the vast majority they're planning, yes with a vote of the people.

Alderman Ferrell: You said it doesn't require an election if you're an island into between two cities.

Mayor Coody: No. If the City of Fayetteville completely surrounds a property that hasn't been annexed then we have the authority to annex it. So it wouldn't be just a block of county surrounded by the City of Fayetteville.

Alderman Ferrell: Thank you.

Karen Minkle: Right. If it is an island bounded by two municipalities.

Alderman Lucas: This started with our task force. They came up with this and were able to tell us a little bit about the cost and that was what we were asking in our task force which we didn't have the means of finding out how much it was going to cost really.

Alderman Ferrell: One of the things that I found interesting was the focus groups; the one citizen that visited with was from east Fayetteville.

Alderman Reynolds: I want to thank Karen for a good job.

Alderman Thiel: I do too.

Mayor Coody: She did a good job. Thanks Karen.

Alderman Thiel: I just wonder what our next step is.

Tim Conklin: On Monday we will be interviewing consultants with regard to our comprehensive plan. I think the next step as we go through that planning process for the City of Fayetteville citizens in our future growth area is that we have these policy discussions of where we want to grow. Because we are bumping up into each other's jurisdictions. There's confusion out there even among developers which planning area they are located in due to the state law and equal distance. The earlier slide showed the five jurisdictions that we share city limits with. There needs to be a discussion of where we want to grow, how we want to grow and how we want to manage that growth within those areas. I anticipate that we will have that discussion in 2006 and the outcome of that will be a policy decision that the City Council will make with what direction we go with regard to annexation.

Alderman Thiel: I think that as we're looking at impact fees I think we're all a little concerned about this methodology not giving us the answer that we seem to want to have. I think we all kind of want projections that are closer to where we are right now and I think some of these were taken in years that we weren't to the current level we are now. I think that as we continue to change policies you're going to have to continue changing the way we look at this because as we pass impact fees, or if we pass impact fees, more of them then that's going to change the whole outlook of the cost of growth and annexation. I guess the next time we look at this it would be helpful if we somehow had a better idea of how close we are on actual costs. How accurate these projections are.

Tim Conklin: That is something that we have discussed as staff is how to better look at the assumptions that were made back in June and making sure that they are valid for today. Once again it was snapshot in time looking at 2003 and 2004, things have changed. As we discussed this evening and that is something that we've talked with the fire chief and police chief about to make sure that we can try to develop some type of predictive model to be able to provide information to the City Council and citizens.

Alderman Jordan: One of the questions that were asked of us at the Ward 4 meeting was if we annex one mile outside of the city limits or whatever we decide to annex, does that not create yet another planning area on out there? Can you address that?

Tim Conklin: The City Council would have to make that decision of whether or not they wanted to create a planned area beyond the city limits. The staff's recommendation is based on how to plan and manage growth and to be able utilize the tools that we have as municipality to plan and manage that growth. So our recommendation was to not go further out but to plan and manage the growth with the ability that we have that's granted under the State of Arkansas.

Alderman Jordan: I didn't want to get to a situation where we annex in one planned zoning area and then we create another one and we just keep going until we annex Tulsa.

Tim Conklin: That's a good point. Our planning area Lake Sequoyah is the city limits and then we go out a mile some areas up to two and half miles. I don't think that anywhere that we go is over four or five miles. As you can see from the map some of the smaller jurisdictions do have larger planning areas than we do. But we are in the center of this Washington County growth area.

Mayor Coody: Alright one thing I wanted to say was that when I see the white area here which is the county area between cities to me the growth of Northwest Arkansas and Fayetteville and the surrounding cities is just a given, it's inevitability. I think it's going to happen unless something radical happens which I certainly don't expect. So one of two things will happen, if Fayetteville decides to stop where we are and that would be the easiest thing in the world to do which is not annex anymore land and turn down any other growth, anything outside then in a manner of not much time at all you would see those towns around Fayetteville grow to where we would be completely land locked at some point. Then we wouldn't have any options, all of our city limits would be surrounded by Elkins and Farmington and Johnson, etc. Or if we didn't annex the planning area we would at least have more information and manageability of the way that part of the world develops. We would have a little bit more control over that part of the world. For better, for worse and these are two sides of the coin. One day in this area all that's going to be municipality of somebody we just don't know who yet. But it will happen.

Alderman Ferrell: Not long either.

Mayor Coody: Not long.

Tim Conklin: As you can tell Fayetteville city limits and the Tontitown city limits are not very far apart at this point and time.

Alderman Ferrell: Where is the two and half mile area for the planning area? You said about the farthest one we had was about two and half miles.

Tim Conklin: If you'll look at west Fayetteville where it says Tontitown, that's around the two miles or two and half miles. So that's about the farthest and out to Goshen.

Alderman Ferrell: So it's a little bit south of Tontitown there and west is the two and half mile area?

Tim Conklin: That's correct.

Alderman Ferrell: Okay, thank you.

Kit Williams: This is actually two different things. One is a very big thing you're looking at, strategic plan. The other one is that piece of land that is surrounded by us and Farmington and includes a section of Ruppel Road which I think is on your plan to improve and enlarge and build. My suggestion would be if you really want to build Ruppel Road we should own it. So I would say that we probably should move forward on annexing that island rather than waiting for this big discussion on this whole strategic plan. I think that part of this presentation is something the City Council might want to consider sooner.

Alderman Lucas: I have asked Tim to put something together for that because it is in our Ward.

Mayor Coody: Okay. Tim when do you think you might have something like that put together, what's your time line?

Tim Conklin: We will review the state law and get with our city attorney and bring it forward. The last time we did the island we did have an informational meeting with the residents within the island. So it could take about two and half, three months to finally get the islands annexed but I think if we started in November it would be before the City Council in January.

Mayor Coody: Is that soon enough do you think? The sooner the better. So if you could add this to the list we'd appreciate it.

Tim Conklin: Will do.

Alderman Marr: We're conducting focus groups for various sections of the city or has that been completed?

Tim Conklin: That's correct. That has been completed. There were six focus groups and I'll let Karen express that.

Alderman Marr: Can you explain to us how you selected the focus groups and where they were located in the City?

Karen Minkle: Our hope for the Comprehensive Plan 2025 is to have record public participation. Some of the ways we were looking to hear from people that didn't ordinarily participate in city meeting, especially related to planning was to conduct focus groups. And so initially with the Comprehensive Plan and most of you saw this presentation when we talked about the comprehensive plan and we talked about how we were thinking of dividing up the city into four different areas central, east, west, south not along ward lines. They were very rough vague boundaries. What we did was looked at the neighborhood organizations within those boundaries and we asked the neighborhood association's president to nominate two or three people who they thought were articulate and informed citizens but who didn't typically participate in public meetings. They give their names and we randomly selected between six and eight people for those meetings. They were sent a letter inviting them to participate in the focus group. Just to ask them what issues they wanted to see addressed in the comprehensive plan and they also had maps of their general areas and they marked what they thought were good planning decisions and what were bad planning decisions. We also met with elementary school teachers from around the city who were nominated by a number of people at the administrative level of

the district. We wanted to get their opinions on what they thought about the neighborhoods around their schools and what planning decisions we could do to make those neighborhoods better. We also met with health professionals from around the city. They are key stake holders that were not included in focus groups and that was because we know that the consultants we hire will be eager to talk with those groups, using planning, University of Arkansas and developers as well. So we held off on those groups that are definitely going to be consulted but we were trying to get people we don't usually hear from. The results of the focus groups will be included in the analysis of current circumstances section of the comprehensive plan.

Alderman Marr: Did you hear any feedback from any one who was not interested in us expanding or annexing the city.

Karen Minkle: We didn't talk specifically about annexation. I only asked them what issues they wanted to see addressed in the comprehensive plan. I can tell you at this point growth was definitely talked about more with the west Fayetteville group and the east Fayetteville group.

Mayor Coody: What aspects of growth and what was their perspective toward it?

Karen Minkle: I hesitate to comment too much because I'm still transcribing all the tapes. I only met with west Fayetteville last night. That's my general impression. I'd like to look at all their comments.

Mayor Coody: Thanks Karen. You're doing a good job. I know you're pouring a lot of work into this.

Dr. Zacarias: Good evening. What would be city's preferences to go east, west or south part as far as annexation?

Mayor Coody: That's part of the Council's discussion. This is going to be long term and I don't think any one has any answers. I don't believe any one would have an answer for that question. First the question is do we need to annex more and then the question would be how would be the best way to do it and where would be the best place to go.

Dr. Zacarias: So there's no preferences. Because north is obviously not there.

Mayor Coody: North is not much of an option. Do you have any preference?

Dr. Zacarias: I'm just asking.

Kit Williams: Mayor I've prepared a resolution just so we'd have something for the Council. I didn't expect it to be passed maybe you just want to table it and go to the next one.

Alderman Lucas moved to table the resolution indefinitely. Alderman Jordan seconded the motion. Upon roll call the motion to table passed 7-0. Alderman Rhoads was absent.

Sondra Smith: Mayor was that to table indefinitely or to a specific time frame?

Mayor Coody: I would bet it's indefinitely.

ADM 05-1666 Ruppel Road Reclassification: A resolution amending the Master Street Plan, reclassifying Ruppel Road from a Minor Arterial Street to a Principal Arterial Street.

Tim Conklin: Mayor and members of the Council. I think everybody is aware that we've had a lot of discussion over this past spring and summer with regard to the desire for Ruppel Road to be developed as a principle arterial with a boulevard type cross section. We do have in our Master Street Plan a cross section that requires additional right of way that would allow for a boulevard type arterial street to be constructed and staff brought forward this item to the Planning Commission and they recommended approval to the Council to reclassify the segment of Ruppel Road from Highway 62 up to Howard Nickle Road as a principle arterial. The difference in right of way is from 90 feet to 110 feet. So the city would be able to obtain 55 feet from the centerline or 110 feet of right of way as development occurs up and down that corridor. If you have any questions I'd be more than happy to answer them at this time.

Alderman Jordan: Did it pass the Street Committee unanimously. I think it's something that we need. I think it is one of the future pieces of this city as far as transportation goes.

Alderman Jordan moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent.

Resolution No. 209-05 as Recorded in the Office of the City Clerk.

ADM 05-1742 Ruppel Road Realignment: A resolution amending the Master Street Plan by realigning Ruppel Road from south of the Fayetteville Public School on Persimmon Street to Hwy. 62 approximately 350 to 700 feet west of the current alignment as indicated in the attached maps.

Jeremy Pate: Evening Mayor and members of the Council. This is also dealing with Ruppel Road; however it is not the entire proportion of it. This is a simple realignment in order to accommodate a couple things. One this location of property, realignment of Ruppel Road, south of Persimmon Street, south of the school that is currently being construction and on to Highway 62 or Sixth Street. The realignment would move Ruppel Road west approximately 350 to 700 feet in locations. If you'll note on the maps on page 4 of 8 the current Master Street Plan simply falls to a straight line, it's a straight line that falls south to Highway 62. It currently traverses quite significant terrain. This modification would put this at the foot of that hill and therefore would both reduce cost and the grade of the street where it would be constructed as a principle arterial boulevard in the future. Staff did bring this to the Planning Commission at the request of the applicant, Mr. Sloan and the Planning Commission reviewed this on two occasions. The second occasion was to have more information regarding topography, trees, slope and things of that nature as well as adjacent landowners. A realignment was recommended in the proposal to accommodate an existing landowner. Staff is recommending approval of this realignment of Ruppel Road. It has also been before the Street Committee and they recommended this project to the City Council for approval.

Alderman Jordan: I want to thank the staff and Mr. Sloan that was on board with working things out with the citizens.

Charlie Sloan expressed his appreciation for the help that Alderman Jordan had given him.

Mayor Coody: Lioneld's a good alderman. He does a good job as do all of our aldermen for the citizens of this town.

Alderman Jordan moved to approve the resolution. **Alderman Reynolds** seconded the motion. Upon roll call the resolution passed 7-0. **Alderman Rhoads** was absent.

Resolution No. 210-05 as Recorded in the Office of the City Clerk.

Mayor Coody: Thank you very much. That concludes the City Council meeting. Before we adjourn I want to say to the staff I know you guys are burning the midnight oil and working very hard under a lot of pressure and you try to do everything you can to make this town great to live in and you are succeeding. Thank you very much. Alright, meeting adjourned.

Meeting Adjourned at 7:20 PM

Dan Coody, Mayor

Sondra Smith, City Clerk

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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City Council
Meeting Minutes
November 1, 2005**

A meeting of the Fayetteville City Council was held on November 1, 2005 at 6:00 PM 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.

Alderman Rhoads was absent during roll call.

Pledge of Allegiance

CONSENT:

Approval of the September 20, 2005 City Council meeting minutes.

Approved

Zylon Vest Exchange Program: A resolution authorizing the Fayetteville Police Department to accept merchandise vouchers from Armor Holdings to replace existing ballistic vests containing Zylon.

Resolution 211-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously. Alderman Rhoads was absent during the vote.

UNFINISHED BUSINESS:

C-PZD 05-1670 (Pratt Place Inn, 481): An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1670, Pratt Place Inn, located at the west end of Markham Road, containing approximately 72 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting. This ordinance was left on the Second Reading at the October 4, 2005 City Council meeting. This ordinance was left on the Third Reading at the October 18, 2005 City Council meeting. This ordinance was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

Jeremy Pate, Director of Current Planning: Staff received correspondence from the neighborhood as well as from the applicant on additional conditions of approval for this potential Planned Zoning District that's been requested. Staff has taken a look at those and pulled out what we thought was appropriate for this Planned Zoning District. I will remind you that we are recommending approval for this project. We did establish conditions of approval and in the meetings since there have been some questions raised and so these are further clarifications and additional conditions of approval for this project. The project would need to be amended to include these if the Council so desires and I'll go through those generally both for your benefit and for the public. There are nine additional conditions.

He gave a brief description of the project and each condition of approval.

Alderman Marr: Were there any conditions that the neighbors brought forward or that the Archer's brought forward that are not a part of these nine that you've outlaid?

Jeremy Pate: Yes, and that was my charge to try to wader both of those and try to pick out what I felt was appropriate as a staff member looking at a zoning item. There are certain items that we would never look at in zoning criteria in these conditions of approval. I felt the most appropriate was hours of operation as a commercial venture I thought it was appropriate to address hours of operation, noise, and restaurant capacity. Some things that were not mentioned for instance the capacity of the barn, that's a Code Compliance issue. That is something that a building is built to a certain capacity and those are Code Compliance issues that do not have a lot to do with zoning. In the capacity that I did include in the letter indicates an anticipated capacity of 376 persons for the barn although the current building code determines that ratio and I'm sure there could be more than that on the premises at one time. That is one thing I did not address, that is a code issue.

Alderman Jordan: Is there a difference in a barn that is built for horses and then using that same barn for functions with people?

Jeremy Pate: It goes back to building code issues and what kind of occupancy. As a barn it probably meets code for a barn, however for assembly occupancy it does not and we have verified that to our building officials and the Fire Department and sent a violation notice. They're currently working through Crafton and Tull to get the correct plans and the correct information to the city to analyze, evaluate and ensure that those improvements are made prior to any other development on this site.

Alderman Jordan: So what we're basically saying is it will be brought up to code for people to be in there?

Jeremy Pate: If this Planned Zoning District is approved.

Alderman Jordan said that some of the constituents have asked that since we have changed our fast track PZD we really don't have an option to send it back to Planning Commission is that correct?

Jeremy Pate stated that was correct. The way the ordinance was drafted initially the City Council was the only body to make that decision. Referring it back to the Planning Commission was not an option given when you approve the ordinance.

Kit Williams: That's actually correct. I agree with Jeremy.

Alderman Lucas wanted to confirm that there would be no entrance on Sang Avenue.

Jeremy Pate stated that under condition #5 it states that it will be restricted to Sang Avenue and the new development they are considering, all of the access is proposed off of Markham.

Alderman Marr asked if that condition changes and access is permitted through Sang would it have to come back through an approval process.

Jeremy Pate: Yes.

William Feldman, 16 N. Sang stated that they had sent a letter and most of the neighborhood was still opposed to the proposal in general. He stated that one of their concerns was the hours of operation of the restaurant. He did not feel that those hours were appropriate for a restaurant. He felt that it would be appropriate to stop at 10:00 PM which would be consistent with other restaurants. His other concern was the total number of people on the property. He asked the Council to consider the number of people that are appropriate for events based on their insight into what they think is appropriate in the midst of a neighborhood that is residential.

Tim Crane, 1777 Halsell spoke in favor of the ordinance. He stated that the current zoning issues will address most of the concerns that were raised by the neighbors. He asked that Item #9 be paid attention to closely. He stated he wanted to ensure that Markham Street will not be changed significantly because if we make it a big wide road with sidewalks and curbs it may make it more of a raceway than it is.

Albert Skiles, architect for the project stated that he would like to address the concerns of Mr. Feldman. The Archers have addressed the notion of capacity. They have submitted their agreement to Jeremy that the total amount of people on the property would be total amount that can legally fit in the barn and in the hotel. This restaurant is a five star restaurant that someone could go to after a concert or a movie and sit down and have a really nice meal. The notion of closing at 10:00 P.M. is unfair. They've already agreed to quit selling alcohol at midnight. There have been a lot of negotiations. We are down to small but still important things to not micromanage this place for these folks. They have bent over backwards to recognize that they've got a special condition in a residential setting but also an isolated setting invisible to

everybody. Their interest is the same as the neighbors. They want to preserve this green space. I think this project is a great idea on its own merits and I want to urge you once again like I did on day one, this is a real unique opportunity and I urge you not to let this opportunity pass.

David Hart, 1549 Markham Rd. voiced his concerns on the traffic problems. He feels that the traffic will be worse with traffic from the condominiums going in one direction and at certain times at least on Markham Rd. He suggested that more stop signs be placed at certain intersections such as Huntz and Palmer and Markham and Cross. He said he felt that anything that could be done to channelize the traffic that's going to be going in opposite directions from those new developmental sites will be very beneficial.

Mayor Coody asked Jeremy Pate if the Planning Division or Commission would address Mr. Hart's concerns on the stop signs for example or other issues in the neighborhood that might be necessary. You can make recommendations to us and we can solve some of those problems couldn't we?

Jeremy Pate stated that the Planning staff could get with the Transportation Division and Police Department to find out appropriate means to answer the questions regarding traffic calming.

Lioneld Jordan said he thought this would go to the Street Committee and they would look at it as well.

Felicia Pharris, 2215 Haskell Heights stated that we would like to see this proposal voted down. She suggested that it be just a Bed and Breakfast and just a restaurant. The most undesirable of this proposal is the event barn. She stated that the event barn poses the largest aspect of detriment to our neighborhood and to our tranquility of living there. She went on to explain what the effects could be on their neighborhood caused by the event barn.

Beverly Roberts, caretaker of the property stated that the Archer's have already agreed that there would be no more than 376 people in that barn.

Butch Coker property owner on Sang Avenue and Markham Hill stated that the closing time being midnight is much too late. He pointed out that when restaurants go past 10:00 PM it is alcohol sales that they are making. Markham being a residential area, alcohol coming into and on Markham road is going to be a real problem. He recommended that the closing time be 10:00 PM. He stated that he has a real problem with the PZD in that we changed the zoning first and then the developer finds out what all the costs are and what he has to do. Once it is zoned Commercial it is zoned Commercial and that is going to affect the hill greatly.

Mayor Coody stated that the PZD is an option that the developers may or may not use if they so choose and everybody knows what their incentives are because it's good for them. We don't force anyone to do a PZD. It's an option that a lot of folks choose because it makes it easier to do business.

Kit Williams: To correct one misconception, Section 3 of all our PZD ordinances say's that the ordinance shall take effect and be in full force as all the requirements of the Development Master Plan have been met. So if they do not meet the requirements the PZD never goes into effect and it stays zoned the way it was before the PZD was passed.

Butch Coker: If you vote tonight to make that property commercial than it is commercial. I understand the way the PZD works. If the Archer's fail or whatever the restaurant does that property will still be zoned commercial or will it revert back to agricultural?

Kit Williams: It will remain as a PZD.

A discussion followed on defining the PZD after it is approved.

John Williams, a citizen asked if something should be done with the sewer line before additional sewer traps are made. He also voiced his concerns about the barn being used as assembly occupancy and stated that someone could get hurt and then the Archer's could get into trouble. He went on to voice other concerns regarding the streets.

Brenda Thiel stated that she was under the impression that this property we are discussing was RSF-4, but looking on page 39 and 96 it shows it's RA and then on page 33 of 96 shows that a big chunk of it is R-1. She asked how the parcels were zoned that are included in this PZD.

Jeremy Pate stated that the maps she was referring to were included back in 2002 for the original rezoning and they were called R-1 at that time. He confirmed that there were 22 or 23 acres of RA. The remaining 48 acres is currently RSF-4.

Brenda Thiel stated that she was concerned about the closing time being 12:00 PM. She stated this increases traffic during non residential hours. She asked if this was something the Archer's were not going to consider at this time.

Albert Skiles: I think they would. If that is a make or break issue can we consider 10:00 PM during weeknights and 12:00 AM on the weekends!

Brenda Thiel stated the time was one of the citizen's main concerns. It definitely is the make or break as far as I am concerned and I am not sure that I am even going to support this even then. She felt she would be a lot more likely to support it if it has a 10:00 PM closing.

Albert Skiles pointed out that all the restaurants and bars on Dickson Street are a lot closer to residential house. When we say this is a residential neighborhood you have to remember that this is 70 acres with this happening in the middle of that.

Brenda Thiel: I think that if there was a road that served just this area that did not go through a residential area. There are a lot of ways in and out of Dickson that don't necessarily go through residential areas. I think that's the big difference is the traffic concern.

Albert Skiles: I think that speaking for the Archers if it was do or die on that issue they would acquiesce.

Alderman Lucas stated that she knew this was a concern for the neighbors but maybe we could compromise at 11:00 PM because I like to go out and eat after the Walton Arts Center or something like that and like I said this is a big area and the house is in the middle. I think we are micromanaging their property.

Alderman Marr: In the letter with the 16 conditions from the neighborhood not from the Archer's did have different times in their recommendations. It seems to me based on their own recommendations that there was acquiesce to a late time on the weekends.

Alderman Ferrell: I don't think that a 5-star restaurant lends itself to clientele that drives fast, participates in abnormal behavior causing problems in the neighborhoods and though I understand there might be concerns I think it is micromanaging also.

Jeremy Pate: We as staff have to somehow enforce this. It is my opinion that all of the events regardless of what they would be would be appropriate and that 12:00 AM is a standard typical time, you can't confirm or deny other restaurants in the area about closing at 10:00 PM and we felt it was appropriate given the surrounding circumstances.

Alderman Jordan moved to amend the ordinance to set the time of closing as 10:00 PM on week nights and 12:00 AM on Friday and Saturday nights. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-2. Alderman Lucas, Jordan, Reynolds, Thiel, Cook and Marr voting yes. Alderman Rhoads and Ferrell voting no.

Alderman Jordan asked Jeremy Pate if the development goes in approximately how many trips per day would be on Markham.

Jeremy Pate: Four Hundred and Forty Six.

Alderman Jordan: If that is built out the 50 acres to RSF-4, how many trips would be on Markham?

Jeremy Pate: When I did that analysis for traffic generation I looked at both the RA and the RSF-4 and the total 72 acres and the acreages they represent that would represent an average weekday 24 hour 2-way volume of 1,981 vehicle trips per day if that were developed as it is currently zoned.

Alderman Jordan asked if this development went in and if they went RSF-4, what kind of changes would be on Markham Rd?

Jeremy Pate: If there were that much traffic generated we would most likely look at other means of access.

Alderman Marr: On the 400 trips, that took into account the event barn?

Jeremy Pate: What we based that on was a 6,300 sq. ft for the overall barn and that is how that was taken into account.

If the council so desires these additional conditions that I read tonight that you have before you, you would need to be formally made a motion to amend.

Alderman Lucas asked if it would be these conditions plus the initial 16 conditions.

Jeremy Pate: That's correct.

Alderman Jordan moved to amend the ordinance to add the amendments that were recommended by City staff. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

Alderman Reynolds stated that we just keep eating away at the good old neighborhoods and in all of my years in Fayetteville this is probably the most desirable place that I would want to live and I don't think that you need bars and restaurants in those nice old neighborhoods so I'm not going to support this.

Alderman Lucas: I know what you're saying Swifty but again this is going to be an Inn and a restaurant. The Event Barn is there. It seems to me that with all the development we have going on in Fayetteville that this is one way to protect this area. They are leaving Markham Road from the last houses there up to their Inn; they are leaving it green space. To me that's great. When you drive up that road it's like you're driving up into the country and I just hope we can preserve it that way. I hope in five years that the Inn goes so that it never changes. I think it's a good project for that area. The Archer's don't live here so I am impressed that they are trying to save this hill. I appreciate the staff and the neighbors for all the work that has gone on. I am going to support it.

Alderman Jordan stated that when he looked at this project he realized what we could have. What we could have right now with the Archers proposal is a five star inn and then 500 trips per day with tree preservation or have to look at 200 houses with no guarantee of any preservation. When I compared the two I think the Archer's proposal is a better proposal with the amendments that we've put on and therefore I will support it also.

Alderman Thiel: I agree with Swifty. I really am concerned about adding an establishment like this but then I have to agree with Shirley and Lioneld. When I look at the trips that could be generated from development as this could be developed out, that really concerns me. This does seem like the intent is to preserve it and with the PZD it is not a straight rezoning, but it is a zoning unique to this area. I will support it.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Lucas, Jordan, Thiel, Cook, Marr, Rhoads and Ferrell voting yes. Alderman Reynolds voting no.

Ordinance 4786 as Recorded in the Office of the City Clerk.

Fayetteville Depot, LLC Lease Agreement: A resolution approving a lease agreement with Fayetteville Depot, LLC for property located at the northwest corner of Dickson Street and West Avenue to provide parking enforcement and revenue collection services for a proposed parking lot. *This resolution was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

Gary Dumas, Director of Operations stated that at the Agenda Session we had discussion about requesting that the developer consider a delay in the terms of the contract until May 2006. I had a discussion with them and they agreed to that however, in Kit's last review of the contract he found that it would be difficult for the city to enforce parking regulations when the rates were different than those that we had in the ordinance. The developer is proposing to use different rates for different days of the week and different times of the day and because of that there would be some difficulty in us using tickets to enforce their parking standards.

Kit Williams stated that the difficulty would be that we give a ticket to someone who violates our ordinance and you can't give a ticket to someone who is not violating our ordinance. He stated that Council sets the parking rates in the City of Fayetteville by ordinance so that the police can issue a ticket.

Gary Dumas: If the Council concurs with the other parts of the contract we can table official action and then work with the developer to establish appropriate rates and bring the ordinance back with those rates sometime before May 2006. In that intervening time we can develop the residential program which needs to be in place on the Dickson Street area. If you want to do the agreement then you should table it until we have a chance to work through the ordinance issues with the residential parking program.

Alderman Thiel stated that she liked the idea of generating revenue but there are a lot of unanswered questions.

Gary Dumas: If you're in general agreement we will proceed with developing an appropriate ordinance which would satisfy them and satisfy the Council.

Alderman Thiel: So we're going to have to change the ordinance even to consider charging rates for unpaid lots.

Gary Dumas: On private lots, yes.

A discussion followed on rate charges.

Alderman Ferrell stated that he was not in favor of this and he would like to see it voted down. I feel that if we table it there's going to be some feeling of obligation when it comes back.

Alderman Lucas stated that she does not favor it at this time either. She stated that it concerns her that the City is getting into the parking lot business for private developers.

Alderman Rhoads stated that tabling does not necessarily mean that we're for it.

Alderman Thiel stated that they just need to come back later whenever we know more about it. I don't see any point in tabling this.

Gary Dumas stated that if this is voted down he would not bring a contract with this developer forward again unless the Council or the Mayor directs him to do so.

Alderman Marr: I struggle with this because I actually support a paid parking program to fund a parking garage in the future for our downtown area. I don't like that done through a contract requiring it through a certain time frame and I don't like it done only looking at a single lot without residential parking. I am more in favor of tabling it indefinitely because I think there may be a time that it could be appropriate to come back. Looking at it as a single item makes it feel more like a development parking management program and that's not our core competency so I am going to move that we table indefinitely and you can bring it back whenever it's appropriate to be looked at as a comprehensive program.

Alderman Marr moved to table the resolution indefinitely. Alderman Thiel seconded the motion. Upon roll call the motion passed 5-2. Alderman Jordan, Thiel, Cook, Marr and Rhoads voting yes. Alderman Lucas and Ferrell voting no. Alderman Reynolds abstained.

This resolution was tabled indefinitely.

Associated Time & Parking Controls, Inc.: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of Parking Revenue Collection Equipment from Associated Time and Parking Controls, Inc. in the amount of \$46,805.10; approving a 10% contingency in the amount of \$4,408.50; and approving a budget adjustment in the amount of \$51,213.60. *This ordinance was left on the First Reading at the October 4, 2005 City Council meeting. This ordinance was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This ordinance was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

Gary Dumas stated that the next two items needed to be voted down. The developer is purchasing the equipment and we don't need to have a relationship with that and the Parking Management Division Personnel, we'll bring back this request either in the budget or when we attempt to implement the residential parking program.

Alderman Reynolds asked Kit Williams if it was okay to vote on this item. Lot 55 was conflicting because it was behind my business.

Kit Williams advised him to abstain.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds abstained.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds abstained.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 7-0. **Alderman Reynolds** abstained.

This Ordinance Failed.

Parking Management Division Position: A resolution authorizing the addition of one (1) full-time position in the Parking Management Division; and approving a budget adjustment in the amount of \$3,282.00. *This resolution was Tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting. This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

Gary Dumas: We are working on developing a residential parking program for the Dickson Street area. That work is ongoing and will continue when it comes time to begin implementation of that program we will be bringing this back for council approval. You should deny it at this time.

Alderman Rhoads: Is this a position that you could use and it could pay for itself apart from the residential program that you just referred to?

Gary Dumas: Yes, the residential program will not be a revenue generator. This person could be used currently in help with the additional revenue generation on the current program that we have. I think the person is needed but I think it would be easier to approve when we have expanded either a residential program around the Dickson Street area or we expand the fee based program.

Alderman Rhoads: My question I guess would be mathematically how much would this position net?

Gary Dumas: I will have to get back to you. Taking our private lot which we were going to be monitoring, I don't think we've developed numbers that this would generate without that. It would be a generator but not a large revenue generator.

Mayor Coody: But it would pay for itself?

Gary Dumas: It would pay for itself.

Alderman Ferrell: Initially when this position was brought up wasn't it a supervisory person?

Gary Dumas: Yes.

Alderman Ferrell: Is it still intending on being a supervisory person?

Gary Dumas: All the people in that Division work in the field, but this position would be a working supervisor. When we develop the residential program someone is going to have to go and visit everyone who lives in that area to see what their needs are and that will be someone other than a Maintenance Worker level person.

Alderman Ferrell: If they're going to bring in more net, is that going to be thorough establishing these programs that's going to bring in more money or making the people more productive under them or a combination of both, where's the net gain going to come from?

Gary Dumas: Making the people more productive under them and also being out and enforcing the current parking program we have.

Alderman Lucas stated that she would rather wait until they have this program in place and then look at another person.

Alderman Marr: Is there a reason this wouldn't be tabled indefinitely until at whatever point you brought it back?

Gary Dumas: You can do that also and we'll be bringing it back sometime in the spring either off the table or as a new item.

Alderman Marr moved to table the resolution indefinitely. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds abstained.

Daniel Hintz, Fayetteville Downtown Partners stated that they have been working with the Parking Management Department to facilitate the conversations around the residential parking program and to help facilitate conversations around any paid parking program as well. We will continue to work with City staff in order to get as much information to you as quickly as possible.

This Resolution was Tabled Indefinitely.

Bio-Based Technology Offer and Acceptance: An ordinance waiving the requirements of §34.27, Code of Fayetteville and approving an Offer and Acceptance Contract with Bio-Based Technologies in the amount of \$940,000.00 for the purchase of the Water & Sewer Operations Center on Cato Springs Road; designating the proceeds for Economic Development purposes; and approving a budget adjustment implementing the designation. *This ordinance was left on the First Reading at the October 18, 2005 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan: What sort of comments do we have from the Council?

Kit Williams: I should note for the record actually now it's a real estate sales contract and instead of just an offer and acceptance contract and I hope you all have received the newer version that was signed by Mr. Muccio for Bio Based and all three of the companies that is referred to in the contract.

Alderman Thiel stated that she appreciated the City Attorney insuring that all three companies were represented and that she appreciated the companies giving us an overall plan.

Alderman Reynolds stated that this has been a long drawn out event. He stated that there was a meeting this morning with Mr. Dumas and all the parties and they came up with a solution for a sewer line, a right of way across the property so as far as I know right now this thing is sitting on Gold. Everybody is happy.

Alderman Ferrell stated that he thought this is a really good opportunity for us and that this is going to bring some good paying jobs south from the north and that he felt that this was a win win for getting us kicked off in the knowledge based industry.

Steve Rust gave a presentation on the Bio based project and what it means for Fayetteville, the state and also the country.

Mike Muccio, Chief Operating Officer of the Bio Based Systems stated that he just wanted to thank the Council for their time tonight and over the last several weeks and months. He said he just wanted to give a brief overview of what these companies do. He explained that Bio Based Technologies is a company that takes products and replaces the petroleum found in those products with bio based resources. He went on to describe the products used to complete this process. He also explained that Bio Based Systems takes the polyol and works with various systems houses and various manufacturers to replace that petroleum with these polyol and used products. He described the products used to complete this process. He stated that they were very excited about developing a partnership between the City of Fayetteville, the University of Arkansas and all the research technology activities that we hope will ensue from this.

Thad Kelly, Cromwell Architects project architect stated that it was a very large project. We want to be able to do this in a very considerate way. He went on to explain the vision of Bio Based Technologies.

Alderman Thiel: We're not getting any guarantees in this agreement that this layout will be like this. I think our concern and the neighbor's concern is that Razorback Rd. and Cato Springs Rd., the corner of this property is basically close to R-O zoned and the Industrial part but there are no guarantees in this.

Kit Williams stated that there was a guarantee on paragraph 13.

Alderman Reynolds said but what we do have is a guarantee from them that Cato Springs all the way down Cato Springs Rd. all the way around Razorback Rd. it will be R-O along the street.

Kit Williams: I don't see R-O there, what I see is conceptual drawings but what I also see is that if they present a master plan development to you that is not acceptable because they don't have R-O there or don't have something there that you like then the City Council does not have to accept it and there will be no closing until a master plan that is acceptable to the City Council is presented.

Thad Kelly: It may be R-O, it may be another designation. We will have a buffer or a screening around there so that we are screened. We do want to be a very benevolent neighbor with the

neighborhoods that are around there. We don't want to be intrusive. He went on to describe what they would like this project to be and he stated that they are willing to work with the staff and the Council to make that happen.

Alderman Rhoads: Did you say that the buildings would be LEADS or that you would strive to apply for that?

Thad Kelly: We are going to strive for LEAD and that's a quantitative process with the materials you use, the source of the materials and the viability of them and we can't guarantee you that it will be platinum, which would be the highest rating or gold but we can hit certified.

Mary Beth Hughes, citizen of Fayetteville spoke in favor of this project. She did however have one concern, if something should happen where a business comes in and we build a building, they do whatever they need to and something happens and they close and they fail. What guarantee do we have and what are we left with. She pointed out that we have business buildings currently that have become vacant and they sit there and become an eye sore. She stated that this is a large complex and something we should think about putting in our agreement is what kind of clean-up is there going to be, what kind of maintenance will there be, and what protection do we have as a city and as a neighborhood if they go. She stated it would be good to have something in writing as some sort of protection.

Alderman Lucas stated that this is a very good project for Fayetteville. She stated that she was able to tour the facility and she was very impressed with the product. She stated that she hopes that this is approved.

Alderman Lucas moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion.

Kit Williams asked the Council to amend the ordinance title and Section 1 to change Offer and Acceptance Contract to Real Estate Sales Contract and to acknowledge that the most recent contract is the one you will be approving tonight before you go with the final reading.

Alderman Lucas withdrew her motion.

Alderman Jordan moved to amend the title of the ordinance. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel stated that she agreed with Alderman Lucas. The concept behind this plant is excellent. However she also agreed with Mary Beth Hughes that there are still some concerns about what would happen with this if they failed. I think we've built in some protection under item 14 which basically they would have to reimburse us is that right Kit?

City Attorney Kit Williams: Most of this came from Mr. Muccio. This provision says that they shall pay 75% of any increase value in the land only if they sold it within the first 5 years and 40% of the increase value of the land only if they sold it between years 5 and 10. To give us and the taxpayers some protection. The City Council has the right to approve the building design and even the materials used for the building design so I think the City Council retains a lot of discretion and power that we don't usually have.

Mayor Coody: Actually I think the staff made those recommendations and the partners agreed to it.

Alderman Jordan stated that he had some reservations about it after hearing comments from the people over the last couple of weeks. I have toured that plant. Everyone needs to understand what the neighborhood has been through. He went on to express concerns he had at first, but after he toured the plant and did research on Bio-Based Technology he felt that it would be a good business and that it would bring high paying jobs. He stated that the advantages would outweigh any problems that we may have. He felt it would be a benefit to the neighborhood in the long run and he is going to support this.

Alderman Cook: I agree with Lioneld Jordan's comments. I want to thank Steve Rust and Phil Stafford for their work on this because I know they worked hard since our last meeting to get everyone on board on this and I appreciate your efforts on that.

Alderman Reynolds: I want to thank Tom Muccio for the letter and I think he is a great business man.

Alderman Marr thanked the Mayor, the Chamber and the University for forming the FEDC because what we want from that partnership is these kinds of businesses. He also thanked Steve Russe because every economic development opportunity has a time period that you think is going to be absolutely crazy and he said he appreciated him corralling everyone in that process. He said I am most excited about the fact that this is the first step for the University Partnership.

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

Ordinance 4787 as Recorded in the Office of the City Clerk.

Steve Rust thanked the Council, City Staff, and everyone involved in this project for all their hard work and help in this process.

Police and Public Safety Systems Impact Fees - Chapter 159 Fees: An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.03 Police and Public Safety Systems Impact Fees of the Unified Development Code. ***This ordinance was left on the Second Reading at the October 18, 2005 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Tim Conklin stated that the impact fees that are being considered this evening are based on the study that was completed last year where the Police get \$223.00 per single family home and the next item on your agenda for fire is \$208.00 per single family home.

Alderman Jordan: When we passed the first round of impact fees two years ago, the revenue has been brought in at about \$3,000,000.00 in two years time. These impact fees will go forward to buy Fire Stations and put in Police Substations or if we need to buy equipment which will help us on our CIP as far as building Fire Stations and things of that nature. We have built into this a clause about affordable housing that if developers can build a house for a certain price we can waive fees or eliminate them much like what we brought forward on Habitat for Humanity. Adding these fees, they will still be half of what Bentonville and Rogers is asking at this time. It puts the burden on the individuals causing impact to the City rather than long term residents where we have to raise taxes.

Mayor Coody: Tim, do you know the details of what Bentonville and Rogers want to do as far as their Police and Fire Impact Fees?

Tim Conklin stated that Bentonville's water and sewer impact fees are \$3,094. They do have a Fire Impact Fee of \$504.00 that is already enacted. He went on to give a comparison of other cities impact fees.

Kit Williams: Bentonville's Impact Fee's were enacted under the old statute just like our original water and sewer impact fee's were and the Fire Impact Fee is still before the Circuit Court who is trying to decide whether or not it's a tax or a fee.

Alderman Thiel asked Kit Williams what the impact would be on Bentonville if the court rules that the Fire Impact Fee is a tax. Will they just have to reimburse the tax payers what they charged for that, how is that going to impact them financially.

Kit Williams: I would imagine that they have that money in a special account and hopefully since they have been sued they have not spent that money because if the court did determine that it was a tax and it wasn't voted on by the citizens then it would be an illegal exaction and that money would be divided between the attorneys who brought the suit and the developers or homeowners who paid the impact fee.

Alderman Ferrell moved to amend the ordinance to send it to a vote of the people on January 10, 2006. **Alderman Reynolds** seconded the motion. Upon roll call the motion failed 2-6. **Alderman Reynolds** and **Ferrell** voting yes. **Alderman Lucas, Jordan, Thiel, Cook, Marr** and **Rhoads** voting no.

Alderman Lucas: We discussed diversifying things and putting the emphasis on growth and letting it pay for itself. I think this is very important for us to have these impact fees so that we can as the need grows. I am in favor of the impact fees.

Alderman Marr: Consistent in Ward 2 since 2001 and the Special Election that I ran in and every election since then I think there has been overwhelming discussion about impact fees as a

way of growth paying for its cost. The only candidate in our ward for the people we represent that did not support impact fees in the first election received 101 votes and was in fourth in report of the race and it is for that reason that I am going to continue to support impact fees.

Alderman Ferrell: I just want to make sure that everybody knows that the only thing the impact fees can be used for are Capital Projects so it doesn't aid in putting people on the streets it's just for Capital projects. In the past the City Attorney has recommended that this go to a vote so that's why I came up with that and I am not particularly worried about re-election so I won't support it.

Alderman Cook: The real thing about the Impact fees is that it takes the burden off the resident that already lives here and puts the burden on the people who are creating the problems and if anything we do agree on is that the growth is killing us as far as capital costs, there's no question about that and that's exactly what these impact fees provide for so for me it's foolish for us not to support these impact fees to try to help as far as the capital cost.

Alderman Thiel: It is a way of growth paying for itself and citizens seem to be in favor of this and obviously because they live here and they feel like growth has impacted them and they want some way for growth to pay for itself to justify the growth and this is one way we can do that so I support it for those reasons.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Lucas, Jordan, Reynolds, Thiel, Cook, Marr and Rhoads voting yes. Alderman Ferrell voting no.

Ordinance 4788 as Recorded in the Office of the City Clerk.

Fire Protection Systems Impact Fee - Chapter 159. Fees: An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.04 Fire Protection Systems Impact Fees of the Unified Development Code. *This ordinance was left on the Second Reading at the October 18, 2005 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas stated that this was very important because we need more fire stations.

Alderman Jordan thanked the staff and Council for all the work that has been put into this.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Lucas, Jordan, Reynolds, Thiel, Cook, Marr and Rhoads voting yes. Alderman Ferrell voting no.

Ordinance 4789 as Recorded in the Office of the City Clerk.

Greenland and/or Farmington Sewer Systems: A resolution to express the intent of the City Council to assume the ownership and the operation of the Greenland and/or Farmington Sewer Systems. *This resolution was Tabled at the October 18, 2005 City Council meeting to the November 1, 2005 City Council meeting.*

Alderman Cook: My intent is to give the negotiating committee with Farmington and potentially with Greenland in the future some direction on how we want to approach from this point forward. One of the last points that were made at our negotiations with their City Attorney Steve Tennant was does the City of Fayetteville first of all want to take over the sewer system because if we as a City Council are not interested in doing that then we need to change our discussion points. My intent here is to gather opinions and thoughts on whether you as a council think that's the right direction to go with our negotiations.

Alderman Lucas: What I would rather see is a contract good for the residents of Fayetteville and then I would certainly consider taking over their sewer, but when we say intent, that just says we are going to do it, now we've just got to work out something that is negotiable. Unless it's something that is good for the citizens of Fayetteville, it's not my intent to do it and I'm not in favor of doing that. I won't support the resolution.

Alderman Thiel asked Alderman Lucas if it would be different if there was different wording in this resolution.

Alderman Lucas stated that she did not think we really needed the resolution. It seems to me that we have already told Kyle to talk with them and see if something could be worked out and then bring it back to us.

Alderman Cook: The resolution is if we do move forward with the negotiated contract and let's say we do feel it is in the best interest of the citizens as far as protecting their interest, is that something you would even consider at this point?

Alderman Lucas: I would certainly look at anything you bring forward.

Mayor Coody: I think it's just testing the open mindedness to the idea of the Council to see if everyone is really opposed to it and it would be a waste of time to go forward.

Alderman Lucas: When we gave him the assignment to discuss it with them, wasn't that the intent?

Alderman Cook: The other issues that were brought up were issues of growth in Farmington. If we do move forward with the idea of taking over their system that some of the other Council members I've talked to have issues with how much growth are we going to allow in Farmington. Farmington's last comment was they don't want any kind of reigns on their growth that they should be able to grow as they want to. For me that is an issue we as a Council should discuss too. There are certainly benefits also to that as far as our west side collection system. Staff has presented before that the most efficient way to handle our sewer system on the west side is to build one large lift station at the confluence of Goose and Owl Creek and then from there pump it to the West Side Treatment Plant. If we do not move forward with this Farmington Agreement then we will have individual lift stations around in that part of town. That's not a very efficient

way to process our wastewater. If we allow them to grow will that cut into our tax base and our revenue base that we receive from Farmington residents now? There are many pros and cons with what we are going to do here so I'm just looking for the right direction to go. Farmington is going to go in a different direction if we decide not to take over their system.

Alderman Reynolds: I think you are on the right track, but I also want you to think about impact fees for Farmington. That needs to be included in that contract.

Alderman Cook: In our conversations with them they have not been opposed to that idea. They would still have to go through the process. Duncan and Associates is going to visit with them to see if we are moving forward with that concept but still as a city, they would have to decide on it themselves. There is no guarantee to it at this point but they are open to that idea.

Alderman Marr: Can you share with the Council what the main negotiating differences are? When we passed the resolution in intent to look at negotiating to take over their system with an amendment by Alderman Ferrell that it should be no rate impact on the citizens of Fayetteville and based on that resolution what would be the key negotiating points and where is the disconnect between the two city's positions?

Alderman Cook: Another point was the amendment that was made. Our conversations with Farmington is they are not asking for the same rates as citizens of Fayetteville pay, they just want to pay their equitable share of that. They feel they are not paying an equitable share at this point. If we show them that their rates need to be this much more than what Fayetteville citizen's are and we can justify then they do not have a problem with that, but right now they do not feel that it is equitable.

Steve Davis: The issues that Farmington expressed were making sure that Fayetteville did not put unreasonable constraints on their growth and the other one was rate parity. The way we discussed rate parity is that there are capacity issues; there are fixes to the Farmington System that only the Farmington rate pairs will benefit from and they're fine with having a rate differential that's based on that cost. They are also fine paying an impact fee based on the collection system that Farmington wastewater stream would use within Fayetteville and an impact fee for the treatment plant. What I heard from the Farmington team was that they did not want to invest a lot of money in drafting a detailed contract only to find that Fayetteville really wasn't interested in approving it.

Kit Williams: I agree somewhat with what Steve said. The negotiating team indicated that they would not have problems with the impact fees, but that's not their City Council. Even if you look at the resolution that they passed it says a resolution supporting sewer rate and impact fee studies by the City of Fayetteville. We actually asked them to pass a resolution that would be stronger than that saying that they would support impact fees if we assumed ownership of their system because that's the only way they would be able to pay for some of the improvements that they need and that should be their responsibility. We as your negotiating team want to know what your orders are and what your main issues are beyond impact fees. We need directions from you before we can go forward and get a good contract. We want to know what a good contract would look like. That's why we need more information from you.

Alderman Ferrell: When we're designing the plant there's a life expectancy for this plant in anticipating the growth for Fayetteville. I don't think there were other systems anticipated in the amount of money being spent in the designed growth of the plant.

Kit Williams: Farmington and Greenland has been a part of our system for many years so they were included in but not an unlimited growth situation.

Alderman Ferrell: To me, that adds possibility of kicking back in the idea of if it's going to cost the citizens of Fayetteville, and if it's going to have a financial impact on the citizens of Fayetteville then I think that could trigger that. I am not opposed to it, but I would like to see you bring back a framework of what they consider before we spend a tremendous amount of time creating a contract. My understanding was that the idea of the impact fee had already been addressed with them and I guess I misunderstood that.

Kit Williams: It has been addressed and they have approved this resolution supporting the studies but they haven't specifically approved whether or not they would actually go for impact fees.

Mayor Coody: So essentially it's open ended for both parties.

Kit Williams: Nobody has made any commitments.

Mayor Coody: We have two choices in my opinion. One is to say that no, we are not interested at all and let the situation drop and that way we'll never know what could've happened or the other option is to just continue to negotiate and see what comes out the other end and see what culminates is acceptable to both parties or not, there are no guarantees.

Kit Williams: We need guidance. The reason this was brought back is not just to pass a resolution to say that we are interested. We assume everyone is fairly interested if a good contract can be worked out. What we need to know is what you consider a good contract so that we know how to negotiate.

Alderman Thiel asked Steve Davis what is the advantage to the City of Fayetteville and the citizens of Fayetteville to do this.

Steve Davis: I really think there are a number of advantages, currently our permit is for WSIP Project which has been approved by various state and federal agencies says that we will discharge into the White River facing the treated wastewater that originates into White River Basin and we will discharge into the Illinois River Basin all wastewater that originates within that Illinois River Basin. Currently Farmington is in the Illinois River Basin and they pump east to the Noland Plant. We have an existing contract through 2009 and that's the direction it will go. In order for us to redirect that flow, when Fayetteville activates the West Treatment Plant we are going to have to shift the flow and its going to have to head west. In order for us to do that we either have to build some sort of piping system and lift station around Farmington or we have to go through Farmington. The only way we can go through Farmington is if we own that location. Perhaps we can buy the land that it sits on, but it's easier to just to take ownership of the whole system. Twenty percent of the flow that runs through that new redirected lift station will be Fayetteville's financial responsibility. To ensure Fayetteville residents don't have to get

into a compounding rate calculation where we don't own the system, Farmington owns the Lift Station, we charge Farmington an x number of dollars, they take that investment, mark it up and charge some of that back to us so we end up paying a stacked on fee for the twenty percent of the waste that goes through there. The easiest way to have a simple single charge is to own that transport point.

Alderman Thiel: But we could buy the land for the lift station?

Steve Davis: We haven't explored that aspect of the state law that says the wastewater treatment facilities have to be located in your city unless you can show that it's not feasible. That is an option. Right now Fayetteville rate payers are not fully funding depreciation expense, the charges that we assess to Farmington and Greenland do recover 100% of the depreciation expense for the facilities they use that belong to Fayetteville so there is a rate differential that Farmington has talked about.

Alderman Thiel: If we bought their system and they want rate parity then there probably wouldn't be that differential and we would still have to charge our citizens more.

Steve Davis: Not necessarily because what they're asking for is that they only get charged for what they use of our system and right now they can't see that through the 2003 Rate Study.

Alderman Thiel: Is this going to make them see that?

Steve Davis: Yes. Our existing contract with Farmington has no capacity limit and it runs through 2009, the only way that we can get a capacity control with Farmington is to enter into a new contract, whether that's an operations contract or an ownership contract. We currently cannot charge impact fees on the wastewater side, if we owned it we could. Our existing water impact fees currently being charged on all new connections in Farmington, they continue to expand even under their voluntary moratorium, they're just expanding on step systems so eventually the critical mass that they have to attract commercial development in Farmington is going to get there.

Alderman Thiel: We're not asking them to increase their sales tax. That's not even a part of this discussion so that's irrelevant.

Steve Davis: Other than a concern expressed by City Council is that us taking over their system will provide them a better opportunity to expand their commercial base. Another thing that we have to be concerned about is the water quality in the Illinois River. There are references that the step systems and septic systems do not clean water to the same level that our treatment plant is required to.

Alderman Thiel: One thing we would ask them to do besides the impact fees is to consider having the voters vote on sales tax that would equal what we are charging, we can do that?

Kit Williams: I think they're already collecting as much sales tax as they are statutorily authorized.

Alderman Reynolds: I think we need to find out what time frame we are going to discuss on moratoriums until our new sewer plant gets built. Are we going to stick with residential until that plant gets built or commercial and residential because we can't keep building out west and eating up land and expect them to sit still. I don't know why they would want anything to do with us to start with.

Kit Williams: The moratorium, we have not placed that on them right now. They are simply at capacity with their lift station and their force main. Without a substantial amount of investment into that lift station they cannot grow further.

Alderman Reynolds: At the time our plant comes on a line they may have 7,000 or 8,000 residential houses out there on a step system that will be ready for a sewer line.

Kit Williams: If you agree to take over the system right now they really wouldn't have much additional capacity until the new plant did come on line and the new lift station was built that would drain them. So for the next two or three years no matter what we do they will not get additional sewer capacity I do not believe.

Alderman Thiel: If we did take their system over and were in agreement with them would we have the ability to limit their growth?

Kit Williams: Any agreement like that would have to be done on the front end between the various City Councils with an overall agreement saying that the cities won't cross each others line which will be our growth line or some other limiting capacity about how much of their sewage we would accept through their lift station. We could say that we only accept a certain volume through the lift station.

Alderman Thiel: I would certainly be in favor of that if we continue negotiations that we put something like that in the contract.

Steve Davis: If the Farmington contract negotiations proceed like the Elkins contract we have two measures in the Elkins contract that limit the amount of new connections that they can do now. One is a bio-loading and the other is a hydraulic loading on the pipes and the lift stations as well at the Noland Plant. We would put those in the contract with Elkins expecting those same provisions would be in any future contracts we had with other cities.

Kit Williams: That is one possible way. Unfortunately the way that is structured it says that we don't limit any growth until 75% of a bio-loading maximum for our treatment plant is reached. At that point whatever the percent of use is will be a portion to the users at that rate. If Farmington grew very rapidly until we hit the 75% rate than they would get at higher proportion than they would get right now. That would strongly encourage Farmington and Elkins to grow as fast as they could to get to the 75% rate because then they would be entitled under that contract through a larger percentage of the remaining capacity we had in our sewer plants.

Alderman Ferrell: I think if we approach a certain threshold and if their capital cost incurred serving then you would share in the capital cost, whatever it is, I think we can talk about this forever. I'm in favor of moving ahead with this and keeping the best interest of citizens of

Fayetteville and come back to us with what you think is the best deal for Fayetteville. You are asking us to tell you what to do and I don't think we can do that.

Kit Williams: There's one major issue. There is going to be a lot of resistance from Farmington to put any type of strong growth control on them. I need to know how important that is to the City Council of Fayetteville because I don't know how to negotiate until we know what your feeling is about growth control.

Alderman Lucas: We've talked about what benefit it would be for us to do this contract. Is it of any benefit to Farmington?

Steve Davis stated that the first benefit is that once the system is transferred to us they no longer have to be concerned about if their sewer system overflows. The flip side for us is that our crews no longer have to make numerous trips out there to repair a pipe 15 feet at a time. They can decide what really needs to happen in this one trip, we need to replace 50 or 60 feet or 200 feet rather than making numerous trips out there to replace pipes as they leak in fifteen foot segments. It also gives them stability and the ability to know that the wastewater treatment needs that they have in transportation of those wastewater flows will be carefully monitored because it's not only Fayetteville's permit.

Kit Williams: It is vital to them for us to continue to treat their sewer waste. They have no plant. Plants as you are well aware cost millions of dollars. I think we need to continue to negotiate with Farmington because they're our neighbors. It is vital to them that we are there with them.

Ernie Penn, City of Farmington: One of the things Kit referred to was us not having the money to do any repairs, that's primarily because we pay all the fees to Fayetteville. We get a small nominal fee at the end of each year so it would take quite a bit of time to accumulate enough money to expand any kind of system. The only difference you have right now is Fayetteville basically just doesn't have ownership of our system. Farmington owns it but you are our servicer. You are the entity that provides that service to us. One of the things that our negotiation team talked about was the rate parity which we totally understand. It's not an equal rate we understand that because there are certain things that we have to pay for over and above the citizens of Fayetteville and in this negotiation process we're going to be just like your negotiating team. We're going to the best thing that we can for our taxpayers. For us to be able to turn over our ownership, we're turning over any control that we might have in that entity. When you look at what our citizens pay for water and sewer services versus what your citizens pay, I think we've more than paid for our fair share. There's no doubt in my mind that we want to continue with the negotiations. Once we go a little bit further and come up with some reasonable contract terms I think the citizens of Farmington and the City Council will be very agreeable to it. We want to maintain a good relationship and as long as we keep that good relationship and good communication going we'll see that we can work together on a good contract that will be good for both cities.

Mayor Coody: We would like to do the same thing. Thanks Ernie.

Alderman Lucas moved to amend the title of the resolution to say Continue Negotiations. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

Alderman Cook: I agree with that because we are going to continue to negotiate one way or the other and I wanted to hear everyone's comments tonight and to hear where you were coming from as far as what we were going to move forward with.

Alderman Jordan: My main concern is the growth issues because I don't want to get in a situation where one city is allowed to grow at such a rapid rate that it actually drains capacity away from this city because we are responsible to have capacity for our people as well. I certainly want you to look into those issues. If there was no way of controlling it there would be no way I would support this. I think you should continue looking at the impact fees to make sure that if we get no impact fees and we're part of the system how fair is it to the people that develop here who pay impact fees that the people in Farmington do not pay impact fees. With that I will support the amendment and negotiations but I want that to be kept in mind as you do.

Alderman Marr: I am not too hot about this because I am concerned about the management time, and the economic drain issues that we talked about. I tend to move more to the arguments of why you think you need to look at it. I would not be able to get past any contract that did not have some definition of what reasonable growth is and some limit on reasonable growth. I would not support a contract that did not address that either.

Jeff Erf, Fayetteville citizen: When you discuss taking over Farmington's System is that in perpetuity forever

Kit Williams: It will be hard to get rid of once we accept it.

Jeff Erf: So that includes any future growth and making the assumption that any new development in Farmington then would have to be connected to the sewer system.

Kit Williams: I think that's probably correct unless our contract said something differently.

Jeff Erf: So is that something the City wants to do in looking 10-20 years into the future do we know what their population projections are. Do we want to create an incentive in the contract to encourage them to wean them off of being dependent on Fayetteville for sewage treatment?

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

Resolution 212-05 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

ANX 05-1723 JDM Investments: An ordinance annexing that property described in annexation petition ANX 05-1723 for property located at Skillern Road, east of Savannah Estates, containing 5.06 acres.

City Attorney Kit Williams read the ordinance.

Alderman Lucas: Does Natchez Trace go into this property?

Jeremy Pate: If you look on page 20 of 20 Natchez Trace is actually a stub out so this would likely have access to Skillern Road. The potential stub out that we discussed at the Planning Commission meeting is if you look on page 19 of 20 coming off of Township Street there is a stub out that sort of stubs out to the north not all the way to this property but we have spoken to property owners to the south that are potentially interested in annexation as well.

Randall Wakefield, representative of JDM Investments: We have made an effort to speak with all the landowners adjacent to the property and as far as I know there is no opposition. We're asking that the property be annexed and rezoned to RSF-4. We don't have the plans finalized yet but we don't anticipate there being more than 11 or 12 lots developed. Emergency services have all reported that there will be no adverse burden or load on the services or utility and the engineer and a member from JDM Investments is here tonight if you have any questions for them.

Alderman Reynolds stated that he would like to hear from the alderman in Ward 3.

Alderman Rhoads said he had had no complaints about it and had heard mostly positive comments.

Alderman Ferrell stated that he watched the Planning Commission meeting on this and there were favorable things said about the number of lots that there were going to be.

Alderman Marr asked of the fire response time of 7 minutes, that's from the current station and in the future planning when the Tyson Station comes along that the station on Hwy 265 would move farther north towards this area which would reduce this time to acceptable limits?

Jeremy Pate: Right, at Crossover and Old Wire is a potential location for a station there. The time would be reduced to three minutes.

Alderman Lucas: How did the Planning Commission vote on this?

Jeremy Pate: 8-0.

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

City Attorney Kit 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.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. **Alderman Lucas, Jordan, Reynolds, Thiel, Marr, Rhoads and Ferrell** voting yes. **Alderman Cook** voting no.

Ordinance 4790 as Recorded in the Office of the City Clerk.

RZN 05-1724 JDM Investments: An ordinance rezoning that property described in rezoning petition RZN 05-1724 for approximately 5.06 acres located at Skillern Road, east of Savannah Estates from R-A Residential Agricultural to RSF-4, Residential Single Family, 4 Units Per Acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: The Planning Commission voted 5-3 to recommend approval of this particular request. The three commissioners voting against cited issues with the density and the desire to have another in term zoning district somewhere between two and four. I have received a memo from Kit and looking at potentials for doing that. I would mention that RSF-4, four dwelling units per acre is by far the most common zoning district throughout the country, however most properties are not developed at that density because of the rights of way associated with that in park land dedication and anything else you have to dedicate for a property so it's almost always a given that you won't see four. We try and talk to the applicant and know enough about the property to anticipate what the proposed development would yield and so the Council can make that decision.

Walter Bouchi, citizen: I am really pleased to hear that the Council is concerned about growth because it seems like we put a lot of these developments in and then from the outside it looks like there hasn't been anticipation of traffic load and everything. As we continue to expand if you see the traffic out there on 45 and on Skillern Road it's getting to be ridiculous at certain times of the day so please take that into the count.

Mayor Coody: We are all concerned about the traffic and we are trying to get to where we can do something about it. Thanks for your comments tonight.

Alderman Cook: One problem I have with developments like these is it's going to be a cul-de-sac development with potential stub out for future development and we'll see more of those and it's going to make the traffic on Skillern worse.

Jeremy Pate: I suppose in response that is why we as staff really push connectivity even though sometimes the public sometimes doesn't want that because it does allow more ways to get through to different arterials. This one for instance if you look at the larger maps if in the future we have a stub out, you could potentially get through to Township and on to Mission without having to go to Skillern from this property so I think it is important that the City Council has adopted that policy and continues to enforce that.

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

City Attorney Kit 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.
City Attorney Kit Williams read the ordinance.

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

Ordinance 4791 as Recorded in the Office of the City Clerk.

ANX 05-1728 Zaccanti: An ordinance annexing that property described in annexation petition ANX 05-1728 for property located south of Salem Road, east of Crystal Springs Subdivision, containing 80.30 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the property. He did want to note that the differences here 80 acres in this tract 60 in the rezoning tract, there's a 20 acre parcel that Mr. Zaccanti would like to keep and just remain Residential Agricultural it's at the north part of the property so that is the differences in the numbers that you see there. Access to this property there's with development of the subdivision a potential for four different ways to get out of this property. Those are things that we have looked at on our master street plan as well. We have not received any public opposition to either of these items and are recommending approval.

Alderman Thiel stated that her concern with the rezoning is that the frontage on Salem Road is going to be kept at a lower density.

Jeremy Pate: At this time, yes ma'am.

Alderman Thiel: So that means the development is going to occur on the southern part of this property.

Jeremy Pate: Correct. It is the Planning Commission's decision and they will look at the amount of frontage and how does the development impact that particular street. If none of this development goes to Salem Road there is no real impact from this particular property.

Alderman Thiel: As I recall our City Attorney told us that there was a limited amount that the developer would be required to improve just because of the law.

Jeremy Pate stated that the amount that one has to improve is the same regardless of whether it's fronting onto that property or not.

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas: You need to see that this is surrounded by the City on three sides and its just west of the property that we rezoned, the Schlegal property.

Raymond Smith: I submitted the application that is before the council. The County would prefer if it's possible that not only the annexation but the rezoning be considered together. The Planning Commission seemed to be concerned about the fire response time but the response time here is no different than the adjoining areas. This area is surrounded by three sides that are already zoned RSF-4. This area will not be built up to 240 Units as an RSF-4. It will probably be approximately 170-175. All Mr. Zaccanti is asking is that he be treated in the same way as the adjoining neighbors there that have been zoned RSF-4.

Al Zaccanti Sr., owner of the property: I can't understand why the Planning Commission would vote 8-0 to bring me into the city limits yet vote 4-4 on the rezoning. The property next to me on the west side is Holcomb School and a subdivision property that joins me on the south is in the city limits and is zoned RSF-4. The property to the east of me which is 76 acres is also zoned RSF-4 and is in the city limits. As I understand the school board has purchased this property for a Junior High or a High School. This property is actually an island within the city limits which I consider for Planning on the Planning Commission.

Mayor Coody: Jeremy, what was the Planning Commission's thinking on turning down the rezoning?

Jeremy Pate: It was a split decision and there was quite a bit of debate. The response times were something that was considered. We did discuss the Schlegal property which was rezoned in 2002. It was delayed for a while in anticipation of the construction of Fire Station #7. Some of the comments from the Fire Department do go to the fact that they do have to cross a major highway and a curvy windy Ruppel Road does not help matters at this time. We have looked at projects that would potentially help Ruppel Road in that section especially between Mount Comfort and Wedington and I think that would greatly reduce the response time to the school and other areas. So as we see development occur along that street that is something that will hopefully reduce some of those concerns as well.

Mary Basset, daughter of Al Zaccanti: He would like to keep the 20 acres and run a few cattle on it and would discontinue the chicken operation so that it would not be unsightly for the new subdivision. I just want to point out that when the Planning Commission voted 4-4 on the rezoning, the vote that would have voted it to be approved was absent so in my opinion that fifth vote just wasn't there to rezone it. I also want to point out that Gypsum Lane that would connect to the 60 acres would be the main road and it would go from the Crystal Springs Subdivision all the way through this subdivision and connect to where the Fayetteville Schools System has bought the 70 acres that Tracy Hoskins was developing and that Tracy is donating 3-3 1/2 acres on Deane Solomon Road for a new Fire Station. We are just asking for consistent land use, we are in the 2020 Plan and in the Master Street Plan. A street will go through this subdivision to the north and connect to Salem Road. The governor appointed me to the Arkansas Judicial Commission this year and I'm going to make a relative response here in that I take my appointment very seriously as you all do with your jobs as elected officials and I just want to point out that I believe the governor appointed me because of high integrity, high ethics, honesty and my ability to be fair and all we are asking you is to be consistent and fair.

Charlie Sloan: I brought some paperwork that shows the street layout. There are two collector streets that are going to come through this property. We are sort of the missing link out there. We show here streets that we designed basically to tie in what Tracy originally platted, that has gone away, but we have met the school already and told them that we were receptive to working out anything they need to make sure that they do have access to their property. I believe we are actually going to get the Fire Station to that property a lot quicker by coming through us. He went on to describe the various connections to the property. He also asked that the Council be consistent with their decisions.

Alderman Reynolds asked where the Fire Department land was going to be.

Charlie Sloan: It would be on Deane Solomon which is two pieces of property over to the east.

Forest Parks, resident of Crystal Springs: I would like to think that the Planning Commission took into consideration the public comments. The drawings that we were supplied with, as a resident that is adjacent to this property, but the drawings that were available to the Planning Commission, it does not connect to north Salem Springs. Our main concern was that it looked like the traffic was going to come back through Gypsum which is where a lot of our children are out and about. Our main issue is the traffic. I would like to ask the Council to consider the traffic flow on Salem and the connection south of this property would be into Crystal Springs Division III which connects right into Crystal Springs Drive that runs right in front of Holt Elementary School.

Mayor Coody stated that the annexation and the rezoning were two different items.

Dan Alston a resident of Crystal Springs voiced his concerns about the traffic in that area if this subdivision if the rezoning is approved. He stated that it was already unsafe with the speed and the traffic flow through there. He stated that if this was approved that he and his family would move. He said he does not want his property and the safety of his children and his neighbor's children affected by it.

This Ordinance was left on the Second Reading.

Planning Commission Appeal - RZN 05-1729 Zaccanti: An ordinance rezoning that property described in rezoning petition RZN 05-1729 for approximately 60.00 acres located south of Salem Road, east of Crystal Springs Subdivision from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 Units Per Acre.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

This Ordinance was left on the Second Reading.

Sweetser Construction Contract – Happy Hollow & Huntsville Road Intersection: A resolution awarding a construction contract to Sweetser Construction, Inc. in the amount of \$1,228,413.00 for Happy Hollow Road & Huntsville Road Intersection Improvements; approving a project contingency of \$122,841.00; and approving a budget adjustment in the amount of \$843,330.00.

Mayor Coody thanked the staff for making such an accurate estimate.

Alderman Cook asked Ron Petrie when looking at the budget breakdown, one of the comments was completed construction projects with remaining balances have been identified for balance transfers and it also says includes projects that are no longer viable for the foreseeable future. What is that?

Ron Petrie, City Engineer: The only project that is referring to is the money we had for the intersection improvements at Mission and Maple which was determined that the traffic did not meet the warrants from the State Highway Department.

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

Resolution 213-05 as Recorded in the Office of the City Clerk.

Arkansas State Highway 265 – Notice of Intent to Sell: A resolution approving the notice of intent to sell and to offer for sale the 44.9 acres of tract land, located east of Arkansas State Highway 265 and south of the Fayetteville City Limits.

Tim Conklin, Planning and Program Development Director: This is the first step in the process to sell municipally owned property and notices have been sent out to adjoining property owners and advertising in the newspaper has occurred. After this evening if you do go forward with this intent to sell this property two appraisals will be ordered and the value of the property will be brought back before you to decide a minimum bid price and it will be advertised then and bids will be opened and those will be brought back to you. At Agenda Session you did ask about the floodplain and floodway and I did include a map in your packet. It does contain areas of floodplain and floodway. It ranges from 100 feet to 175 feet width in this area. He went on to discuss the exhibit that was included in the Final Agenda Packet.

Alderman Thiel asked Tim if the area in black was all floodway and not floodplain.

Tim Conklin stated that the cross hashed area is floodway. A floodway exists within the floodplain.

Alderman Thiel stated that it was pretty wide and it covered a very large area. Whenever we first started to discuss the sale of this property I was not aware that so much of it did have a floodway and that it contained a large portion of the tributary into Lake Fayetteville is a very important part of our park system. We have obviously spent a lot of money on Lake Fayetteville. My concern is that we have some protection to this on the sale of this property.

I'm very much in favor of the sale of this property but I would be very concerned that we didn't provide some protection in the sale of this tributary into Lake Fayetteville because it could very well jeopardize Lake Fayetteville.

Mayor Coody: What we could do is put into the contract that the floodplain could be donated back to or contributed to a non profit or back to the City for a tax write off.

Alderman Thiel: You can't build in the floodway but you can build in the floodplain. To protect the floodway you need some buffer and I just wonder if there is some way we could require a 50 foot buffer in the contract.

Tim Conklin: We do have a floodplain ordinance and it does limit your activities in the floodway. It is not a permanent easement. Floodways can be modified through engineering and through FEMA so I think it's a valid concern if you want to guarantee that the floodway is not going to be impacted. In response to Alderman Ferrell's question with regard of the depth of the R-O zoning it's approximately 400 feet back from 265 in width.

Mayor Coody asked if 400 feet would be deep enough. Would it make the land more valuable to have it 500 or 600 feet deep?

Tim Conklin: Looking at how the United Way has developed in their parking it would follow that type of development; it would be about one lot deep. You would not have enough room to do more of a campus type style residential office development along 265 but a 400 foot deep lot would allow office buildings to be built up along 265 as United Way currently exists.

Alderman Ferrell: So you don't think that if the R-O went back too little it would make the property worth more?

Mayor Coody: We don't have to make a hard and fast line there. We could make it to where if somebody offered a bunch of money that we could be flexible. It's an arbitrary line, if somebody said I'd like to pay you more for it if we could have more R-O, I'm sure we would be willing to accommodate that.

Kit Williams: It's going to be closed bids so you need to determine what you want at some point prior to you putting it out for bids and also before you get it appraised. That line needs to be somewhat certain. How deep are the office complexes around Joyce?

Tim Conklin: They're probably more than 400 feet. We can go out and evaluate when you look at Millsap Road area the overlay district was 660 feet and it included both sides so some of those lots are 300-400 feet. You end up with one structure and one building with a parking lot around it which is what I would envision in this type of depth in R-O zoning.

Mayor Coody asked the Council what if we were to approve this as it is with the understanding that staff could go out and look at it and if they see that it could work better at 500 or 600 feet that they would have the flexibility to draw that line a little bit further.

Alderman Jordan said how about they go and look at it first and then make a recommendation.

Kit Williams: That's probably better because you can just table this and then look at it at the next meeting.

Alderman Marr asked if the staff could explain why now is the time to sell this piece of land as much as land is appreciating in the City of Fayetteville, why are we picking to choose this piece of land now.

Tim Conklin: This was brought forward due to some utility constraints with regard to no water and sewer available and it's easier served by the City of Springdale. Also, currently it is being maintained by the Parks and Recreation Division and is being mowed to keep the tall grass down and it's really not being utilized. Highway 265 separates it from the rest of Lake Fayetteville and it's surrounded on three sides by the City of Springdale. The City has sold small portions of it in the past including to the United Way in the 1990's and another acre and a half just last year to another nonprofit organization.

Mayor Coody: The Peace At Home Shelter.

Kit Williams: That was at the first of this year. Part of the reason to develop it now would be so that Peace At Home would be able to have sewer. Right now they cannot, in fact we had to lease them additional land for a potential sewer area that would not remain with them that would return to us if in fact sewer was provided and probably the only way to do that feasibly is to sell the property so the developer would put in the sewer.

Mayor Coody: The other reason is because we've had a lot of developers ask us when we are going to put this on the market because they want to make bids on it. There are a lot of folks that call weekly to see where we are in the process to sell it.

Alderman Reynolds asked where the money goes to.

Tim Conklin stated that it goes to the Water and Sewer Fund.

Alderman Thiel: There is very little cost to the Parks Department because they only maintain this 3 or 4 times per year and that is why Water and Sewer wouldn't reimburse them because there have been minimal costs to them so I don't think that really factors in much. My concern is the talk about this going to Springdale and for us to even be considering giving this over to Springdale is beyond me.

Mayor Coody: The only reason that would even be a consideration is because if we kept it and Springdale provides the sewer around it and this flowed into Springdale sewer, I don't know what the details are on the sewer service areas and all that.

Kit Williams: I think we can probably have some type of Inter-local Agreement with them if necessary.

Alderman Ferrell: We treated them right on the pump stations out at Lake Fayetteville.

Alderman Thiel: Will we not grow out to this? At the rate we're going we will eventually get out there and have sewer out there. Whenever I look at this map the reason this was purchased with Lake Fayetteville was to protect the tributary end of Fayetteville.

Mayor Coody: I don't know the reason for that. I think it was just one big parcel of land and then Highway 265 came along and cut the little piece off.

Tim Conklin: It is surrounded by Springdale to the south, east and north completely surrounded and it is developed to the south already with single family homes in Springdale.

Mayor Coody: If we pass a property tax it would be a good argument to hang onto it.

Alderman Reynolds: They're not going to make any more land that's going to be worth more in the future.

Alderman Jordan made a motion to table the resolution until the next meeting. Alderman Rhoads seconded the motion.

Jeff Erf, a citizen urged the council to vote no on this resolution. He stated that this happens to be the entrance to the City of Fayetteville and it's going to receive more traffic as you widen it to five lanes. He pointed out that this was a green space and he did not understand why the City needs to sell the property. He said I think you need to preserve it for the future citizens of Fayetteville. He asked what it meant in the memo from the agenda packet when it said the proceeds from the sale would be placed in the Water and Sewer Fund to fund additional capital water system improvements.

Steve Davis, Finance and Internal Services Director: The proceeds from the sale would be used for waterline projects.

Mayor Coody: Could we use it for the sewer system if we wanted?

Steve Davis: No sir. It was purchased with Water Funds and it has to be used for water.

Randy Phillips, resident of Springdale stated that the announcement for tonight's meeting was posted on the signs but it was not in the letters that were sent out.

Mayor Coody asked Tim Conklin if Mr. Phillips got the right letter in the mail.

Tim Conklin: We sent out certified letters based on the same format as we did with the Shake's property but I will check.

Mayor Coody: If the wrong letter was sent to you we apologize.

Randy Phillips asked if there were more details on what was planned other than simply planning or considering selling.

Tim Conklin: The City of Fayetteville has an ordinance that requires a 3-step process. The City Council has a resolution before them this evening to decide whether or not to sell the piece of

property. The notice that started with "that the property could potentially be rezoned to R-O and RSF-4" is the letter that I remember reviewing and sending out but I will double check.

Randy Phillips: The letter that came into my possession was not certified and only mentions the other two meetings. The runoff is a concern, this is one of the last undeveloped areas in that particular drainage space that comes right into Lake Fayetteville and that dry creek to the east of this property that runs right by my house drains a large portion of southeast Springdale. I would certainly urge some consideration as to runoff and flood control in selling this property.

Tim Conklin: I just figured out what letter you were sent. In order to subdivide the property it is in the Planning process so letters went out with regard to separating this property for Peace At Home Shelter, reserving right of way for the future widening of Hwy. 265 and so that is in process right now in order to create these tracts of land so they can be transferred or sold.

Mayor Coody gave a description of what the Peace At Home Shelter was for Randy Phillips.

Donna Phillips, resident of Springdale voiced her concerns about the existing subdivision in that area. She stated that the land is the only buffer to the existing property owners to keep their property from flooding. She also stated that the land can be used for potential growth if it is fixed up. It is a potential in this growth to provide a park for all of the area that would add so much to the quality of living. She said the creek water will be affected if you put 4 families per acre on that land.

Mayor Coody: The \$25,000 that was granted to the City for the Park overlay has been transferred instead of 45 acres now with that same environmental overlay is over about 500 acres. We traded for it at Lake Sequoyah. As far as the sewer lift station goes that was not on this piece of property, this was another developer out there that was going to develop 3,000 acres to the east of this so that whole basin is about to develop with some schools and other development.

Gary Griffin, Griffin Company Realtors and One Springdale stated that they developed the subdivision to the east if this was sold and developed it would impact his company greatly. He felt that if the council did sell it that R-O zoning would have the least adverse impact of anything.

Alderman Rhoads: If the City desires to sell this six months from now we can not bring this back up?

Kit Williams: There is no time limit if you bring this up in the future. I think you would go back to square one on everything that has been done in relation to running ads, sending out letters, etc.

Alderman Rhoads: I am not hearing any real great reasons to sell the property. Therefore I would vote this down.

Alderman Jordan withdrew his motion to table. Alderman Rhoads withdrew his second on the motion to table.

Alderman Marr moved to deny the resolution. Alderman Cook seconded the motion.

Mayor Coody: I know we try to save green space. We have added hundreds and hundreds of acres to the green space inventory in Fayetteville. I am a proponent of green space preservation. We have increased our green space inventory more than any other city I can think of and we have done it very cost effectively, a lot of it was given to us for free. This property is worth a lot of money that could be used for our water system. I believe we would be irresponsible to hang on to this property that is worth millions of dollars when we have added so many acres of green space inventory to this city and yet we are having trouble funding our sewer systems. We have to be fiscally responsible. I think we have to be careful of the way we handle the tax payers' funds and that includes all assets.

Alderman Thiel: There is a study being done to study the erosion of the tributaries into Lake Fayetteville and I am assuming this is part of that. There may be portions of this property that we can sell but I am concerned and would like to see the results of that study. There are some things I would like to learn more about before we consider selling this.

Alderman Marr: We are talking about land in a City that continues to rise in value. So your argument of using this to be more physically responsible doesn't go away simply because we don't look at selling it today with the way that land is rising in the City of Fayetteville. I think the drawing that we have seen on the floodplain and floodway and the discussions on storm water management and all those items just means this is not the right time to sell this.

Jarvis Teague a Springdale resident stated this is a beautiful piece of property but there has been a lot of people complain about the flood waters. He felt this needed to be studied a little more before selling.

Upon roll call the motion passed unanimously.

This Resolution was Denied

Botanical Garden Society - Waiving Permit Fees: A resolution to waive development permit fees pursuant to §159.01 (A) (1), Unified Development Code for all structures to be constructed by the Botanical Garden Society of the Ozarks at Lake Fayetteville Park.

Jeremy Pate: There is a \$250.00 mandated by the State Education Fee which can not be waived but excluding that the total fees requested to be waived is \$2,537.00.

Alderman Thiel: I would have a concern about starting a precedent with all non-profits that are doing construction that we waive their fees but I was thinking we did this for the Boys and Girls Club.

Alderman Rhoads: I guess I see the difference here in that this is a non-profit that the City has given three quarters of a million dollars to so the City has already expressed a lot of support for it.

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

Resolution 214-05 as Recorded in the Office of the City Clerk.

The following item was added to the agenda:

Alderman Reynolds moved to add a discussion of the millage to the agenda. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

Gary Dumas: We would like to show the differences in revenues and expenses between the 2005 budget and the 2006 proposed budget. The 2005 budget had revenues of \$28,306,000 and expenses of \$30,490,000 for a net use of reserves of \$2.18 million. The 2006 revenue projections from the Budget Department are \$2.9 million in expected revenue increases.

Alderman Marr: Is that the 1.8 property mil and the rest sales tax growth?

Gary Dumas: This revenue increase does not include property tax or use of reserve. It is sales tax, franchise fees, development fees, insurance turn back and other funds. You should have a list. The proposed 2006 budget less new expenditures is \$31,200,000 in revenue and expenses of \$30,409,000 for a net reserve gain of \$.71 million dollars, that is without any new expenditures. The proposed 2006 new expenditures are the \$2.5 million. That includes new personnel, LOPFI increase, normal salary and wage increases, pay plan adjustments, the jail contract and a host of other items. The total 2006 proposed budget is \$31,200,000 in revenue and \$33,000,000 in expenses for a net revenue need of \$1.8 million for 2006.

We have options for funding on going operations, one is we use reserves; the Council has historically not wanted to use reserves for on going operations. The other option is the 2 mil property tax levy if we want to fund these expenditures.

I think the Administrations perspective was that the use of reserve for operations has been problematic for the Council and if we continue to use reserves for operations then they will not be there for emergency uses or for other activities. What we have done for the last three to four years is budgeted the use of reserves and then we discuss why we are using reserves.

Alderman Rhoads: In regards to revenue are there other pieces of property that the City owns that would be desirable to sale?

Gary Dumas: We always seem to sell property every year to purchase property.

A discussion followed on property the City owns and if any of it could be sold to reduce the overage in the 2006 budget.

Gary Dumas: That kind of one time sell would be a way to help on an annual basis, but at some point in time the land will be gone and you will be looking at some type of diversification of revenue and where is it going to come from.

Alderman Rhoads: I agree with that, when you tell us there are only two sources of revenue, there is actually that source as well whether it is a depleteable source or not it should be listed.

Gary Dumas: It is not there for 2006, because you do not know if the sell is going to occur.

Mayor Coody: Selling a one time sell asset to fund on going operations, I have heard the Council and I agree with them, that we do not need to sell our land and eat that away by doing on going operations. At the end of the day you have kept your taxes artificially low but there comes a time when you need to raise taxes anyway and you have sold the land that is going up in value. Now if we could sell land and use that for a capital asset that is a different deal.

Kevin Springer: The City has a long standing financial policy that states we will refrain from budgeting one time revenues for on going expenses.

Alderman Marr: Based on the Administrations budget philosophy that we are moderate in our revenue projections and we fully expend 100% head count, etc., in the years 2002, 2003, and 2004 we projected the use of reserves and came in under our projections. When I look at that reserve because you have trained me not to trust that number, I always expect that number to never be that low because our revenue is always higher and our expenses are always lower, so we always end up coming up with a better number. Help me to understand that the \$2.84 deficient that you talk about, the probability that is the realistic deficient based on your budget philosophy.

Kevin Springer: One thing that makes it come out better than we projected in the sales tax revenue is coming out better than projected. The estimated city sales tax revenue is projected to be 8.25% greater than the actual of 2004, in the 2005 plan.

Alderman Marr: The actual results.

Kevin Springer: Yes. What we estimate to receive this year in sales tax is 8.25% higher than last year. Since 1995 we have only had four years that have actually exceeded 6% growth, in 2001 – 3%, 2002 – 4.3%, and 2003 – 4.1%. We look at the budget in a long term planning area.

Kevin explained the revenue and expenses during the past several years. He stated changes in the pay plan and adding a new fire station has bumped up growth and expense. He stated we always budget 100% employment because we do not know which areas are going to have turn over. We cut travel and training and we did not recommend all the personnel requests that were asked for. We knew we were asking for property tax millage and we needed to meet you half way, we needed to cut as much cost as we could and we have been holding people to the line.

Mayor Coody: How many people were requested this year?

Kevin Springer: 56 City wide. With all the development that is happening to the north of us, I can not image that we are going to continue with 9% growth every year. What is going to happen is those expenses are going to catch up with us. Use of reserves in a short term problem is okay but when you are looking at using reserves for long term structural in-balance, it is a recipe for physical disaster. We have a deficit because we have had expense growth that has exceeded the revenue. We need to diversify our revenue, sales tax represents 65% of our

revenue, and property tax will make up 5% of our revenue if we add it. It will help diversify because it is a more stable revenue. We are strongly recommending property tax to help offset that deficit.

Alderman Marr: This \$2.814 projected use of reserves, it is your opinion that is an accurate number, it does not have expenses higher than you expect us to come in at and revenue lower than you expect us to come in at?

Kevin Springer: When we present you the budget it will have a \$2.5 million deficit that includes all the one time items.

Alderman Marr: It is your opinion that our revenue won't be higher than 6% and our expenses will run at the number that you have in here so that \$1.8 million is the real gap and not a conservative budget philosophy gap?

Kevin Springer: It is a real gap. The last two years we have had higher than expected revenue in sales tax. The average for the past 10 years is 5.9% growth on average. We are estimating 6% growth in 2006 over what we think we are going to receive now, not what we budgeted, but what we received.

Alderman Marr: Did you do the same analysis on the expense side of the equation? How many years did your expenses not come in at what you projected in your budget and what that difference is?

Kevin Springer: When we are projecting growth as far as in expenses, we have our budget models that we use for employment and they are based on a full cost of hiring an employee and providing that service.

Alderman Marr: So that is fully funded, so it will be something less than that number.

Kevin Springer: Right. We have put in the 2006 budget \$400,000 for a pay plan increase, we are doing a study and are having someone go back and look at the way we do our pay plan adjustment.

Mayor Coody: That is not \$400,000 for the study.

Kevin Springer: No. We have two different types of pay plans; we have the step plan for the public safety personnel, which they get a certain rate of pay every year that they are in service. Every year it increases about 4.5% until you top out. The general employees are on a merit system, for every job that we have in the City it has a certain type of grade that is based on responsibility, know how, supervision and so forth. They have a minimum and maximum salary that they are paid in. Within that range they get pay increases based on the level of performance they provide. Every other year we do a study that looks at the ranges for the general employees, police offices and fire fighters and compare the pay to other cities. We then look at adjustments that need to be made to the ranges. We have had increases from 3% to 18% to keep employees pay competitive with other cities.

Mayor Coody: The \$400,000 is not for the study it is the result of the study if the study states your pay grades need to be boosted to stay with the market. It is a salary contingency for a group of people.

Kevin Springer: That is right, it is money that we have in a contingency area so that when we get these results back we will have sufficient funds. We do not know what the numbers will be so we try to look at the average over the last ten years of the increase. It really depends on the market because this is market driven.

Alderman Rhoads: That is in addition to the \$637,000 for salary and wage increase.

Kevin Springer: Yes. It is a separate line item.

Alderman Rhoads: What was it the year before?

Kevin Springer: The police officers were 3.4%; the fire fighters did not get a raise. It was around \$400,000.

The other area that we know is going to increase is the LOPFI pension. We had an unfunded liability which means that LOPFI came in with rates that were higher than we were use to paying.

Kevin explained the LOPFI program and the way the contribution rates are calculated. He stated this rate will continue to go up at 6% to 7% per year in addition to any range increases.

Alderman Ferrell asked if a person remains employed with the City of Fayetteville will they receive a pay increase every year.

Kevin Springer: Yes. When you are hired you come in at around the minimum rate on the range. You have to do better on your evaluations to get the same percent of increase. If that employee continues to be retained by the City they will finally get to that maximum level, we call it top out. This is for salary and non-salary employees.

Alderman Ferrell: Regular employees are different than the public safety employees.

Kevin Springer: Yes. It takes about seven years for an employee to reach top out.

Alderman Jordan: The new library building request of \$495,000 I do not see that on the list.

Kevin Springer: We did not recommend funding it. They tied that request to ten new people and we did not recommend funding of it. The City can not maintain the level of support at the rate they need to meet the service demands. We wanted them to look at a long term funding solution.

Alderman Jordan: So what occurs if the library does not get their millage increase by this time next year?

Kevin Springer: That is going to be a problem because they do want to grow.

Alderman Marr: In 2003 where we budgeted and where we estimated to come in at in expenses, it was different by about \$628,000 or 2% of the expense budget and in 2004 it was the same scenario. How do we know what millage you need if any when we haven't seen a detailed budget? We are trying to make projections without knowing the total number.

I am trying to make sure that I am comfortable that the \$1.8 deficit is a true deficit and does not encompass a cushion in the revenue line or the expense line that has traditionally year after year been there. If I apply the same 2% to that \$33 million then we are talking about a gap of \$1.1 million which is slightly over 1 mil not 2 mils.

A discussion followed on the past budgets and how the calculations are determined. They also discussed expenses coming in about 2% below the estimated amount.

Steve Davis explained the difference between private sector budgeting and public sector budgeting. He stated in government the budget is your legal authorization not to exceed a specific number. We can reduce these expenses by 2% but what that will do is that in every division in General Fund we will ratchet back the service levels that we are planning to provide for citizens by 2% just so we do not run a fowl of the law. In government we can not legally go over that number on expenditures without getting authorizations for budget adjustments from the City Council. That will occur in the last quarter of the year and you all will not be very happy with us. We are going to bring a proposal forward to amend the budget adjustment policy which would treat this government's budget the same way that a corporate budget is treated. That would be that you give the CEO the ability within the fund to move money from department to department and division to division and not exceed the overall authorization for the fund. Right now we do not have that ability, if we had that ability then maybe we could take 2% out.

Mayor Coody: I know there has been concern about the lower income folks getting hit with property tax. The County gave us these figures; the top ten rate payers would pay a combined two mil assessment of \$124,000. The lowest ten would pay a combined two mil assessment of 78 cents. This two mil property tax would more fairly fund our emergency services. Right now we have to fund it solely on sales tax which we know is a regressive tax.

Mary Beth Hughes voiced her concern about the lower income citizens and the effect this increase in property tax would have on the lower income. She stated people might have to sell their homes if this millage increase is passed.

Mayor Coody stated we collect the lowest sales tax of any City in Northwest Arkansas. The City does not collect any property tax.

Alderman Marr: One property mil equals what dollar amount and one tenth of a mil equals what dollar amount?

Kevin Springer: One mil equals \$891,000 and one tenth would equal \$89,000.

Alderman Marr moved to reconsider the property millage that was levied by the City of Fayetteville. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-2.

Alderman Lucas, Jordan, Reynolds, Cook, Marr and Ferrell voting yes. Alderman Thiel and Rhoads voting no.

Alderman Reynolds asked for a list of all the City employees and their pay rate.

2005 Millage Levy: An ordinance levying a tax on the Real and Personal Property within the City of Fayetteville, Arkansas, for the year 2005 fixing the rate thereof at 2.0 mils for General Fund – Operations, 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund and 1.0 mil for the Fayetteville City Library; and certifying the same to the County Clerk of Washington County, Arkansas.

City Attorney Kit Williams read the ordinance.

Alderman Marr moved to amend the general purpose millage from 2.0 mils to 1.3 mils. **Alderman Reynolds** seconded the motion.

Alderman Lucas: The firemen and policemen that we are going to add to next year's budget, how much is that? I want to make sure that is covered.

Kevin Springer: That number is \$680,000.

Mayor Coody: Does that include the pay plan adjustments, salary increase, etc.?

Kevin Springer: We can make sure we cover it.

Alderman Thiel: The adjustment you have made there is calculated on the expenses being 2% under?

Alderman Marr: I am looking at historically where we have not fully utilized expenses. I am looking at what it looks like to me we have historically done and I have tried to see what millage would be needed to cover that gap. If they choose to bring items forward to us they will do it through budget adjustments and we will adjust our budget.

Upon roll call the motion passed unanimously.

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.**

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Cook** seconded the motion. **Upon roll call the motion passed 7-0.** **Alderman Rhoads** was absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell asked how much money the City gets from the state turn back funds each year.

Kevin Springer: For General Fund we get about \$961,000.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Lucas, Jordan, Reynolds, Thiel, Marr and Rhoads voting yes. Alderman Cook and Ferrell voting no.

Ordinance 4792 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 12:10 AM

Dan Coody, Mayor

Sondra Smith, City Clerk

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

20-Dec-05
City Council Meeting Date

David Jurgens Water/Wastewater Water/Wastewater
Submitted By Division Department

Action Required:

Approval of a resolution to purchase a trailer from Lufkin Trailers for hauling sludge from the Noland Wastewater Treatment Plant in the amount of \$19,600 plus tax, for a total cost of \$20,851.00. A budget adjustment is attached which moves funds from one project to another within the same account.

\$20,851.00	\$ 20,851.00	Wastewater Treatment Plant Capital
Cost of this request	Category/Project Budget	Program Category / Project Name
5400-5800-5801.00	\$ 20,851.00	Wastewater Treatment
Account Number	Funds Used to Date	Program / Project Category Name
05057.0001	\$ -	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☒ XX

[Signature] 13 Dec 05
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

[Signature] 12/14/2005
City Attorney

[Signature] 12-13-05
Finance and Internal Service Director Date

Received in City Clerk's Office



Received in Mayor's Office

Mayor Date

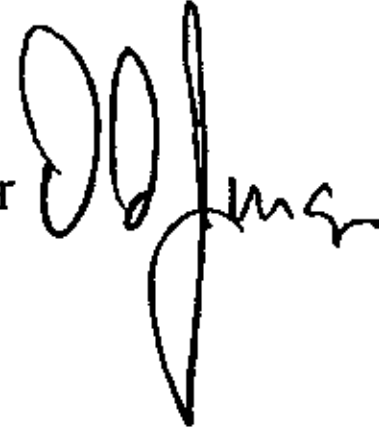
Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 13, 2005

Subject: Purchase of a trailer from Lufkin Trailers for hauling sludge from the Noland Wastewater Treatment Plant in the amount of \$19,600 plus tax, for a total cost of \$20,851.00. A budget adjustment is attached which moves funds from one project to another within the same account.

Background. The Noland Wastewater Treatment Plant has seen an increase in sludge production in the last two years. OMI currently hauls an average of eighteen loads of sludge weekly to the Browning Ferris Industries (BFI) landfill in Porter, Oklahoma. This is a round trip of 250 miles for the three dedicated tractor trailer trucks and trailers. As a backup, when one of their items of equipment is down for maintenance or when sludge production exceeds OMI's organic hauling capacity, OMI had contracted with HMI to haul sludge on an on-call basis.

Immediate Circumstance. This fall, HMI increased their hauling fee by 40%. Combined with the increased hauling requirements, this price increase makes it no longer cost effective to use third party on-call hauling. HMI is the only company that has thus far responded to requests for quotes for hauling, as few hauling companies have trucks that can haul sludge and none want to have an empty trailer on stand by for on-call work.

As a result, the plant is falling further behind every day in sludge hauling. If the situation is not resolved, over the Christmas weekend all trailers could possibly be full. If that happens, we will have to place sludge in dump trucks for transfer to temporary storage on concrete slabs at the Noland WWTP site. While this is legal, it is terribly inefficient and very undesirable.

Solution. OMI began searching for trailers to purchase to carry the sludge. Given the over the road nature of the hauls, they evaluated both used and new. Due to the intermittent need for an additional trailer, a used unit would seem the most cost effective. The best used trailers they found are listed below. Locations are listed as the City would be responsible for any incurred delivery charges.

2006 Lufkin	Springdale, AR	\$32,600
2005 Clement	Denver, CO	\$46,000
1997 Lufkin	Commerce City, CO	\$21,500
2000 Lufkin	Springdale, AR	\$19,600

Staffing. This purchase was coordinated with Fleet Operations. OMI has inspected the Springdale trailer and found it to be in excellent condition. The Lufkin trailer is also the same type we currently use, significantly benefiting maintenance and operator safety of use.

Conclusion. Given (1) the City's immediate need; (2) other agencies were considering purchasing the trailer; and (3) the local trailer was a very good price, OMI and Staff felt it was prudent to request immediate approval for the purchase of this trailer. This verbal approval was received from staff and Alderman Robert Reynolds on 8 December.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) TRAILER FROM LUFKIN TRAILERS IN THE AMOUNT OF \$19,600.00 FOR HAULING SLUDGE FROM THE NOLAND WASTEWATER TREATMENT PLANT; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$20,851.00.

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 the purchase of one (1) trailer from Lufkin Trailers in the amount of \$19,600.00 for hauling sludge from the Noland Wastewater Treatment Plant.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$20,851.00.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

By:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A.11.
Lufkin Trailers
Page 4 of 10

Budget Year 2005	Department: Water & Wastewater Division: Wastewater Treatment Program: Wastewater Treatment Plant Capital	Date Requested 12/13/2005	Adjustment Number
----------------------------	--	-------------------------------------	-------------------

Project or Item Added/Increased: \$20,851 is requested in the W.W.T.P. Sludge Trailer project.	Project or Item Deleted/Reduced: \$20,851 from the W.W.T.P. Plant Pumps and Equipment project.
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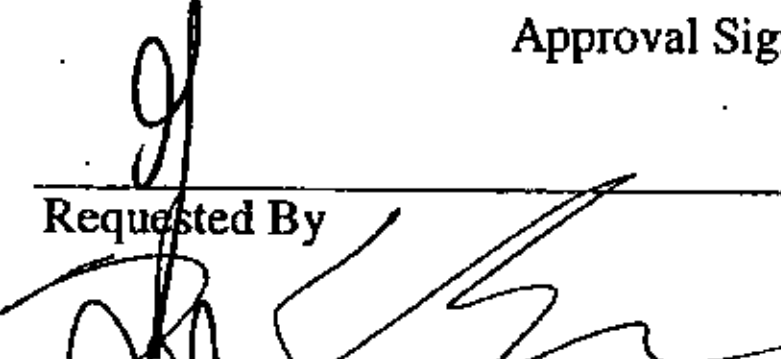
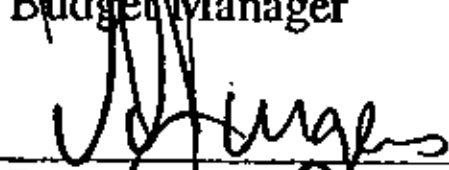
Justification of this Increase: The increase is for the purchase of a sludge trailer.	Justification of this Decrease: Sufficient funding remains to comply with city policy.
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Fixed assets	5400	5800	5801	00	20,851	05057	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Fixed assets	5400	5800	5801	00	20,851	02069	1

Approval Signatures		Budget Office Use Only					
Requested By	Date	Type:	A	B	C	<u>D</u>	E
	12-13-05	Date of Approval				Initial	Date
Budget Manager							
	13 Dec 05	Posted to General Ledger				Initial	Date
Department Director							
	12-13-05	Posted to Project Accounting				Initial	Date
Finance & Internal Services Director							
Mayor	Date	Entered in Category Log				Initial	Date



WATER AND WASTEWATER DEPARTMENT
DEPARTMENTAL CORRESPONDENCE

TO: City Council Equipment Committee
FROM: David Jurgens, Water & Wastewater Director
DATE: December 8, 2005
SUBJECT: Emergency Sludge Hauling Trailer Purchase

A handwritten signature in dark ink, appearing to read "D. Jurgens", written over the "FROM:" line of the memo.

Background. The Noland Wastewater Treatment Plant has seen an increase in sludge production in the last two years. OMI currently hauls an average of eighteen loads of sludge weekly to the Browning Ferris Industries (BFI) landfill in Porter, Oklahoma. This is a round trip of 250 miles for the three dedicated tractor trailer trucks and trailers. As a backup, when one of their items of equipment is down for maintenance or when sludge production exceeds OMI's organic hauling capacity, OMI had contracted with HMI to haul sludge on an on-call basis.

Immediate Circumstance. This fall, HMI increased their hauling fee by 40%. Combined with the increased hauling requirements, this price increase makes it no longer cost effective to use third party on-call hauling. HMI is the only company that has thus far responded to requests for quotes for hauling, as few hauling companies have trucks that can haul sludge and none want to have an empty trailer on stand by for on-call work.

As a result, the plant is falling further behind every day in sludge hauling. If the situation is not resolved, over the Christmas weekend all trailers could possibly be full. If that happens, we will have to place sludge in dump trucks for transfer to temporary storage on concrete slabs at the Noland WWTP site. While this is legal, it is terribly inefficient and very undesirable.

Solution. OMI began searching for trailers to purchase to carry the sludge. Given the over the road nature of the hauls, they evaluated both used and new. Due to the intermittent need for an additional trailer, a used unit would seem the most cost effective. The best used trailers they found are listed below. Locations are listed as the City would be responsible for any incurred delivery charges.

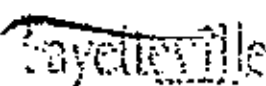
2006 Lufkin	Springdale, AR	\$32,600
2005 Clement	Denver, CO	\$46,000
1997 Lufkin	Commerce City, CO	\$21,500
2000 Lufkin	Springdale, AR	\$19,600

Staffing. This purchase was coordinated with Fleet Operations. OMI has inspected the Springdale trailer and found it to be in excellent condition. The Lufkin trailer is also the same type we currently use, significantly benefiting maintenance and operator safety of use.

Conclusion. Given (1) the City's immediate need; (2) other were organizations were considering purchase; and (3) the local trailer was a very good price, OMI and Staff felt it was prudent to request immediate approval for the purchase of this trailer. This verbal approval was received from staff and Alderman Robert Reynolds on 8 December. The purchase order was issued the same day. The deal is closed and the trailer is scheduled for pick up on 9 December.

Attachment: Bid summary with quotes

Peggy Vice - Request and Quotations Form - Lufkin Trailer.xls

 City of Fayetteville, Arkansas Purchasing Department Request and Quotations Form - Revised 8/25/2005

Amount	Quote Requirements	Notes
\$1000-\$2499.99	3 Verbal Quotes	Please put vendor names and quote amount in comment section of your P-Card/PO request. Please write "sole source" if it applies.
\$2500-\$20,000	3 Written Quotes	Purchases \$2500 and up cannot be processed by using a P-Card, you MUST USE A PO. Please make sure that your quotes are attached to your PO Request before you send it to Purchasing.
\$20,000 - above	Contact Purchasing Division	Formal Bid Process - Contact Purchasing Division

Quote Number: _____ GL Account Number: _____
Your records only

Date: 12 / 07 /2005 Purchase Order Number: _____
Please use a P-Card if possible. Only order after request is approved (P-Cards) or after obtaining a PO Number first.

Date Needed: ASAP Department: _____

Taken By: Duyen Tran - OMI (WWTP)

Description of Item (s):
A 28 yard, 38' frameless steel end dump trailer with fixed Tandem axle. Used equipment in good operating condition is acceptable. Roll tarp is a plus.

Quantity: 1

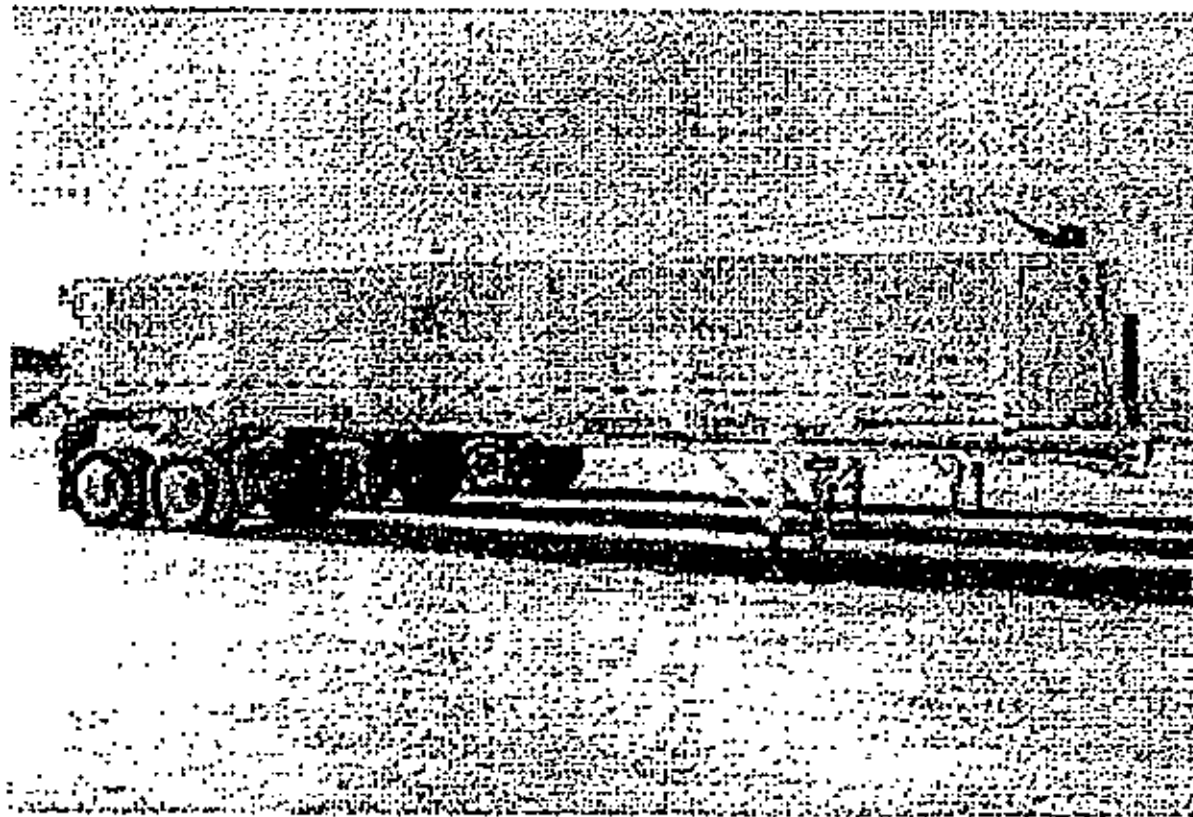
Vendor List	Unit Price	Total Price	Terms/Remarks
Vendor #1: Lufkin Trailers Address: 1010 Bulldog Ave., Suite F. Springdale, AR 72764 800-487-2098	\$19,600.00	\$19,600.00	
Vendor #2: IMCO Address: 4565 E. 74th Ave. Commerce City, CO 80022 888-496-4626	\$21,500.00	\$21,500.00	
Vendor #3: Trailer Service, Inc. Address: 2033 E. 58th Ave. Denver, CO 80216 303-295-7556	\$46,000.00	\$46,000.00	
Vendor #4: Address:			

Comments:
The 2000 Lufkin from Lufkin Trailers is the preferred choice. The trailer is the same type as the three existing trailers that the wastewater plant is using. It is in good condition with the most competitive pricing. The trailer is in Springdale, therefore, freight is not necessary and acquisition of the trailer is immediate. The trailer will be used as a back up unit when one of the other three trailers is in service and can be used as temporary storage. Currently, all three trailers are being used daily, six days a week, with no storage or back up alternatives. Contract haulers have become unreliable and expensive, thus requiring the wastewater plant to acquire additional backup alternative immediately. Sludge hauling is a critical function of wastewater treatment operations. Inadequate ability to dispose of sludge may hinder the wastewater treatment process, which can lead to NPDES permit violations.

AMERICAN TRUCKER.com

 **TRAILER SERVICE, INC.**

Trailer Service Inc
2033 E 58th Ave - Denver, CO 80216
Phone: (303) 295-7556 Phone2: (303) 295-7556
Fax: (303) 292-3856
[Click Here To View Our Locations](#)

Select Photo: Photo #1 ▾

2005 Clement High Side Scrap

-  [View Entire Inventory](#)
-  [Trucker.com Home](#)
-  [I'm Interested In This Trailer](#)
-  [Print Specification Sheet](#)

Specification	Description
Trailer Type	End Dump
Application	Demolition
Frame	Frameless
Body Style	Tub
Body Material	Steel
Length	37'
Width	96"
Overall Height	66"
Gate Type	Barn Door
Gate Operation	Manual
Hoist Make	Custom
Inverted	Yes
Landing Gear Type	2-Speed
Landing Gear Make	Holland
Axles	Fixed Tandem
# Lift Axles	0
# Steerable Axles	0
Suspension Type	Spring(3 leaf)
Hubs	Steel
Wheels	Steel
Tires	24.5
Brakes	ABS
Unit Number	CO948

Additional Equipment

Roll Tarp Electric

Warranty Information

Engine Warranty: No Warranty
Driveline Warranty: No Warranty

Notes

Great Trailer, 66" High Sides

Price: \$46,000

Tell them you found it on Trucker.com

All information listed above is believed to be accurate, but is subject to correction or change without notice in case of error.
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<http://www.soarr.com/>

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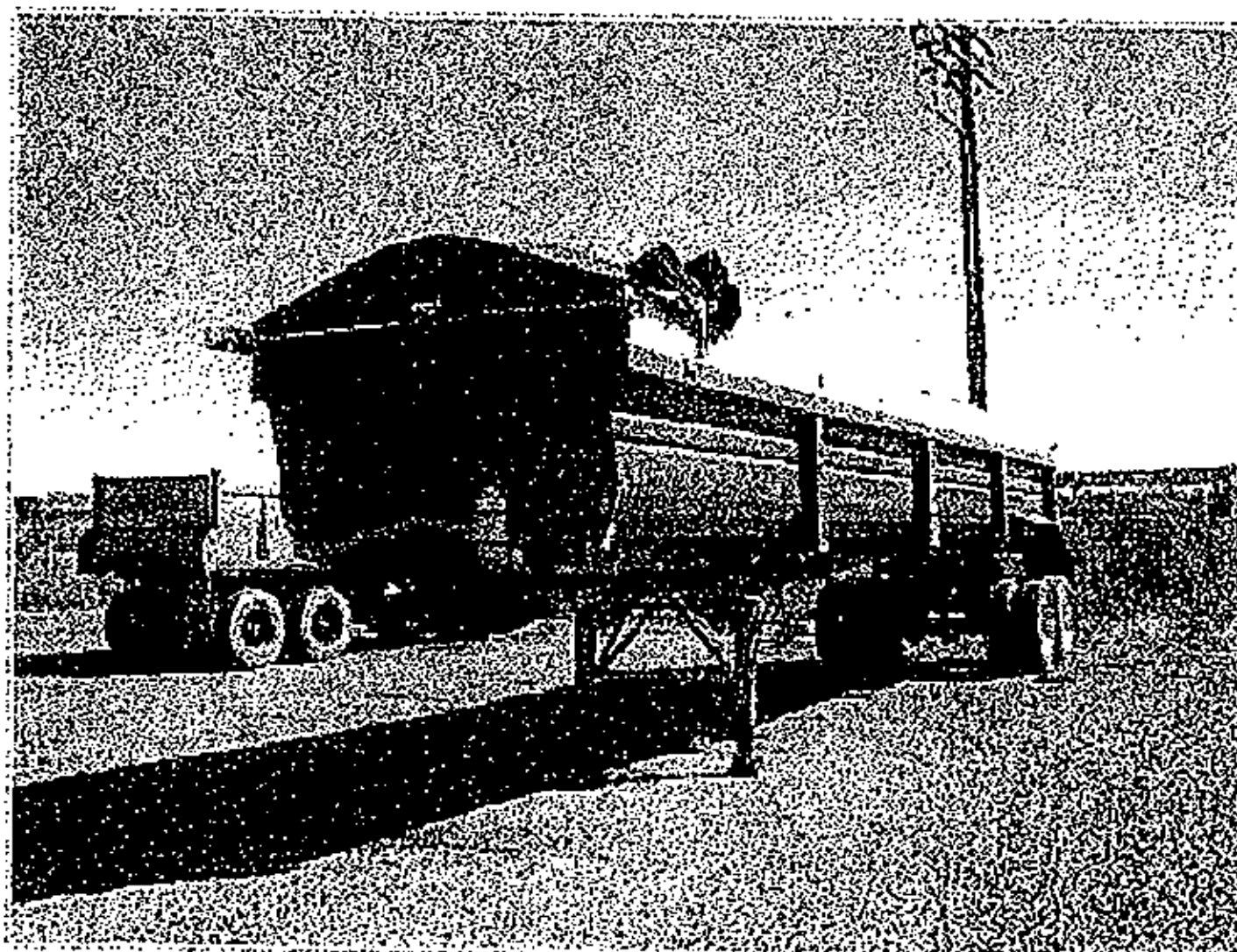
CONTACT

TRUCKS | TRAILERS | HEAVY EQUIPMENT | PARTS | DEALERS | OTHERS | ADVANCED SEARCH | WANTED ADS

SEARCH DETAILS

1997 Lufkin ULD II-38

US \$21,500



Details:

Serial #: 05U100
of Axles: 2
Brakes: NEW
Condition: GOOD
Gate Type: TOP HINGE
Height: 126"
Hub & Drum: NEW DRUMS
Landing Gear: 2-SPEED
Length: 38'
Paint: BLACK
Paint Cond.: GOOD
Side Boards: 12" WOOD
Side Height: 36" PLUS BOARDS
Suspension: CENTER POINT
Tarp: ELECTRIC GLIDE
Tires: 8 NEW CAPS
Trailer Type: FRAMELESS STEEL END DUMP
Trailer Weight: EST. 14000LBS
Warranty: AS IS
Wheels: 11R24.5 STEEL DISC
Width: 102" AT AXLES
Description: CALL 'OTR DEPARTMENT' TOLL FREE AT 888-496-4626 ASK FOR STEVE

Low Monthly
Payments.

Finance
Your Next
Construction
Equipment
Purchase!


DIRECT CAPITAL

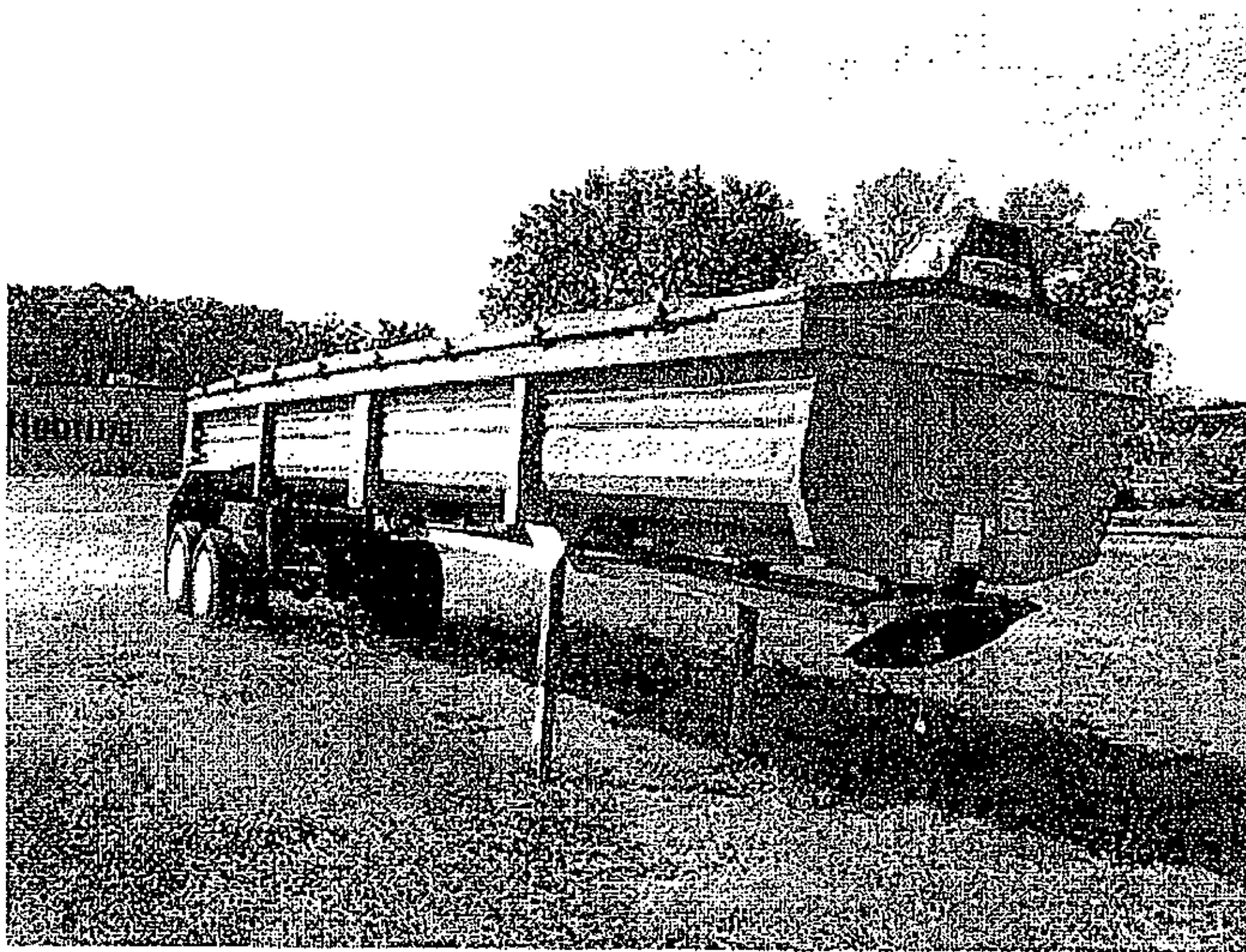


Truck Paper

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2000 LUFKIN

☒ [Email This](#)
[Add To 'Trailers Of Interest'](#)



2000 LUFKIN 38' , 42" Inside Height, Neway Suspension, 24.5 Tires, All Steel Wheels, Fixed Tandem Axle, Steel Composition, Frameless, 80% VIRGIN RUBBER, 50% BRAKES, NEW TRUNION BUSHINGS, GOOD RAM, ROLL TARP. NICE TRAILER READY TO ROLL., VIN #43958, \$20,000

LARRY

Say you saw this 2000 LUFKIN on TruckPaper.com!

Contact:

Lufkin

Larry Grimes

Truck/Trailer is located in:

Springdale, Arkansas, USA

Phone: (800)487-2098

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D.2.

D.2.
Belclaire
Page 1 of 14

DEC 12 2005

ONLY
MAYOR

113 West Mountain
Fayetteville, AR 72701
Telephone: (479) 575-8323
Fax: (479) 718-7695
city_clerk@ci.fayetteville.ar.us

City Clerk/Treasurer Division

December 13, 2005

Honorable Dan Coody, Mayor
City Administration Building
113 W. Mountain
Fayetteville, AR 72701

RE: Petition to form Fayetteville Municipal Property Owners'
Improvement District No. 12
Belclaire Development

Dear Mayor:

Pursuant to Arkansas Code Ann. Sec. 14-94-105 (e)(3), you are hereby notified that the enclosed Petition to form Fayetteville Municipal Property Owners' Improvement District No. 12 - Belclaire Development has been filed in the office of the Fayetteville City Clerk. Pursuant to Ark. Code Ann. Sec. 14-94-106 (a)(1), I hereby present you with the Petition.

Sincerely,

Sondra Smith
City Clerk/Treasurer

cc: Kit Williams, City Attorney
James N. McCord

JAMES N. McCORD
Attorney at Law
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMILE (479) 695-1135
jimmccordlaw@alltel.net

RECEIVED

DEC 13 2005
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

December 13, 2005

Sondra Smith
Fayetteville City Clerk
City Administration Building
113 West Mountain Street
Fayetteville, AR 72701

VIA HAND DELIVERY

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. 12- Belclaire

Dear Ms. Smith:

Enclosed for filing in the office of the Fayetteville City Clerk are three executed counterparts of a Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 12- Belclaire. Please file mark each Petition, retain one for the City's permanent file, one for presentation to the Mayor, and return the other counterpart to me. The Petition is being filed under the Arkansas Municipal Property Owners' Improvement District law, Ark. Code Ann. Sec. 14-94-101 et seq.

. Ark. Code Ann. Sec. 14-94-106 provides:

- (a)(1) Upon the filing of the petition with the clerk, it shall be the duty of the clerk to present the petition to the mayor.
- (2) The mayor shall thereupon set a date and time not later than fifteen (15) days after the date of the presentation of the petition to the mayor, for a hearing before the governing body for consideration of the petition.
- (b)(1) At the hearing, it shall be the duty of the governing body to hear the petition and to ascertain whether those signing the petition constitute all the owners of the real property to be located in the district.

- (2) If the governing body determines that all the owners of the real to be located in the district have petitioned for the improvements, it shall be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners named in the petition.

* * *

- (c) The ordinance establishing the district shall be published within thirty (30) days after its adoption by one (1) insertion in some newspaper of general circulation in the municipality in which the district lies.

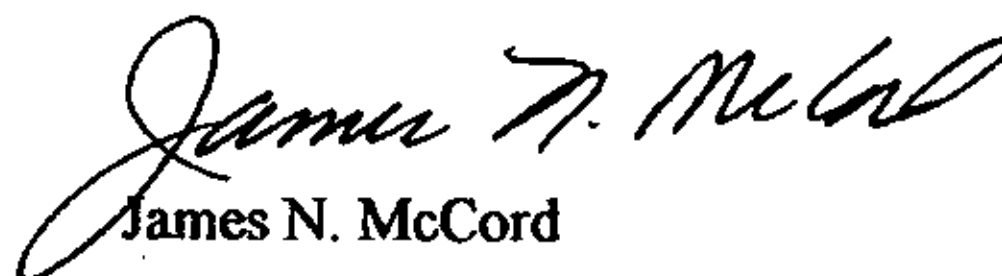
Enclosed is a form the Mayor may use to give the City Council notice of the date and time of the hearing on the Petition. Also enclosed is an executed Abstracter's Certificate certifying that the improvement district petition is signed by the owners of the record title to all the real property described in the Petition.

I have drafted and enclose an ordinance to establish Fayetteville Municipal Property Owners' Improvement District No. 12- Belclaire and name the commissioners. Section 5 in this ordinance repeals Ordinance No. 4761 establishing Fayetteville MPOID No. 8- Belclaire. There was a real estate title error in the petition when Fayetteville MPOID No. 8 was established.

The formation of a municipal property owners' improvement district is merely a financing alternative for the cost of subdivision infrastructure. The improvement district issues special assessment bonds, bond proceeds are used to construct or purchase the improvements, the district levies an annual tax on each lot in the district to pay debt service on the bonds, the annual taxes are collected by the county tax collector and paid to the bond trustee, and the trustee makes debt service payments to the bondholders. The developer must comply with all city development ordinances.

Should there be any questions, please contact me.

Sincerely,


James N. McCord

pc: Kit Williams, City Attorney
Brandon Barber

TO: Fayetteville City Council
FROM: Mayor Dan Coody
DATE: December ___, 2005
RE: Petition to Form Fayetteville Municipal Property Owners'
Improvement District No. 12 – Belclaire

Pursuant to Ark. Code Ann. Sec. 14-94-106(a)(2), I hereby set Tuesday, December 20, 2005, at 6:00 p.m. as the date and time for a hearing before the Fayetteville City Council for consideration of the Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 12 – Belclaire.

Ark. Code. Ann. Sec. 14-94-106(b)(1) provides that, at the hearing, it shall be the duty of the governing body to hear the petition and to ascertain whether those signing the petition constitute all the owners of the real property to be located in the district. Ark. code Ann. §14-94-106(b)(2)(A) provides that if the governing body determines that all the owners of the real property to be located in the district have petitioned for the improvements, it shall be its duty by ordinance to establish and layoff the district as defined in the petition and to appoint the commissioners named in the petition.

cc: Kit Williams, City Attorney
James N. McCord

ORDINANCE NO. _____

**AN ORDINANCE TO ESTABLISH AND LAY OFF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 12- BELCLAIRE**

WHEREAS, a Petition to form Fayetteville Municipal Property Owners' Improvement District No. 12- Belclaire has been filed with the Fayetteville City Clerk; and,

WHEREAS, the City Clerk has presented said petition to the Mayor; and,

WHEREAS, the Mayor has set December 20, 2005, at 6:00 p.m. as the date and time for a hearing before the Fayetteville City Council for consideration of said petition; and,

WHEREAS, the Fayetteville City Council has determined from the petition and an abstracter's certificate of property ownership that those signing the petition constitute all the owners of the real property to be located in the district; and,

WHEREAS, the Arkansas Municipal Property Owners' Improvement District Law provides at Ark. Code Ann. Sec. 14-94-106(b)(2) that if the governing body determines that all the owners of the record title to the real property to be located in the district have petitioned for the improvements, it shall then be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners named in the petition.

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

SECTION 1: That the real property described in Exhibit "A" attached hereto and made a part hereof is hereby established and laid off as Fayetteville Municipal Property Owners' Improvement District No. 12- Belclaire for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

SECTION 2: The following three individuals are hereby appointed as commissioners of said improvement district: Brandon Barber, Seth Kaffka and Brandon Rains.

SECTION 3: The name of said improvement district shall be Fayetteville Municipal Property Owners' Improvement District No. 12- Belclaire.

SECTION 4. The district shall not cease to exist upon the acquiring, constructing or completion of the improvements, but it shall continue to exist for the purpose of preserving, maintaining, and operating the improvements, replacing equipment, paying salaries to employees, and performing any other functions or services authorized in Ark. Code Ann., Title 14, Chapter 94.

SECTION 5. Ordinance No. 4761 establishing Fayetteville Municipal Property Owners' Improvement District No. 8- Belclaire is hereby repealed.

PASSED AND APPROVED this ____ day of _____, 2005.

APPROVED:

MAYOR

ATTEST:

CITY Clerk

EXHIBIT "A"

The SW1/4 of the NW1/4 of Section 28, Township 17 North, Range 30 West,
Washington County, Arkansas

RECEIVED

D.2.
Belclaire
Page 8 of 14

NOTICE

DEC 13 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**YOUR SIGNATURE HEREON SHOWS THAT
YOU FAVOR THE ESTABLISHMENT OF AN
IMPROVEMENT DISTRICT. IF THE DISTRICT
IS FORMED, YOU MAY BE CHARGED FOR
THE COSTS OF THE IMPROVEMENTS.**

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 12- BELCLAIRE

For their petition to form Fayetteville Municipal Property Owners' Improvement
District No. 12- Belclaire, the undersigned petitioners state:

1. Petitioners are the record title owners to all of the real property described in
Exhibit "A" attached hereto and made a part hereof as reflected by the deed records in
the office of the Circuit Clerk and Ex-Officio Recorder of Washington, County Arkansas.
All of said property is located within the corporate limits of the City of Fayetteville,
Arkansas.

2. Petitioners desire that the real property described in Exhibit "A" attached
hereto and made a part hereof be established and laid off into a municipal property
owners' improvement district pursuant to Ark. Code Ann. Sec. 14-94-101 et seq. for the
purpose of constructing, purchasing, accepting as a gift or maintaining facilities for
waterworks, recreation, drainage, gas pipelines, underground trenches and excavations
necessary for the installation by public utilities or municipal utilities of electric and

telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

3. Petitioners desire that the district shall not cease to exist upon the acquiring, constructing or completion of the improvements, but it shall continue to exist for the purpose of preserving, maintaining, and operating the improvements, replacing equipment, paying salaries to employees, and performing any other functions or services authorized in Ark. Code Ann., Title 14, Chapter 94.

4. Petitioners name the following three individuals who own real property in the district to be appointed as commissioners of the district: Brandon Barber, Seth Kaffka and Brandon Rains.

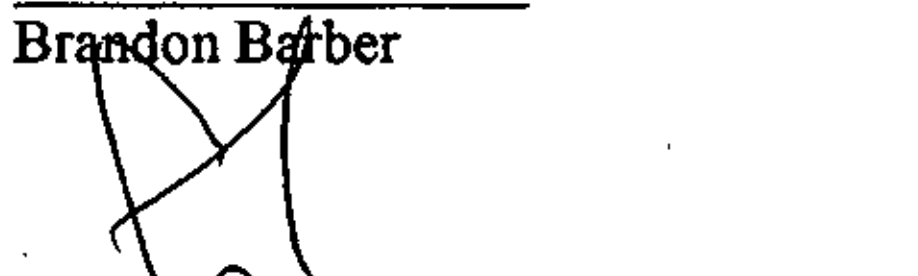
5. Petitioners propose that the name of the district be Fayetteville Municipal Property Owners' Improvement District No. 12- Belclair.

WHEREFORE, the undersigned Petitioners hereby petition the City Council of Fayetteville Arkansas to adopt an ordinance establishing and laying off the real property described in Exhibit "A" attached hereto and made a part hereof into Fayetteville Municipal Property Owners' Improvement District No. 12- Belclair for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electricity and telephone distribution systems, sanitary sewers, streets including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

DATED this 13th day of December, 2005.



Brandon Barber


Seth Kaffka
Brandon Rains

Dream Team Holdings 1, LLC
An Arkansas limited liability company

By:


Brandon Barber, authorized member

EXHIBIT "A"

**The SW1/4 of the NW1/4 of Section 28, Township 17 North, Range 30 West,
Washington County, Arkansas**

RECEIVED

D.2.
Belclaire
Page 12 of 14

DEC 13 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 12- BELCLAIRE**

ABSTRACTER'S CERTIFICATE OF PROPERTY OWNERSHIP

Blue Star Title of Arkansas, Inc. hereby certifies that the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, reflect that the following are the owners of the record title to all of the real property described in Exhibit "A" to the Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 12 – Belclaire, a copy of which Exhibit "A" is attached hereto and made a part hereof:

Dream Team Holdings 1, LLC, Brandon Barber, Seth Kaffka, and
Brandon Rains

DATED this 13th day of December, 2005.

Blue Star Title of Arkansas, Inc.

By: 
AUTHORIZED REPRESENTATIVE

EXHIBIT "A"

**The SW1/4 of the NW1/4 of Section 28, Township 17 North, Range 30 West,
Washington County, Arkansas**

D.14

Agenda Session
12/13/05

D.14.
2005 Rebudget Request
Page 1 of 1

RESOLUTION NO. _____

A RESOLUTION AMENDING THE ADOPTED 2006 BUDGET TO RE-AUTHORIZE FUNDING FROM 2005, IN ORDER TO RETAIN PROJECT FUNDING FOR IDENTIFIED, SCHEDULED AND ON-GOING CAPITAL IMPROVEMENTS.

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 amends the Adopted 2006 Budget to re-authorize funding from 2005 in order to retain project funding for identified, scheduled and on-going Capital Improvements.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

KUTAK ROCK LLP
DRAFT 12/13/05

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$20,000,000 OF A SALES AND USE TAX CAPITAL IMPROVEMENT BOND, SERIES 2006, BY THE CITY OF FAYETTEVILLE, ARKANSAS FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING PIPELINES IN CONNECTION WITH A NEW WASTEWATER TREATMENT FACILITY AND RELATED SEWERAGE IMPROVEMENTS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE SERIES 2006 BOND; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE SERIES 2006 BOND; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City Council of the City of Fayetteville, Arkansas (the "City") has determined that there is a great need for a source of revenue to finance the costs of acquisition, construction and equipping of a new wastewater treatment facility and related sewerage improvements to serve the western portion of the City; and

WHEREAS, based on the engineering report (the "Engineering Report") of RJN Group, Inc., Dallas, Texas, which Engineering Report has been reviewed by the City Council, it has been determined that the costs of acquisition, construction and equipping pipelines (the "Project") associated with the new wastewater treatment facility are in excess of \$20,000,000; and

WHEREAS, the City is authorized and empowered under the provisions of the Constitution and laws of the State of Arkansas, including particularly Amendment 62 to the Constitution of the State of Arkansas ("Amendment 62") and Arkansas Code Annotated (1998 Repl. & 2005 Supp.) Sections 14-164-301 *et seq.* (as from time to time amended, the "Local Government Bond Act"), to issue and sell its capital improvement bonds to finance the costs of various capital improvements such as those comprising the Project, which capital improvement bonds may be secured by and payable from the receipts of the special city-wide sales and use tax authorized by the Local Government Bond Act; and

WHEREAS, pursuant to the provisions of Ordinance No. 4327 of the City, adopted and approved on August 7, 2001 (the "Election Ordinance"), there was submitted to the qualified electors of the City the question of the issuance of not to exceed \$125,000,000 in aggregate principal amount of capital improvement bonds pursuant to Amendment 62 and the Local Government Bond Act to finance a portion of the wastewater system improvements described in the Election Ordinance, said bonds to be secured by a pledge of and lien upon all of the receipts of a special city-wide sales and use tax levied at the rate of three-quarters of one percent (0.75%) pursuant to the Local Government Bond Act (the "Sales and Use Tax"); and

WHEREAS, at a special election held November 6, 2001, a majority of the qualified electors of the City voting on the question approved the issuance of said capital improvement bonds (and the corresponding levy of the Sales and Use Tax and the pledge of Sales and Use Tax receipts to the payment of the capital improvement bonds); and

WHEREAS, pursuant to such authority, the City has previously issued its \$25,000,000 Sales and Use Tax Capital Improvement Bonds, Series 2002 (the "Series 2002 Bonds"), its \$35,000,000 Sales and Use Tax Capital Improvement Bonds, Series 2004 (the "Series 2004 Bonds"), its \$27,000,000 Sales and Use Tax Refunding and Capital Improvement Bonds, Series 2005A (the "Series 2005A Bonds"), and its \$45,000,000 Sales and Use Tax Capital Improvement Bonds, Series 2005B (the "Series 2005B Bonds"), in order to provide for the funding of various wastewater system improvements, including portions of the Project; and

WHEREAS, the Series 2002 Bonds have been redeemed in full from receipts of the Sales and Use Tax, and the Series 2004 Bonds have been defeased in whole with the proceeds of the Series 2005A Bonds ; and

WHEREAS, as authorized under the provisions of Amendment 62 and the Local Government Bond Act and as approved by the qualified electors of the City, and in order to secure funds necessary to pay a portion of the remaining costs of acquiring, constructing and equipping of the Project, and the legal costs incident to the issuance of a bond to finance the costs of said Project, upon the most favorable terms to the City and the users of the City's wastewater system, the City has made arrangements for the sale of its Sales and Use Tax Capital Improvement Bond, Series 2006 (the "Series 2006 Bond"), in the principal amount of not to exceed \$20,000,000 to the Arkansas Development Finance Authority, as purchaser (the "Bondholder"), at a price of par, which Series 2006 Bond shall bear interest at the rate of two percent (2.00%) per annum, pursuant to a Bond Purchase Agreement (the "Bond Purchase Agreement") among the City, the Bondholder and the Arkansas Natural Resources Commission (the "Commission"); and

WHEREAS, the City will also be required to pay to the Arkansas Development Finance Authority, as servicer with respect to the Series 2006 Bond (the "Authority"), a semiannual servicing fee equal to one percent (1.00%) per annum of the outstanding principal amount of the Series 2006 Bond (the "Servicing Fee"); and

WHEREAS, the Series 2006 Bond will be issued and secured by the Sales and Use Tax receipts on a parity basis with the Series 2005A Bonds and the Series 2005B Bonds, except that the Series 2006 Bond will not be secured by the debt service reserve or the municipal bond insurance securing the Series 2005A Bonds and the Series 2005B Bonds; and

WHEREAS, a copy of the Bond Purchase Agreement has been presented to and is before this meeting;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fayetteville, Arkansas that:

Section 1. The Project shall be accomplished and shall be a part of the City's wastewater system (the "System"). The accomplishment of the Project shall be under the control

and supervision of, and all details in connection therewith shall be handled by, the City, and the City shall make all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. The City shall let all contracts pursuant to and in accordance with existing laws and shall require such performance bonds and insurance from the contractors as will fully insure completion of the Project in accordance with the Engineering Report so as to fully promote and protect the best interests of the City and the Bondholder.

Section 2. The sale to the Bondholder of the City's Series 2006 Bond in the maximum principal amount of \$20,000,000 at a price of par, such Series 2006 Bond to bear interest at the rate of 2.00% per annum and to be subject to a Servicing Fee of 1.00% per annum and otherwise to be subject to the terms and provisions hereafter in this Ordinance set forth in detail be, and is hereby approved and the Series 2006 Bond is hereby sold to the Bondholder. The Mayor is hereby authorized and directed to execute and deliver the Bond Purchase Agreement on behalf of the City and to take all action required on the part of the City to fulfill its obligations under the Bond Purchase Agreement. The Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting with such changes as may be approved by the Mayor, his execution to constitute complete evidence of such approval.

Section 3. The City Council hereby finds and declares that the period of usefulness of the System after completion of the Project will be more than twenty-five (25) years, which is longer than the term of the Series 2006 Bond.

Section 4. Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 62 to the Constitution of the State of Arkansas and the Local Government Bond Act, the City of Fayetteville, Arkansas Sales and Use Tax Capital Improvement Bond, Series 2006 (the "Series 2006 Bond"), is hereby authorized to be issued in the total principal amount of not to exceed Twenty Million Dollars (\$20,000,000), the proceeds of the sale of which are necessary to provide sufficient funds to pay a portion of the costs of accomplishing the Project, including, without limitation, legal fees and other necessary expenses incidental to accomplishment of the Project, and to the issuance of the Series 2006 Bond.

The Series 2006 Bond shall bear interest at the rate of two percent (2.00%) per annum and shall be subject to a Servicing Fee of one percent (1.00%) per annum based upon a 360-day year of twelve consecutive 30-day months compounded semiannually. The Series 2006 Bond shall be dated the date of its delivery to the Bondholder. Accrued interest and the Servicing Fee only shall be payable on each April 15 and October 15, commencing April 15, 2006, to and including April 15, 2008. Principal, interest and the Servicing Fee shall be payable on October 15, 2008, and on each April 15 and October 15 thereafter until the unpaid principal is paid in full as follows:

Date	Payment Amount	Interest	Servicing Fee	Principal
October 15, 2008	\$1,164,915.00	\$200,000.00	\$100,000.00	\$ 864,915.00
April 15, 2009	1,164,915.00	191,351.00	95,675.00	877,889.00
October 15, 2009	1,164,915.00	182,572.00	91,286.00	891,057.00

Date	Payment Amount	Interest	Servicing Fee	Principal
April 15, 2010	1,164,915.00	173,661.00	86,831.00	904,423.00
October 15, 2010	1,164,915.00	164,617.00	82,309.00	917,989.00
April 15, 2011	1,164,915.00	155,437.00	77,719.00	931,759.00
October 15, 2011	1,164,915.00	146,120.00	73,060.00	945,735.00
April 15, 2012	1,164,915.00	136,662.00	68,331.00	959,922.00
October 15, 2012	1,164,915.00	127,063.00	63,532.00	974,320.00
April 15, 2013	1,164,915.00	117,320.00	58,660.00	988,935.00
October 15, 2013	1,164,915.00	107,431.00	53,715.00	1,003,769.00
April 15, 2014	1,164,915.00	97,393.00	48,696.00	1,018,826.00
October 15, 2014	1,164,915.00	87,205.00	43,602.00	1,034,108.00
April 15, 2015	1,164,915.00	76,864.00	38,432.00	1,049,619.00
October 15, 2015	1,164,915.00	66,367.00	33,184.00	1,065,364.00
April 15, 2016	1,164,915.00	55,714.00	27,857.00	1,081,344.00
October 15, 2016	1,164,915.00	44,900.00	22,450.00	1,097,565.00
April 15, 2017	1,164,915.00	33,925.00	16,962.00	1,114,028.00
October 15, 2017	1,164,915.00	22,784.00	11,392.00	1,130,739.00
April 15, 2018	1,164,909.00	11,477.00	5,738.00	1,147,694.00

The Series 2006 Bond shall be issued in the form of a single typewritten bond, registered as to both principal and interest, payable to the Bondholder, or registered assigns, as set forth hereinafter in the bond form, and shall be numbered R06-1.

Payment of principal and interest shall be by check or draft mailed by Simmons First Trust Company, N.A., as trustee in connection with the Series 2005A Bonds and the Series 2005B Bonds (the "Trustee"), to the Bondholder at its address shown on the registration books of the City which shall be maintained by the City Clerk as Bond Registrar, without presentation or surrender of the Series 2006 Bond (except upon final payment), and such payments shall discharge the obligation of the City to the extent thereof. The City Clerk or her designee shall keep a payment record and make proper notations thereon of all payments of principal and interest.

Payment of principal and interest shall be in any coin or currency of the United States of America which, as at the time of payment, shall be legal tender for the payment of debts due the United States of America. When the principal of and interest on the Series 2006 Bond has been fully paid, it shall be delivered to the City Clerk and shall be canceled.

Section 5. The Series 2006 Bond shall be executed on behalf of the City by its Mayor and City Clerk, and shall have impressed thereon the seal of the City. In order to pay the principal of and interest on the Series 2006 Bond and the Servicing Fee in connection therewith, there is hereby pledged all of the receipts of the Sales and Use Tax levied by the Election Ordinance. As permitted under the Trust Indenture dated as of November 15, 2005 (the "Indenture"), securing the Series 2005A Bonds and the Series 2005B Bonds, such pledge is made on a parity basis with the existing pledge of receipts of the Sales and Use Tax securing the payment of the Series 2005A Bonds and the Series 2005B Bonds. The levy and collection of the Sales and Use Tax shall continue until such time as the Series 2005A Bonds, the Series 2005B Bonds and the Series 2006 Bond are no longer outstanding or sufficient funds are on deposit with the Trustee under the Indenture to redeem the Series 2005A Bonds, the Series 2005B Bonds and the Series 2006 Bond in full. The City covenants and agrees that all receipts from the Sales and Use Tax will be accounted for separately as special funds on the books of the City, and receipts of said Sales and Use Tax will be deposited and will be used solely as provided herein and in the Indenture. The Series 2006 Bond is not a general obligation of the City but is a special obligation, the principal of and the interest on which, and the Servicing Fee in connection therewith, are secured by a pledge of the receipts from the Sales and Use Tax. The principal of and interest on the Series 2006 Bond shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction.

Section 6. The Series 2006 Bond shall be in substantially the following form, and the Mayor and City Clerk are hereby authorized and directed to make all the recitals contained therein:

**Registered
No. R06-1**

United States of America

**Registered
\$20,000,000**

**State of Arkansas
County of Washington
City of Fayetteville, Arkansas
Sales and Use Tax Capital Improvement Bond
Series 2006**

Registered Owner: ARKANSAS DEVELOPMENT FINANCE AUTHORITY

Principal Amount: TWENTY MILLION DOLLARS

Know All Men By These Presents:

That the City of Fayetteville, Arkansas (the "City") hereby acknowledges itself to owe, and for value received promises to pay to the order of the Arkansas Development Finance Authority, or registered assigns, but solely from the special fund provided therefor as hereinafter set forth, in lawful money of the United States of America, the Principal Amount shown above (or so much of the Principal Amount as should have been advanced as shown on the Record of Payment of Advances attached hereto), and to pay in like coin or currency interest thereon at the rate of 2.00% per annum from the date of each advance. A servicing fee of 1.00% per annum

(the "Servicing Fee") shall also be payable by the City to the Arkansas Development Finance Authority or its successor in the same manner and upon the same dates as interest hereon.

Interest on the unpaid balance of the total principal amount outstanding and the Servicing Fee shall be payable on April 15, 2006, October 15, 2006, April 15, 2007, October 15, 2007, and April 15, 2008. Principal, interest and the Servicing Fee shall be payable on October 15, 2008, and on each April 15 and October 15 thereafter until the unpaid principal is paid in full as follows:

[Here will be inserted the amortization schedule
set forth in Section 4 of this Ordinance.]

Payments of principal and interest due hereon shall be made, except for final payment, without presentation and surrender of this bond, directly to the Registered Owner at its address shown on the registration book of the City maintained by the City Clerk as Bond Registrar, and such payments shall fully discharge the obligation of the City to the extent of the payments so made.

This bond is issued for the purpose of (i) providing financing for a portion of the costs of acquiring, constructing and equipping pipelines associated with a new wastewater treatment facility and related sewerage improvements to serve the western portion of the City (the "Project"), and (ii) paying costs of authorizing and issuing this bond, and is issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Amendment No. 62 to the Constitution of the State of Arkansas ("Amendment 62") and the Local Government Bond Act, codified as Arkansas Code Annotated Sections 14-164-301 *et seq.* (1998 Repl. & 2005 Supp.) (the "Act"), and pursuant to Ordinance No. _____ of the City, duly adopted and approved on the ____ day of December, 2005 (the "Authorizing Ordinance"). Reference is hereby made to the Authorizing Ordinance for the details of the nature and extent of the security and of the rights and obligations of the City and the Registered Owner of this bond.

This bond may be assigned only upon the written approval of the Arkansas Natural Resources Commission (the "Commission"), and in order to effect such assignment, the assignor shall promptly notify the City Clerk by registered mail, and the assignee shall surrender this bond along with a written assignment and written approval of the Commission to the City Clerk for transfer on the registration records. Every assignee shall take this bond subject to all payments and prepayments of principal and interest (as reflected on the Payment Record maintained by the City Clerk or her designee) prior to such surrender for transfer.

Following payment in full of the City's Sales and Use Tax Capital Improvement Bonds, Series 2005B (the "Series 2005B Bonds"), the outstanding principal of this bond shall be prepaid by the City from time to time with receipts of the Sales and Use Tax (defined below) in excess of amounts needed to make scheduled payments of the principal, interest and Servicing Fee hereon and on the Series 2005A Bonds. Further, on and after April 15, 2016, this bond may be prepaid at the option of the City from funds from any source, in whole but not in part, at a prepayment price equal to the principal amount outstanding, plus accrued interest and the Servicing Fee to the prepayment date. Notice of any prepayment, whether mandatory or optional, shall be given

to the registered owner of this bond at least 90 days prior to the prepayment date. Such notice shall be in writing mailed to the address of the registered owner of this bond at the address appearing on the bond registration records maintained by the City Clerk.

This bond does not constitute an indebtedness of the City or the State of Arkansas within the meaning of any constitutional or statutory limitation or provision, and, except with respect to receipts generated from the Sales and Use Tax, the taxing power of the City is not pledged to the payment of the principal of and interest on this bond.

This bond is not a general obligation of the City, but is a special limited obligation payable solely from the receipts of a special City-wide sales and use tax levied at the rate of three-quarters of one percent (0.75%) pursuant to the Local Government Bond Act (the "Sales and Use Tax"). In this regard, the pledge of Sales and Use Tax receipts is made on a parity basis with the prior pledge of such receipts securing (i) the City's Sales and Use Tax Refunding and Capital Improvement Bonds, Series 2005A (the "Series 2005A Bonds"), and (ii) the City's Sales and Use Tax Capital Improvement Bonds, Series 2005B (the "Series 2005B Bonds"). Pursuant to the Trust Indenture dated as of November 15, 2005 (the "Indenture"), under which the Series 2005A Bonds and the Series 2005B Bonds are issued and secured, an amount of Sales and Use Tax receipts sufficient to pay principal and interest on this bond as due shall be set aside monthly in a special fund created for that purpose identified as the Bond Fund. Reference is made to the Indenture for a detailed statement of the nature and extent of the security, and the rights and obligations of the City and registered owner of this bond.

This bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on this bond or for any claim based thereon or upon any obligation, covenant, or agreement contained in this bond or in the Authorizing Ordinance against any past, present or future alderman, officer or employee of the City, or any alderman, officer or employee of any successor of the City, as such, either directly or through the City or any successor of the City, under any rule of law or equity, statute, or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such alderman, officer or employee as such is hereby expressly waived and released as a condition of and consideration for the issuance of this bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by the Constitution and statutes of the State of Arkansas to exist, happen and be performed precedent to and in the issuance of this bond do exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by this bond does not exceed or violate any constitutional or statutory limitation of indebtedness; and that provision has been made for the payment of the principal of and interest on this bond, as provided in the Authorizing Ordinance.

IN WITNESS WHEREOF, the City of Fayetteville, Arkansas has caused this bond to be executed in its name by the manual signatures of its Mayor and City Clerk, thereunto duly authorize, and its corporate seal to be affixed hereto, all as of the _____ day of _____, 2006.

**CITY OF FAYETTEVILLE,
ARKANSAS**

By: _____
Mayor

ATTEST:

City Clerk

REGISTRATION CERTIFICATE

Date of Registration	Name of Registered Owner	Signature of City Clerk
	Arkansas Development Finance Authority	

RECORD OF PAYMENT OF ADVANCES

Date of Advance*	Amount of Advance	Total Principal Outstanding	Signature of Vice President of Arkansas Development Finance Authority

*The date of each advance shall be the interest commencement date from which the principal amount of such advance bears interest and from which the Servicing Fee is calculated.

Section 7. All of the terms and provisions of the Indenture, as now in effect, except for those provisions clearly inapplicable hereto or in direct conflict herewith, including, without limitation, those terms and provisions pertaining to the receipt, investment and handling of Sales and Use Tax receipts, are hereby made applicable hereto and incorporated by reference as though fully set forth herein. The effect of the foregoing sentence shall be to continue the applicable provisions in full force and effect until the Series 2006 Bond is paid, or provision made therefor, even after payment of the Series 2005A Bonds and the Series 2005B Bonds.

Section 8. The City shall assure that (i) not in excess of 10% of the proceeds of the Series 2006 Bond is used for Private Business Use (as defined below) if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2006 Bond during the term thereof are, under the terms of the Series 2006 Bond or any underlying arrangement, directly or indirectly secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or are to be derived from payments, whether or not to the City, in respect of property or borrowed moneys used or to be used for a Private Business Use; and (ii) that, in the event that both (A) in excess of 5% of the proceeds of the Series 2006 Bond are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2006 Bond during the term thereof are, under the terms of the Series 2006 Bond or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or are to be derived from payments, whether or not to the City, in respect of property or

borrowed money used or to be used for said Private Business Use, then said excess over said 5% of proceeds of the Series 2006 Bond used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project.

The City shall assure that not in excess of 5% of the proceeds of the Series 2006 Bond are used, directly or indirectly, to make or finance a loan to persons other than state or local governmental units.

As used in this Section, "Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

Section 9. Installments of principal and interest on the Series 2006 Bond shall be prepayable prior to maturity as provided in the form of the Series 2006 Bond set forth in Section 6 of this Ordinance.

Section 10. So long as the Series 2006 Bond is outstanding, the City shall not issue or attempt to issue any bonds or other indebtedness having or claimed to be entitled to a pledge of the Sales and Use Tax receipts on a priority or parity basis with the lien thereon securing the Series 2005A Bonds, the Series 2005B Bonds and the Series 2006 Bond.

Section 11. It is covenanted and agreed by the City with the Bondholder and the Commission that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Arkansas and by this Ordinance, including, without limitation, the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System and the segregating of System revenues.

The City covenants and agrees that the Bondholder shall have the protection of all the provisions of the Local Government Bond Act, the Indenture and this Ordinance, and that the City will diligently proceed to enforce those provisions to the end of the Bondholder realizing fully upon its security. If the City shall fail to proceed within thirty (30) days after written request shall have been filed by the Bondholder or the Commission, the Bondholder or the Commission may proceed to enforce all such provisions.

If there be any default in the payment of the principal of or interest on the Series 2006 Bond, or if the City defaults in any Bond Fund requirement described in the Indenture or in the performance of any of the other covenants contained in this Ordinance or in the Bond Purchase Agreement, the Bondholder and the Commission (with respect to covenants contained in the Bond Purchase Agreement) may, by proper suit, compel the performance of the duties of the officials of the City under the laws of the State of Arkansas. No remedy herein conferred upon or reserved to the Bondholder is intended to be exclusive of any other remedy or remedies herein provided or provided by law, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or given by law. No delay or omission of the Bondholder to exercise any right or power accrued upon any default shall impair any such right or power or shall be construed to be a waiver of any default or an acquiescence therein; and every power and

remedy given by this Ordinance to the Bondholder may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon. Any costs of enforcement of the Series 2006 Bond or of any provision of this Ordinance, including reasonable attorney's fees, shall be paid by the City. The Bondholder may enforce all rights and exercise all remedies available to the Bondholder in the event the Servicing Fee is not paid when due.

Section 12. When the Series 2006 Bond has been executed by the Mayor and City Clerk and the seal of the City impressed thereon as herein provided, it shall be delivered to the Bondholder upon the payment of all or a portion of the purchase price in accordance with the Bond Purchase Agreement. The purchase price shall be deposited, as and when received, in a special account of the City hereby created in a bank that is a member of the Federal Deposit Insurance Corporation and designated the "2006 Wastewater Construction Fund" (the "Construction Fund"). The moneys in the Construction Fund shall be used for accomplishing the Project, paying expenses incidental thereto and paying the expenses of issuing the Series 2006 Bond approved in accordance with the Bond Purchase Agreement. Payments from the Construction Fund shall be by check or voucher signed by the City Clerk or her designee, and drawn on the depository. Each such check or voucher shall briefly specify the purpose of the expenditure.

When the Project has been completed and all required expenses paid and expenditures made from the Construction Fund for and in connection with the accomplishment of the Project and the financing thereof, this fact shall be evidenced by a certificate signed by the City Clerk or her designee, and by the consulting engineer, which certificate shall state, among other things, the date of the completion and that all obligations payable from the Construction Fund have been discharged. A copy of the certificate shall be filed with the depository bank, the Bondholder and the Commission.

Disbursements shall be made by the Bondholder for costs of the Project pursuant to written Disbursement Requests as provided in the Bond Purchase Agreement.

Section 13. The terms and provisions of this Ordinance shall constitute a binding contract among the City, the Bondholder and the Commission, and no variation or change in the undertaking herein set forth shall be made while the Series 2006 Bond is outstanding unless consented to in writing by the Bondholder and the Commission.

Section 14. The City covenants and agrees that it will maintain the System in good condition and operate it in an efficient manner and at reasonable cost. The City agrees to keep proper records, books and accounts relating to the operation of the System, which shall be kept separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the operation of the System in accordance with generally accepted government accounting standards. Such books shall be available for inspection by the Bondholder and the Commission, or the agent or the representative of either, at reasonable times and under reasonable circumstances. The City agrees to have these records

audited annually. If requested, the City agrees to furnish the audit report with respect to the System to the Bondholder and the Commission.

The City also agrees that it will furnish to the Bondholder and the Commission on or before 30 days after the end of each fiscal year, if requested, a statement showing (i) total receipts of the Sales and Use Tax during such fiscal year, (ii) the application of such receipts to pay the principal of and interest on the Series 2005A Bonds and the Series 2005B Bonds, and (iii) the application of such receipts to pay the principal of and the interest on the Series 2006 Bond and the Servicing Fee with respect thereto.

Section 15. The City agrees that the Bondholder may pledge the Series 2006 Bond as security for the payment of its wastewater system revolving loan fund revenue bonds (the "ADFA Bonds"), and the trustee or municipal bond insurer for the ADFA Bonds may exercise any rights or remedies available to the Bondholder under this Ordinance or the Bond Purchase Agreement while the Series 2006 Bond is pledged and/or the ADFA Bonds are insured. In addition, the City agrees that while the Series 2006 Bond is pledged and/or the ADFA Bonds are insured, copies of all financial information relating to the City, the System and the Sales and Use Tax receipts shall be furnished to the trustee and/or the municipal insurer for the ADFA Bonds.

Section 16. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance, sale, execution and delivery of the Series 2006 Bond and to effect the execution and delivery of the Bond Purchase Agreement, and to perform all of the obligations of the City under and pursuant thereto. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 17. Kutak Rock LLP, Little Rock, Arkansas, is hereby appointed to act as Bond Counsel on behalf of the City in connection with the issuance and sale of the Series 2006 Bond.

Section 18. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be illegal or invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

Section 19. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

ADOPTED AND APPROVED THIS _____ DAY OF _____, 2005.

APPROVED:

Mayor

ATTEST:

City Clerk

(S E A L)

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 20, 2005**

A meeting of the Fayetteville City Council will be held on December 20, 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**

2006 Community Development Block Grant Action Plan Report – Agenda Session Only

Presentation on Availability of the Adjacent GCM Building – Agenda Session Only

Consider bringing off the table the City of Elkins Sewer Agreement

A. CONSENT:

- 1. Approval of the October 20, 2005 and October 27, 2005 Special City Council meeting minutes and the November 1, 2005 City Council meeting minutes.**
- 2. Airport SAAG Grant:** A resolution authorizing Airport Staff to apply for and accept a SAAG Grant in the amount of \$100,000.00 from the Arkansas Department of Aeronautics to fund a portion of the cost to remodel the Terminal Building at the Fayetteville Municipal Airport; and approving a budget adjustment recognizing the grant revenue.
- 3. Arkansas American Roofing Bid Award #05-83:** A resolution awarding Bid #05-83 to Northwest Roofing Company D/B/A Arkansas American Roofing in the amount of \$30,977.89 for replacement of the roof of the Arkansas Air Museum Hanger Building; approving a project contingency in the amount of \$3,098.11 and approving a budget adjustment in the amount of \$18,012.00.

4. **Equipment Resource Management - Asphalt Roller Equipment:** A resolution approving the purchase of one (1) Medium Double Drum Vibratory Asphalt Roller from Equipment Resource Management in the amount of \$78,692.00 for use by the Transportation Division (Trails); and approving a budget adjustment.
5. **North Point Ford - Police Patrol Sedans:** A resolution authorizing the purchase of eight (8) Police Patrol Sedans from North Point Ford of North Little Rock at a total cost of \$164,928.00; and authorizing the Mayor and City Clerk to execute a waiver with the Ford Motor Company.
6. **Washington County Emergency Operations Center:** A resolution approving an Inter-Local Agreement and authorizing payment not to exceed \$30,000.00 to Washington County as the City of Fayetteville's share of the cost of establishing an Emergency Operations Center in Washington County; and approving a budget adjustment.
7. **Stephens Inc. Contract - WSIP:** A resolution approving an amendment to the Financial Advisory Services Agreement with Stephens, Inc., in an amount not to exceed \$20,000.00 to assist with the financing of the Wastewater System Improvements Project.
8. **Hansen Software Maintenance:** A resolution to authorize payment of \$57,987.04 to Hansen for 2006 Software Maintenance Fees.
9. **New World Systems, Inc. Software Maintenance:** A resolution to approve a three year Software Maintenance Contract with New World Systems, Inc. in an amount of \$64,777.40 for 2006.
10. **ESRI Software Maintenance Fees:** A resolution to approve the purchase of the 2006 ESRI Software Maintenance Fees in the amount of \$31,073.38.

B. PUBLIC HEARINGS:

1. **Public Hearing for Monthly Sewer Rate Ordinance.**

C. UNFINISHED BUSINESS:

1. **Amend § 51.137 Monthly Sewer Rates:** An ordinance to amend § 51.137 of the Code of Fayetteville by lowering the sewer rate charged for Elkins, Arkansas and postponing the scheduled system wide rate increase for four months. *This ordinance was left on the Second Reading at the December 6, 2005 City Council meeting.*
2. **C-PZD 05-1610 (East Square Redevelopment):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1610, East Square Development, located at the north west corner of Mountain Street and College Avenue, containing approximately 1.01 acres; amending the Official Zoning Map of the City of Fayetteville; waiving any possibly conflicting development ordinances; and adopting the Associated Planned Zoning District. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting.*

D. NEW BUSINESS:

1. **Fayetteville/Springdale Area Transit Authority Dissolution:** A resolution approving the dissolution of the Fayetteville/Springdale Area Transit Authority.
2. **Fayetteville Municipal Property Owners Improvement District #12 – Belclaire:** An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District #12 – Belclaire
3. **Amend Chapter 159: Fees, UDC:** An ordinance amending Chapter 159: Fees, Unified Development Code, Code of Fayetteville limiting certain building fee exemptions.
4. **Reserve LLC - Cost-Share Agreement:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development; and approving a budget adjustment in the amount of \$577,453.00.
5. **OMI Contract Approval:** A resolution approving Amendment No.13 to the contract with Operations Management International (OMI) in the amount of \$4,674,829.66 for the operation and management of Fayetteville Wastewater Treatment Facilities for 2006.
6. **Environmental Consulting Operations, Inc. Contract:** A resolution approving an amendment to the engineering contract with Environmental Consulting Operations, Inc. in the amount of \$579,343.00 for construction and post-construction phase services for the entire Wastewater System Improvement Project (WSIP); and approving a contingency of \$20,000.00.
7. **ADM 05-1848 Vacating A Utility Easement:** An ordinance approving ADM 05-1848 for property located at the southwest corner of St. Charles Avenue and Watson Street, vacating a utility easement as indicated on the attached map and legal description.
8. **ANX 05-1811 Summer Resources:** An ordinance annexing that property described in annexation petition ANX 05-1811 for property located north of Highway 16E, north of Deerfield Way, containing 3.75 acres.
9. **C-PZD 05-1704 First Baptist Church:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1704 First Baptist Church, located at 20 East Dickson Street, 325 and 321 North College Avenue, and 350 and 354 North Highland Avenue, containing approximately 4.08 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
10. **R-PZD 05-1734 Paradise Point:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1734, Paradise Point, located west of Crossover, south of Joyce Boulevard, containing approximately 1.55 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

11. **R-PZD 05-1797 Bungalows at Cato Springs Road and Cline Avenue:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1797, Bungalows at Cato Springs, located northwest of Cato Springs Road and Cline Avenue, west of 71 Business/South School Avenue, containing approximately 5.52 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
12. **R-PZD 05-1798 DePalma Addition:** A ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1798, DePalma Addition, located at the south end of Anson Street, containing approximately 10.04 acres, more of less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
13. **Amend § 97.070 Lake Recreation Fees:** An ordinance amending §97.070 of the Code of Fayetteville to clarify permitting requirements for the recreational use of city-owned lakes.
14. **2005 Re-Budgeting Request:** A resolution amending the adopted 2006 budget to re-authorize \$51,313,520.00 from 2005, in order to retain project funding for identified, scheduled and on-going Capital Improvements.
15. **Arkansas Development Authority Bond Purchase Agreement -Westside Plant:** Ordinance to follow.

E. PUBLIC HEARINGS:

1. **Dan Nelson Revocable Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Dan Nelson Revocable Trust.
2. **Barbara J. Heyliger Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Barbara J. Heyliger Trust.
3. **Lori S. Taylor Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Lori S. Taylor.
4. **MSB Properties, LLC and Nanchar, Inc. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by MSB Properties, LLC and Nanchar, Inc.
5. **Lindsey, Sexton, and J.W. Reynolds Lumber Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by James E. Lindsey and Nita V. Lindsey; Giles A. Sexton and Elsie D. Sexton; and J.W. Reynolds Lumber Company; all as tenants in common.
6. **Commonwealth-Goshen Theatre Corporation Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Commonwealth-Goshen Theatre Corporation.

7. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC.

F. INFORMATIONAL:

Council Tour: December 19, 2005 – 4:30 PM

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

15-Nov-05

City Council Meeting Date

Kyle Cook

Submitted By

Division

Fayetteville Sewer Committee

Department

Action Required:

Approval of Sewer Agreement with the City of Elkins.

Approximately \$75,000.00

Cost of this request

5400-0940-4432.01

Account Number

Project Number

Category/Project Budget

Funds Used to Date

\$

Remaining Balance

Program Category / Project Name

Sewer Revenues

Program / Project Category Name

Water & Sewer

Fund Name

Budgeted Item

Budget Adjustment Attached

Fayetteville Sewer Committee Chair

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Received in City Clerk's Office

ENTERED

Ses

11/8/05

Received in Mayor's Office



Tabled Indefinitely 11/15/05 mto

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

FROM: Kyle Cook, Chair - Fayetteville Sewer Committee 

DATE: November 7, 2005

Subject: **Elkins – Fayetteville Wastewater Contract**

Recommendation

The Fayetteville Sewer Committee recommends approval of the attached contract between the City of Elkins and the City of Fayetteville for Fayetteville to provide wastewater transportation and treatment services.

Background

On July 21, representatives of the City of Elkins formally requested the sewer service contract between Elkins and Fayetteville be opened for negotiation. The Fayetteville Sewer Committee named Kyle Cook and Stephen Davis as the negotiating team representing Fayetteville in the contract negotiations with Elkins.

Discussion

Contract negotiations with Elkins began in late July and continued until the attached contract was completed in mid-October.

This contract has been reviewed by the Fayetteville Sewer Committee and the City Attorney. The Sewer Committee at its October 13 meeting. The Elkins Sewer Committee and Elkins City Attorney have also reviewed the contract and recommended it to the full Elkins City Council for approval. This contract was approved by the City of Elkins last week.

For a more comprehensive discussion of the contract terms please refer to the Staff memo attached.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH THE
CITY OF ELKINS CONCERNING THEIR SEWER RATES
AND OTHER MATTERS

**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 the Sewer Contract with the City of Elkins, Arkansas attached as Exhibit A and
authorizes Mayor Coody to execute this contract.

PASSED and APPROVED this 15th day of November, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

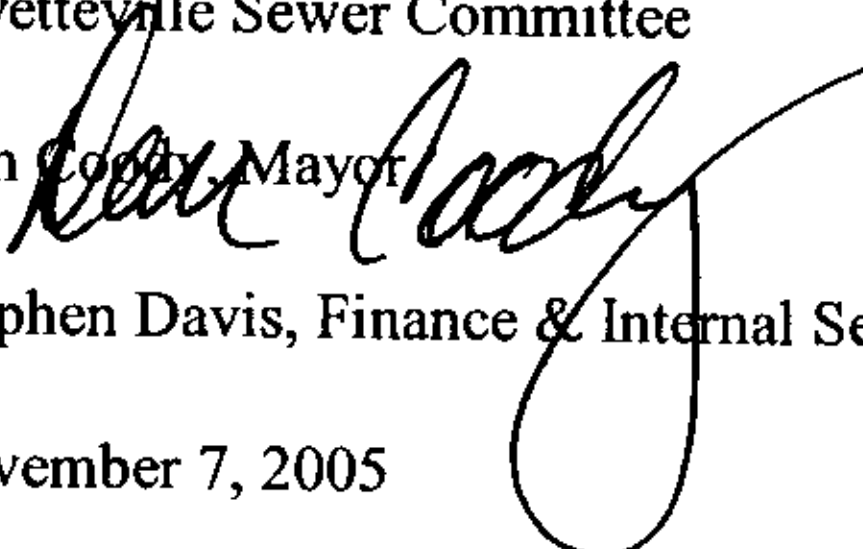
DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville Sewer Committee

THROUGH: Dan Cook, Mayor 

FROM: Stephen Davis, Finance & Internal Services Director 

DATE: November 7, 2005

Subject: Elkins – Fayetteville Wastewater Contract

Recommendation

Staff recommends approval of the attached contract between the City of Elkins and the City of Fayetteville for Fayetteville to provide wastewater transportation and treatment services.

Background

The cities of Elkins and Fayetteville entered into an agreement on July 23, 1981 whereby Fayetteville agreed to accept and treat wastewater delivered by Elkins to Fayetteville at a point of connection to the Fayetteville wastewater collection system located in the Baldwin Community on Lewis Woods Lane. The initial contract was entered into so that Elkins could obtain a loan from the Farmers Home Administration to construct a sewer collection system within Elkins. The original term of the loan is forty (40) years. The 1981 contract allocated annually, to Elkins, 36.5 million gallons of treatment capacity in the Paul Noland Wastewater Treatment Plant.

Contractual Issues With the 1981 Agreement

There are a number of contractual issues Fayetteville wanted to clarify in the Elkins-Fayetteville contract.

- Guaranteed Capacity for a Forty (40) Year Term. The original contract allocated capacity in the Paul Noland Treatment Plant from 1981 to 2021.
- The contract did not contain any provisions for infrastructure funding.
- Elkins did not have to provide Fayetteville with the quantity of approved developments.
- The original contract did not address rate-of-return calculation method or which facilities to use for rate development purposes.
- Billing disputes based on the existing Elkins sewer meter.
- Payment terms were not consistent with Fayetteville ordinances.

Discussion

This contract has been reviewed by the Fayetteville Sewer Committee and the City Attorney. The Sewer Committee reviewed the contract at its October 13 meeting and recommended forwarding the agreement to City Council for approval. The Elkins Sewer Committee and Elkins City Attorney

also reviewed the contract. The Elkins Sewer Committee recommended it to the full Elkins City Council for approval and it was approved last week.

This contract strengthens the 1981 service agreement between the cities. It establishes the method for rate development, how capacity expenditures are funded, provides for data - sharing on approved developments in Elkins and links continued development in Elkins to bio-loading capacity at the Paul Noland Treatment Plant. The new contract sets forth a capacity allocation formula on the bio-loading and hydraulic loading threshold attains 75% of rated capacity. Current bio-loading in excess of 80% and hydraulic loading is in excess of 100% of the permitted capacity.

The contract also reduces the rate per 1,000 Fayetteville charges Elkins. The current rate per 1,000 is \$5.71 and the new rate, as stated in the contract, is \$2.81.

- **Guaranteed Capacity for a Forty (40) Year Term. The original contract allocated capacity in the Paul Noland Treatment Plant from 1981 to 2021.**

The original term of the contract with Elkins was tied to Elkins loan that was used to construct their sewer collection system. Changing the expiration term of this contract would probably require the lending agency's approval. The attached contract is for a sixteen- (16) year term. It is set to expire in 2021, as was the 1981 contract. The 1981 contract allocated Elkins 36.5 million gallons on an annual basis. The contract does not address what, if anything, Fayetteville or Elkins can do when this maximum volume is reached. The maximum volumes have been exceeded annually beginning in 2003.

The new contract adds language that will protect Fayetteville from rapid growth in Elkins by linking the ability to add new customers to the bio-loading and hydraulic loading of the Fayetteville facilities used to provide services to Elkins.

- **The contract did not contain any provisions for infrastructure funding.**

This contract contains an infrastructure funding mechanism. It charges \$0.25/1,000 gallons beginning with billings issued after January 1, 2006. The contract also commits Fayetteville to contract for an impact fee feasibility analysis in compliance with the Arkansas Development Impact Fees Act. The Cities agree, in the contract, that this contract can be amended to incorporate impact fees once all of the required analyses are completed.

- **Elkins did not have to provide Fayetteville with the quantity of approved developments.**

Elkins has committed, in this new contract, to provide Fayetteville with an annual report on the number of developments approved by either the Elkins Planning Commission or the Elkins City Council.

- **The original contract did not address rate-of-return calculation method or which facilities to use for rate development purposes.**

This contract stipulates the facilities that Fayetteville can use to develop the cost-of-service rates for Elkins. The contract also establishes the rate-of-return percentage to be used for rate development purposes. The rate-of-return percentage will be based on 2% above the highest bond coupon outstanding at the time of the cost-of-service rate study. The contract also removes the requirement that the independent consultant be a professional engineer and allows the consultant to be an expert with demonstrable experience in utility rate development utilizing the guidelines promulgated by the American Water Works Association or Water Environment Federation.

- **Billing Disputes based on Elkins meter.**

The existing contract provides that Elkins will maintain and replace the meter. Elkins does not have any documentation that the meter has ever been maintained or calibrated. Fayetteville, before October 2003, did not exercise our right of inspection of Elkins meter to confirm the accuracy of the meter readings. OMI and the meter manufacturer in October 2003 conducted a series of tests that revealed the Elkins meter was under-reading by 50%. The meter was set to read 100% and a subsequent calibration test revealed an additional 15% volume error. These tests were observed by representatives of Elkins and Fayetteville and documented, in writing, to the Mayor of Elkins.

This contract transfers the responsibility of the sewer meter from Elkins to Fayetteville and establishes a volume billing procedure that is consistent with how Fayetteville bills our residential customers for sewer service. The new billing procedure is based on 85% of water sold to Elkins. This volume calculation is subject to confirmation using a meter that is accurate within 0.15%. If the meter reading volumes vary by 10% or more for three (3) consecutive months the Cities agree to use the meter readings until the discrepancy is resolved. Fayetteville commits, in this new contract, to have the meter calibrated annually by the manufacturer.

Because the faulty sewer volumes were used to compute the 2003 Sewer Rate for Elkins Fayetteville has caused the rate to be recomputed based on the revised volumes for the base year (2002). This new rate is \$2.81/1,000 gallons. Fayetteville and Elkins negotiators have agreed, subject to both Elkins and Fayetteville City Councils approval, to accept as settlement of all prior claims related to under/over billing Fayetteville re-computing Elkins monthly sewer bills back to March 1, 2005 and refunding to Elkins any excess. The expected refund is approximately \$75,000.00.

- **Payment terms were not consistent with Fayetteville ordinances.**

The contract incorporates Fayetteville's payments terms contained in our ordinances so that all customer groups have the same payment terms.

Budget Impact

The budget impact of this contract is the refunding of wastewater revenue re-calculated at the agreed-upon rate on actual metered volumes back to March 1, 2005. It is expected that this refund will be approximately \$75,000.

The concern, expressed by the Sewer Committee and City Council, is that Fayetteville rate-payers be held harmless as a result of this contract. The \$2.81/1,000 rate will produce more revenue than was identified by the 2003 Water & Sewer Rate. The 2003 Water & Sewer Rate Study identified approximately \$81,000 in revenue from Elkins in 2006. Because of meter errors, discovered subsequent to implementation of the 2003 Rate Study, Fayetteville has received approximately \$275,000 in excess of the revenue requirement identified in the 2003 Water & Sewer Rate Study for 2004 and YTD 2005.

For additional information concerning billing volumes and probable refund, please review the attached tables. Also attached is a letter to Mayor Ladyman that provides more information on the meter and subsequent calibration testing.

ATTACHMENTS:

Fayetteville-Elkins Sewer Contract - 2005

Fayetteville-Elkins Sewer Contract – 1981

Correspondence – Mayor Jack Ladyman

Elkins Wastewater Billing Schedule – Billing in Excess of Rate Study Findings

Elkins Revised Billable Calculations

Schedule of Probable Refund – Elkins

Elkins Wastewater Billing Option

Meter Data Sheet

SEWER CONTRACT

This Agreement, made and entered into this _____ day of _____, 2005, by and between the City of Fayetteville, Arkansas, hereinafter referred to as "Fayetteville", and the City of Elkins, Arkansas, hereinafter referred to as "Elkins";

WITNESSETH:

WHEREAS, Fayetteville in its governmental capacity own and operates its own complete wastewater collection, treatment and discharge system; and

WHEREAS, Elkins in its governmental capacity owns and operates its own wastewater collection system and does not operate a wastewater treatment or discharge system; and

WHEREAS, Fayetteville receives wastewater from Elkins and then transports and processes the wastewater in Fayetteville's wastewater treatment facility and discharged treated wastewater effluent under Fayetteville's National Pollution Discharge Elimination System (NPDES) permit; and

WHEREAS, at this time it has been determined that the best and most feasible treatment for Elkins' wastewater can be provided by Fayetteville's wastewater treatment facilities; and

WHEREAS, Elkins desires to contract with Fayetteville to provide continued transportation and treatment for the wastewater from Elkins; and

WHEREAS, Fayetteville must ensure that this role does not place financial burden of Fayetteville's retail customers for which Fayetteville's retail customers receive no benefit; and

WHEREAS, Elkins must ensure that this role does not place financial burdens on Elkins' retail customers for which Elkins' retail customers receive no benefit; and

WHEREAS, Elkins acknowledges that Fayetteville must add and fund capacity additions from time-to-time.

NOW THEREFORE, in consideration of the mutual covenants, promises and conditions hereinafter set forth and other valuable considerations, the receipt of which is hereby acknowledged by Fayetteville and Elkins, it is hereby agreed as follows:

A. TREATMENT OF SEWAGE

1. Fayetteville agrees to accept for treatment the sanitary sewage delivered by Elkins to the Fayetteville system and to process such wastes in the same manner as wastes from Fayetteville are treated under the following terms and conditions:
2. Elkins will construct all facilities required to deliver wastewater from Elkins to a "Point of Connection" to Fayetteville's sewer collection system as described below and as Elkins' wastewater is discharged to the environment under Fayetteville's NPDES permit or permits, as well as any other regulatory requirements that apply as a result of said permit or permits. This applies to any and all permits that pertain to any portion of the wastewater conveyance and treatment system through which Elkins wastewater flows. Fayetteville will provide Elkins a current copy of the NPDES permit and any future revisions. Permits which are issued relative to portions of the Fayetteville wastewater conveyance and treatment system through which Elkins wastewater does not flow do not apply.
3. Fayetteville and Elkins agree that Fayetteville shall accept and treat all wastewater flows from Elkins until the bio-loading at the Paul Noland Plant ("Plant") and the hydraulic loading at any point in the collection system from the Point of Connection to and including the "Plant" reaches 75%, and, at that time the Elkins and Fayetteville agree to pro-rate the remaining capacity between all cities and any non-city customers using the "Plant" based on the existing percentage of that "Plant" by each city or non-city customer until additional capacity is provided. Fayetteville will provide Elkins with the average monthly bio-loading for the Noland plant for all of 2005. Going forward, Fayetteville will provide monthly reports to Elkins showing the average bio-loading for each month.

B. RATES FOR SEWER SERVICE

1. Elkins and Fayetteville agree that rate-making shall be fair and equitable, be easy to administer and understand and shall be based on policies that result predictable rate adjustments and avoid abrupt rate changes.
2. Elkins agrees that Fayetteville's return on investment on assets employed to provide service to Elkins will be limited to 2% above the average bond coupon outstanding debt at the time of the comprehensive cost of service study noted in paragraph 5 below.
3. Elkins and Fayetteville agree the rate for sewage treatment services provided herein shall be reduced to \$2.81 per 1,000 gallons of sewage received by Fayetteville from Elkins for treatment beginning on the date this agreement is approved by both Cities. The Cities acknowledge this rate reduction is partially due to the Elkins sewer meter registering faulty volumes.

4. Fayetteville and Elkins agree to apply and accept a retroactive adjustment reducing the 2005 rate of \$5.71/1,000 gallons to \$2.81/1,000 gallons based on actual metered volumes, back to March 1, 2005. Both cities acknowledge this is a settlement that resolved all potential claims and released any rights they might have had prior to March 1, 2005 relating to sewer rates, metering, etc. Fayetteville agrees to release its rights for all back billings for volume underreporting that has occurred prior to the effective date of this agreement.
5. Fayetteville will conduct a comprehensive cost-of-service study in the future that will reset these sewer rates based on industry standards. Fayetteville shall cause the rate per 1,000 gallons for wastewater treatment services to be determined by an independent utility rate consulting firm with demonstrable expertise in water and wastewater utilities under a wholesale contractual agreement and in compliance with the rate methodology based in part or whole on the rate making standards promulgated by the American Water Works Association (AWWA), Water Environment Federation (WEF) or other authoritative organization. All of the wastewater flows from Elkins shall flow through a metering device provided at the pump station which pumps to the point of connection of the Elkins system to the Fayetteville system.

C. IMPACT FEE IMPLEMENTATION or CONTRACTURAL SURCHARGE

1. Elkins and Fayetteville further agree that Elkins shall pay an additional \$0.25/1,000 gallons of billed sewage, beginning January 1, 2006, to fund Elkins' portion of future capacity enhancements to the Fayetteville collection and treatment facilities utilized by Elkins. Fayetteville and Elkins agree that this rate per thousand shall be evaluated concurrent with each comprehensive cost-of-service study described in Section B paragraph 5 above as governed by Section H below. Fayetteville and Elkins further agree that Elkins shall assess, collect and remit to Fayetteville the cost of increasing capacity for the sewer lines necessary to serve Elkins as depicted in APPENDIX A and described in Section I. The capacity cost is to be calculated on the volume of contributed wastewater flow caused by the development under review.
2. Fayetteville agrees to fund a wastewater impact fee feasibility analysis in compliance with the Arkansas Development Impact Fees Act. Elkins and Fayetteville agree that this contract may be amended to incorporate wastewater impact fees at the conclusion of the applicable studies required by the Arkansas Development Impact Fees Act.
3. The payment for wastewater treatment shall be based on metered water purchases discounted by the formula described in APPENDIX B. Elkins and Fayetteville agree to use eighty-five per cent (85%) as the initial percentage. This initial

percentage shall remain in effect until December 31, 2006 at which time the percentage may be adjusted to reflect adjusted wastewater flows as calculated by a registered engineer contracted by Elkins. Elkins and Fayetteville agree that the volume of wastewater received by Fayetteville at the "Point of Connection" shall be measured by the wastewater meter installed. The Cities agree to base monthly billing on the percentage method unless the metering device readings detect any volume discrepancies greater than 10% for three consecutive months. Elkins and Fayetteville agree to use actual meter readings while the volume discrepancies are investigated. The use of the meter for billing purposes shall cease only upon mutual agreement between Elkins and Fayetteville.

4. Fayetteville shall provide the maintenance and any required replacement of the metering device, and Elkins shall be the right of inspection of the metering device and "Point of Connection" at any reasonable time. Elkins shall have full and complete access to the pump station at all times. The metering device shall be calibrated in compliance with the manufacturer's guidelines for accuracy once per year by Fayetteville.
5. A statement for sewer services shall be rendered by Fayetteville once each month, and shall be paid by Elkins in accordance with Fayetteville Code of Ordinances Chapter 51.141, as amended from time-to-time and incorporated herein as of September 14, 2005:

Sewer Billing procedure (A) Bills for sewer service shall be rendered monthly. Sewer bills are due and payable on or before the 20th day following the billing date stated on the sewer bills. Sewer bills not paid on or before the due date shall be considered delinquent and an additional charge of 10% of the total bill shall be added, and if any bill is not paid within 30 days after the bill shall be due, suit may be brought to collect the amount due, together with the expenses of collection and a reasonable attorney's fee. (B) In the case of the sewer customers outside the city limits, if the monthly service charges are not paid within the prescribed time, sewer service to the customer will be discontinued in the same manner and subject to the same provisions as prescribed for discontinuance of service under 51.140(B).

D. ELKINS RESPONSIBILITY FOR SEWER MAINTENANCE

1. Elkins shall have full responsibility for all maintenance and operations of Elkins' sanitary sewer system, including all parts thereof necessary to deliver the sanitary waste to the point of connection with the Fayetteville system in such a manner to be suitable for the treatment capabilities of the Fayetteville system. In such regard, Elkins agrees to comply with all reasonable requirements of Fayetteville.
2. Elkins agrees that Fayetteville will have the right to inspect the sanitary sewage system of Elkins at all reasonable times so as to assure Fayetteville that the construction, maintenance and operation of said sanitary sewer system in being

carried out in a manner consistent with modern engineering and health practices. Fayetteville may inspect any taps onto the sanitary sewer system of Elkins at the time of installation of said taps, said inspection to be by a designated official of Fayetteville. Fayetteville will notify the Elkins Water and Sewer Department during normal business hours, of Fayetteville's intent to inspect portions of Elkins Wastewater Collection System. Fayetteville agrees to provide Elkins a copy of any written reports that result from the inspection(s).

E. ELKINS' ADOPTION OF SEWER CODE REQUIREMENTS

1. Elkins agrees to adopt and enforce with reference to all users of its sanitary sewer system requirements and restrictions which are, at least, as restrictive as those provisions of the ordinances of Fayetteville restricting and controlling discharges into the sanitary sewer system of the City of Fayetteville. The requirement of this subparagraph shall be interpreted as to require the adoption and enforcement of such restrictions by Elkins as are equal to any ordinances or subsequent amendments to such ordinances of Fayetteville.
2. Elkins hereby agrees to exclude from their sewage collection system any industrial process wastewater without prior written approval from Fayetteville. Elkins agrees to provide Fayetteville an official copy of the Elkins adopted guidelines.

F. REPORTING DEVELOPMENT APPROVALS

1. Elkins agrees to provide to Fayetteville, on an annual basis, all development approvals grants by the Elkins Planning Commission and/or Elkins City Council.

G. TERM OF CONTRACT

1. The term of this contract shall be for the life of loan #9206 whose original date is July 23, 1981, with the loan having an initial term of forty (40) years, from Farmers Home Administration to the City of Elkins, which is being made to enable Elkins to build its sewage facilities.

H. SEWER RATE SCHEDULE ADJUSTMENT

1. The rate schedule established herein is subject to adjustment by Fayetteville every two (2) years during this contract upon thirty (30) days written notice to Elkins that Fayetteville intends to conduct a comprehensive rate study.
2. Fayetteville agrees that Elkins may participate in the selection of the independent rate consultant

I. POINT OF CONNECTION

1. The "Point of Connection" shall be at the end of Fayetteville's 10-inch gravity sewer line in Lewis Woods Lane in the Baldwin Community as depicted in APPENDIX A.

J. HOLD HARMLESS

1. Elkins covenants and agrees that it will defend and hold harmless against and indemnify said City of Fayetteville, Arkansas, for any judgment which might be obtained against them by reason of any negligent act on the part of Elkins in the operations, maintenance and construction of Elkins' sewage collection facilities within Elkins' service area. This provision does not waive either City's statutory sovereign immunity. Fayetteville shall not be responsible for damages resulting from acts of God, acts of war, insurrections, or rebellions, acts of public enemy, acts of any unauthorized persons, firms, or corporations, or acts of Elkins', its agents or employees.

K. CONTRACT BINDING ON SUCCESSORS

1. This contract shall be binding upon the parties hereto, their successors and assigns. In the event of any occurrence rendering Elkins incapable of performing under this contract, any successor of Elkins, whether by result of legal process, assignment, or otherwise shall succeed to the rights of Elkins under this contract.

L. NO FRANCHISE OR OTHER FEE OR TAX TO BE LEVIED

1. Elkins will not during the period of this contract or any renewal thereof, levy any franchise tax, occupation tax, or any other tax or fee of any form whatsoever, by whatever name it may be called, upon Fayetteville, or the services rendered by Fayetteville pursuant to this contract without consent of all the parties.

M. TERMINATION

1. This agreement may be terminated by either party upon a material or substantial breach by the other of any of the covenants or agreements contained herein, and the failure of the party in breach to remedy such breach within six (6) months after receipt of written notice of the existence of such breach. Either party will have the right to utilize a mediation process if they disagree with a proposed breach. Elkins reserves the right to re-negotiate or terminate this contract if it is advantageous for the Elkins to pursue a different type of sewage treatment process, subject to advance notification of at least two years.

N. NOTICES

1. The written notices provided for herein shall be sufficient if sent by certified mail, return receipt requested, postage prepaid, to the Mayor of the City of Fayetteville, 113 West Mountain Street, Fayetteville, Arkansas, 72701, or the Mayor of the City of Elkins, 348B North Center Street, Elkins, Arkansas, 72727, but not limited thereto.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE AND IN WITNESS WHEREOF, The Mayor and City Clerk of the City of Fayetteville, Arkansas, by authority of a Resolution adopted by the City Council of the City of Fayetteville, and the Mayor and City Recorder of the City of Elkins, Arkansas, by authority of a Resolution adopted by the City Council of the City of Elkins, have hereunto set their hand and caused the corporation seal to be affixed and dated this _____ day of _____, 2005.

CITY OF FAYETTEVILLE

By: _____
DAN COODY
Mayor of Fayetteville, AR

Attest: _____
Sondra Smith, City Clerk

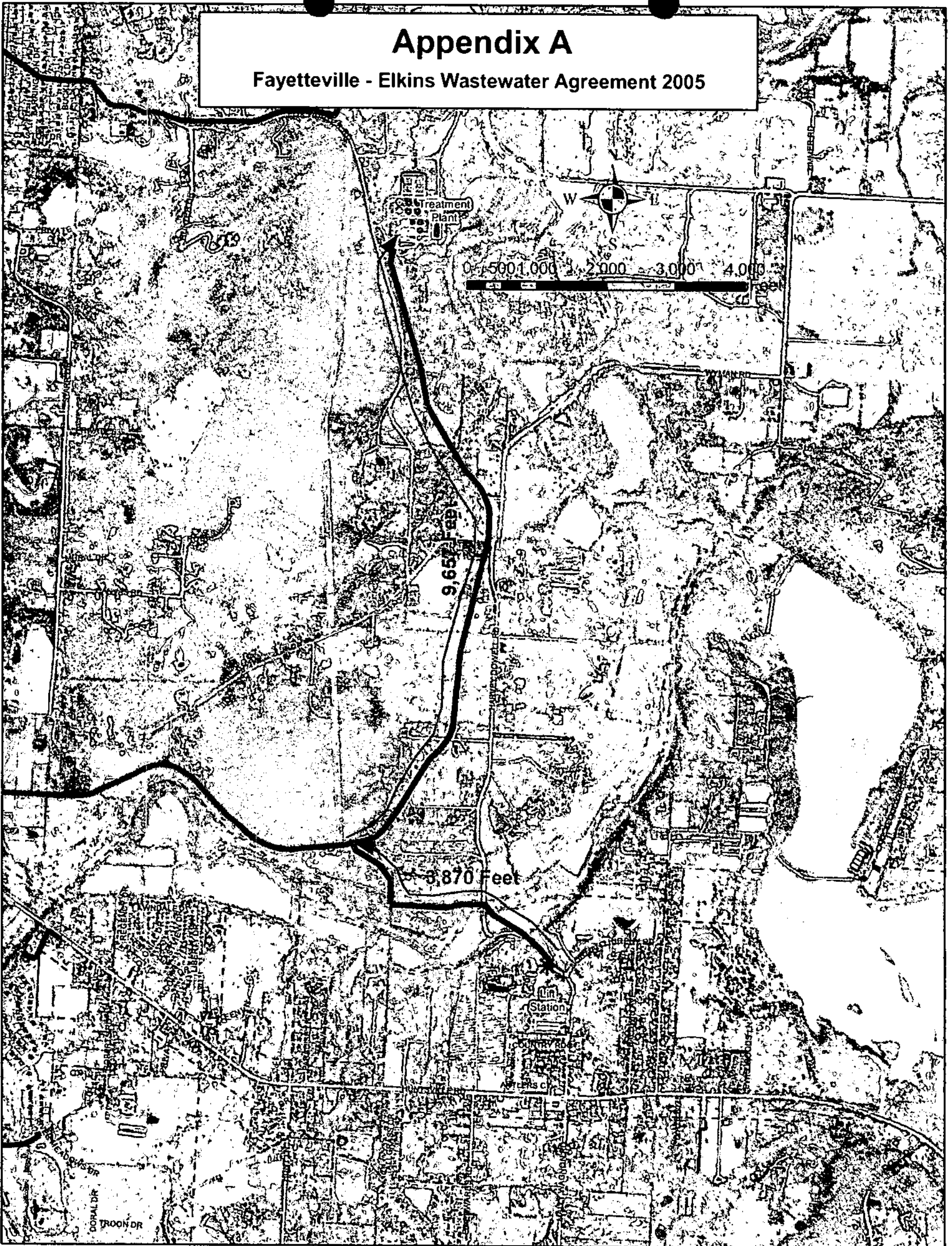
CITY OF ELKINS

By: _____
JACK LADYMAN
Mayor of Elkins, AR

Attest: _____
Meg Smith, Recorder

Appendix A

Fayetteville - Elkins Wastewater Agreement 2005



Fayetteville - Elkins Wastewater Agreement

APPENDIX B

Wastewater Volume Based On Metered Water

FORMULA ACTIONS

Water Meter Reading Volume - September, 2005

Example

4,431,900

Wastewater Volume as a % of Water 85%

3,767,115

SEWER
CONTRACT

THIS AGREEMENT, made and entered into this 23 day of July, 1981, by and between the CITY OF FAYETTEVILLE, ARKANSAS, hereinafter referred to as "FAYETTEVILLE", and the CITY OF ELKINS, ARKANSAS, hereinafter referred to as "ELKINS",

W-I-T-N-E-S-S-E-T-H:

WHEREAS, Fayetteville in its governmental capacity owns and operates its own sewage system; and,

WHEREAS, the residents of Elkins are not now served by a public sewage system; and,

WHEREAS, in order to maintain the health and well-being of the residents of Elkins, it is imperative that a sewage system be provided; and,

WHEREAS, it has been determined that the best and most feasible treatment for Elkins' wastewater can best be provided by Fayetteville's wastewater treatment facilities; and,

WHEREAS, Elkins desires to contract with Fayetteville to provide transportation and treatment for the wastewater from Elkins; now,

THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and other valuable considerations, the receipt of which is hereby acknowledged by Fayetteville and Elkins, it is hereby agreed as follows:

Fayetteville agrees to accept for treatment the sanitary sewage delivered by Elkins to the Fayetteville system and to process such wastes in the same manner as wastes from Fayetteville are treated under the following terms and conditions:

A. Elkins will construct all facilities required to deliver wastewater from Elkins to a "Point of Connection" to Fayetteville's sewer collection system.

B. The amount of wastewater that Fayetteville agrees to treat under this contract shall not exceed an annual average daily amount of 100,000 gallons per day and shall not exceed 150,000 gallons in any one day.

C. The rate for sewage treatment services provided herein shall be sixty-eight cents (\$0.68) per 1,000 gallons of sewage received by Fayetteville from Elkins for treatment, same to be calculated based on the metered sewage flow through the metering device hereinafter provided for. Upon completion of an in process sewer rate study by Black & Veach for the City of Fayetteville, this rate shall be revised in accordance with the rate determined by said rate study. A statement for sewer services shall be rendered by Fayetteville once each month, and shall be paid by Elkins within 30 days after receipt of said statement.

METER

D. The payment for sewage treatment shall be based upon a measurement of such sewage through a metering device provided at the pump station which pumps to the point of connection of the Elkins system to the Fayetteville system. During any period of time that the metering device should be out of service, the City of Fayetteville shall bill the City of Elkins by using (1) electronic timing devices placed on each pump, or (2) the average daily flow for the previous three-month period. This method shall be used for the full period of time the meter is out of service. Elkins shall provide the maintenance and any required replacement of the metering device, and Fayetteville shall have the right of inspection of the metering device and point of connection at any reasonable time. Fayetteville shall provide the monthly reading of the metering device for the purpose of preparing billings pursuant to the rates established by Paragraph C above or by subsequent amendments thereto. Fayetteville shall have full and complete access to the pump station at all times. The metering device shall be checked for accuracy once per year by Fayetteville.

E. (1) Elkins shall have full responsibility for all maintenance and operation of Elkins' sanitary sewer system, including all parts thereof necessary to deliver the sanitary waste to the point of connection with the Fayetteville system in such a manner to be suitable for the treatment capabilities of the Fayetteville system. In such regard, Elkins agrees to comply with all reasonable requirements of Fayetteville.

(2) Elkins agrees that Fayetteville will have the right to inspect the sanitary sewage system of Elkins at all reasonable times so as to assure Fayetteville that the construction, maintenance and operation of said sanitary sewer system is being carried out in a manner consistent with modern engineering and health practices. Fayetteville may inspect any taps onto the sanitary sewer system of Elkins at the time of installation of said taps, said inspection to be by a designated official of Fayetteville.

(3) Elkins agrees to adopt and enforce with reference to all users of its sanitary sewer system requirements and restrictions which are, at least, as restrictive as those provisions of the ordinances of Fayetteville restricting and controlling discharges into the sanitary sewer system of the City of Fayetteville. The requirement of this subparagraph shall be interpreted as to require the adoption and enforcement of such restrictions by Elkins as are equal to any ordinances or subsequent amendments to such ordinances of Fayetteville. Further, Elkins hereby agrees to exclude from their sewage collection system any industrial process wastewater without prior written approval from Fayetteville.

F. (1) This contract shall be for the life of the loan from Farmers Home Administration to the City of Elkins, which is being made to enable Elkins to build its sewage facilities. Thereafter, this contract shall be reviewed and subject to renegotiation by both parties thereto once each two (2) years on the anniversary date of this contract.

(2) The rate schedule established herein is subject to adjustment by Fayetteville each two (2) years on the anniversary date of this contract upon thirty (30) days written notice to Elkins. The rate schedule may be adjusted more often, at the request of either party hereto, should the "Cost of Service" increase or decrease.

G. The point of connection shall be at the end of Fayetteville's 10 inch gravity sewer line in Lewis Woods Lane in the Baldwin Community.

H. Elkins covenants and agrees that it will defend and hold harmless against and indemnify said City of Fayetteville, Arkansas, for any judgment which might be obtained against them by reason of any negligent act on the part of Elkins in the operation, maintenance and construction of Elkins' sewage collection facilities within Elkins' service area. Fayetteville shall not be responsible for damages resulting from acts of God, acts of war, insurrections, or rebellions, acts of a public enemy, acts of any unauthorized persons, firms, or corporations, or acts of Elkins, its agents or employees.

I. This contract shall be binding upon the parties hereto, their successors and assigns. In the event of any occurrence rendering Elkins incapable of performing under this contract, any successor of Elkins, whether by result of legal process, assignment, or otherwise shall succeed to the rights of Elkins under this contract.

J. Elkins will not during the period of this contract or any renewal thereof, levy any franchise tax, occupation tax, or any other tax of any form whatsoever, by whatever name it may be called, upon Fayetteville, or the services rendered pursuant to this contract without consent of all the parties.

K. This agreement may be terminated by either party upon breach by the other of any of the covenants or agreements contained herein, and the failure of the party in breach to remedy such breach within thirty (30) days after receipt of written notice of the existence of such breach.

L. The written notices provided for herein shall be sufficient if sent by certified mail, return receipt requested, postage prepaid, to the City Manager of the City of Fayetteville, Arkansas, or the Mayor of the City of Elkins, Arkansas, but not limited thereto.

IN WITNESS WHEREOF, the Mayor and City Clerk of the City of Fayetteville, Arkansas, by authority of a resolution adopted by the Board of Directors of the City of Fayetteville, and the Mayor and City Recorder of the City of Elkins, Arkansas, by authority of

a resolution adopted by the City Council of the City of Elkins,
have hereunto set their hands and caused the corporation seal
to be affixed and dated this 23 day of July, 1981.

ATTEST:

CITY OF FAYETTEVILLE

William H. H. H.
City Clerk

By John Todd
John Todd, Mayor

ATTEST:

CITY OF ELKINS

Marie Sylvester
Recorder

By Arlis Eaton
Arlis Eaton, Mayor



THE CITY OF FAYETTEVILLE, ARKANSAS

September 21, 2005

Jack Ladyman, Mayor
City of Elkins
P. O. Box 331
Elkins, AR 72727

Reference: Wastewater Services Contract - 2005 to 2021

Dear Mayor Ladyman;

Enclosed is the contract proposal from Fayetteville for Fayetteville to provide wastewater transportation and treatment services for Elkins at Fayetteville's Paul Noland Wastewater Treatment Plant.

The proposed contract is the culmination of several months of negotiations between representatives of Elkins and Fayetteville. It is Fayetteville's belief that this agreement accurately reflects the essence of this negotiation process. The primary points-of-concern stated in the early negotiations were the rate per 1,000 gallons and volume measurement.

This agreement establishes the rate per 1,000 gallons from March 1, 2005 until the next comprehensive rate study at \$2.81 per 1,000 gallons. It also contains a provision for an additional \$0.25 per 1,000 gallon to fund additional capacity needs related to new customers. Fayetteville is offering, subject to Elkins approval, to substitute this additional charge for Elkins collecting and remitting to Fayetteville Fayetteville's wastewater impact fee.

This contract calls for Fayetteville to install a new meter and for Elkins and Fayetteville to use a formula based on water purchases as a proxy for wastewater volumes, for a 120-day test period, to determine which method to use for future volume based billing purposes. Fayetteville will install the meter and cause it to be calibrated in compliance with the manufacturer's specifications on an annual basis to ensure accuracy.

At our meeting on September 8, Elkins stated a desire to receive a refund or credit back to October, 2004; the City of Fayetteville took this request under advisement. A review of the correspondence files revealed that Greg Boettcher notified Mayor Brt that Elkins sewer meter was significantly under-reading volumes. This initial correspondence is dated in November 2003 and references discussions and meetings with Mayor Brt; a formal report was provided to Elkins in October, 2003 further documenting the meter under-read. Mr. Boettcher followed the November 2003 letter with follow-up correspondence on January 2004. Arkansas Public Service Commission rules allow for a utility to back-bill for a six month period after a meter malfunction is discovered.

Fayetteville is entitled to bill for additional unreported volumes back to May 2003. Because of the lack of action on the part of Elkins officials to remedy the meter issue, the City of Fayetteville cannot provide a credit back to October 2004. Fayetteville is willing to settle all under-read volume billing issues if Elkins agrees to limit the credit to volumes billed after March 1, 2005.

Also, as stated in our September 8 meeting, Fayetteville will participate in the cost of an impact fee study that addresses Fayetteville's existing water and wastewater impact fee as well as develop an impact fee calculation for the Elkins water and wastewater system. In this regard Fayetteville has negotiated a contract with Duncan Associates to conduct a feasibility analysis.

Fayetteville expects to submit this contract to the Fayetteville Sewer Committee for review and approval on September 29. As soon as the Fayetteville Sewer Committee approves the contract it will be forwarded to Fayetteville City Council for approval. Please note that Fayetteville and Elkins city councils must approve the contract before it can become effective. Also, note that a public hearing is required before any wastewater rates can be adjusted.

If you have any questions concerning any item contained within this letter or the proposed contract, please contact Stephen Davis at 479-575-8330.

Sincerely;



Stephen L. Davis
Finance & Internal Services Director

Enclosure: Proposed contract
 Professional Services Agreement with Duncan Associates

CC: Dan Coody, Mayor
 Fayetteville Sewer Committee
 Kit Williams, Fayetteville City Attorney
 Sondra Smith, Fayetteville City Clerk
 Ron Petrie, Fayetteville City Engineer
 David Jurgens, Fayetteville Water & Wastewater Director, Interim
 Rainy Laycox, Fayetteville Billing & Collection Manager

Elkins Wastewater Billing Billings in Excess of Rate Study Findings

Year	Rate Per Thousand	A		B		C	
		Wastewater Volumes	Calculated Annual Billings	Actual Billings	Rate Times	Rate Times	Rate Times
		2003 Rate Study	2003 Rate Study	Based on	Based on	Based on	Based on
		2003 Rate Study	Identified	Revised Billable	Revised Billable	Revised Billable	Revised Billable
		2003 Rate Study	Revenue	Volumes	Volume	Volume	Volume
		2003 Rate Study	Requirement				
2003	\$ 1.80	14,100,000	\$ 25,380	45,784,234	\$ 82,412	\$ 35,025	\$ 9,645
2004	\$ 5.24	14,100,000	\$ 73,884	56,738,118	\$ 297,308	\$ 230,232	\$ 156,348
2005	\$ 5.71	14,100,000	\$ 80,511	41,270,588	\$ 235,655	\$ 200,037	\$ 119,526
						Total	\$ 285,519

Elkins Revised Billable Calculations

YEAR	Metered Wastewater Volume	Documented Undermetered 50%	Adjusted Wastewater Volume	Documented Meter Error 15%	Revised Billable Volumes	Additional Volume Subject To Negotiation	Rate Per M/Gallons	Additional Billable \$
1999	14,098,800	14,098,800	28,197,600	4,976,047	33,173,647	19,074,847	\$ 1.80	34,334.72
2000	12,954,000	12,954,000	25,908,000	4,572,000	30,480,000	17,526,000	\$ 1.80	31,546.80
2001	15,150,700	15,150,700	30,301,400	5,347,306	35,648,706	20,498,006	\$ 1.80	36,896.41
2002	14,235,600	14,235,600	28,471,200	5,024,329	33,495,529	19,259,929	\$ 1.80	34,667.87
2003	19,458,300	19,458,300	38,916,600	6,867,635	45,784,235	26,325,935	\$ 1.80	47,386.68
2004	48,227,400	-	48,227,400	8,510,718	56,738,118	8,510,718	\$ 5.24	44,596.16
2005 YTD	35,080,000	-	35,080,000	6,190,588	41,270,588	6,190,588	\$ 5.71	35,348.26
	<u>159,204,800</u>	<u>75,897,400</u>	<u>235,102,200</u>	<u>41,488,624</u>	<u>276,590,824</u>	<u>117,386,024</u>		<u>\$ 264,776.91</u>

City of Fayetteville, Arkansas

Schedule of Probable Refund - Elkins
Elkins Volumes and Dollars

7-Nov-05

	2004		2005	
	Volume	Dollars	Volume	Dollars
January	6,534,800	\$ 11,762.64	5,683,700	\$ 32,453.93
February	5,087,300	\$ 26,657.45	3,989,400	\$ 22,779.47
March	3,433,000	\$ 17,988.92	3,905,600	\$ 22,300.98
April	3,163,600	\$ 16,577.26	5,437,600	\$ 31,048.70
May	5,257,600	\$ 27,549.82	2,625,300	\$ 14,990.46
June	2,519,800	\$ 13,203.75	2,961,800	\$ 16,911.88
July	4,770,200	\$ 24,995.85	2,981,200	\$ 17,022.65
August	2,997,400	\$ 15,706.38	2,147,400	\$ 12,261.65
September	2,159,600	\$ 11,316.30	2,486,600	\$ 14,198.49
October	2,086,700	\$ 10,934.31	2,861,400	\$ 16,338.59
November	4,659,200	\$ 24,414.21		
December	5,558,200	\$ 29,124.97		
	48,227,400	\$ 230,231.86	35,080,000	\$ 200,306.80

Volumes March 1 to Oct 31 25,406,900

Existing Rate	5.71
New Rate	<u>2.81</u>

Rate Difference	<u>\$ 2.90</u>
-----------------	----------------

Probable Refund Amount	<u><u>\$ 73,680.01</u></u>
------------------------	----------------------------

Elkins Wastewater Billing Option

A	B	C	D
YEAR	Water Purchased Volume	Adjusted Wastewater Volume	Wastewater as a % of Purchased Water
1999	39,493,300	28,197,600	71.40%
2000	42,255,000	25,908,000	61.31%
2001	48,761,700	30,301,400	62.14%
2002	44,704,600	28,471,200	63.69%
2003	45,282,200	38,916,600	85.94%
2004	46,521,100	48,227,400	103.67%
2005 YTD	<u>38,035,900</u>	<u>32,218,600</u>	<u>84.71%</u>
Totals	<u>305,053,800</u>	<u>232,240,800</u>	<u>76.13%</u>

Recommendation: Use 85% of purchased water as the wastewater billing volume.

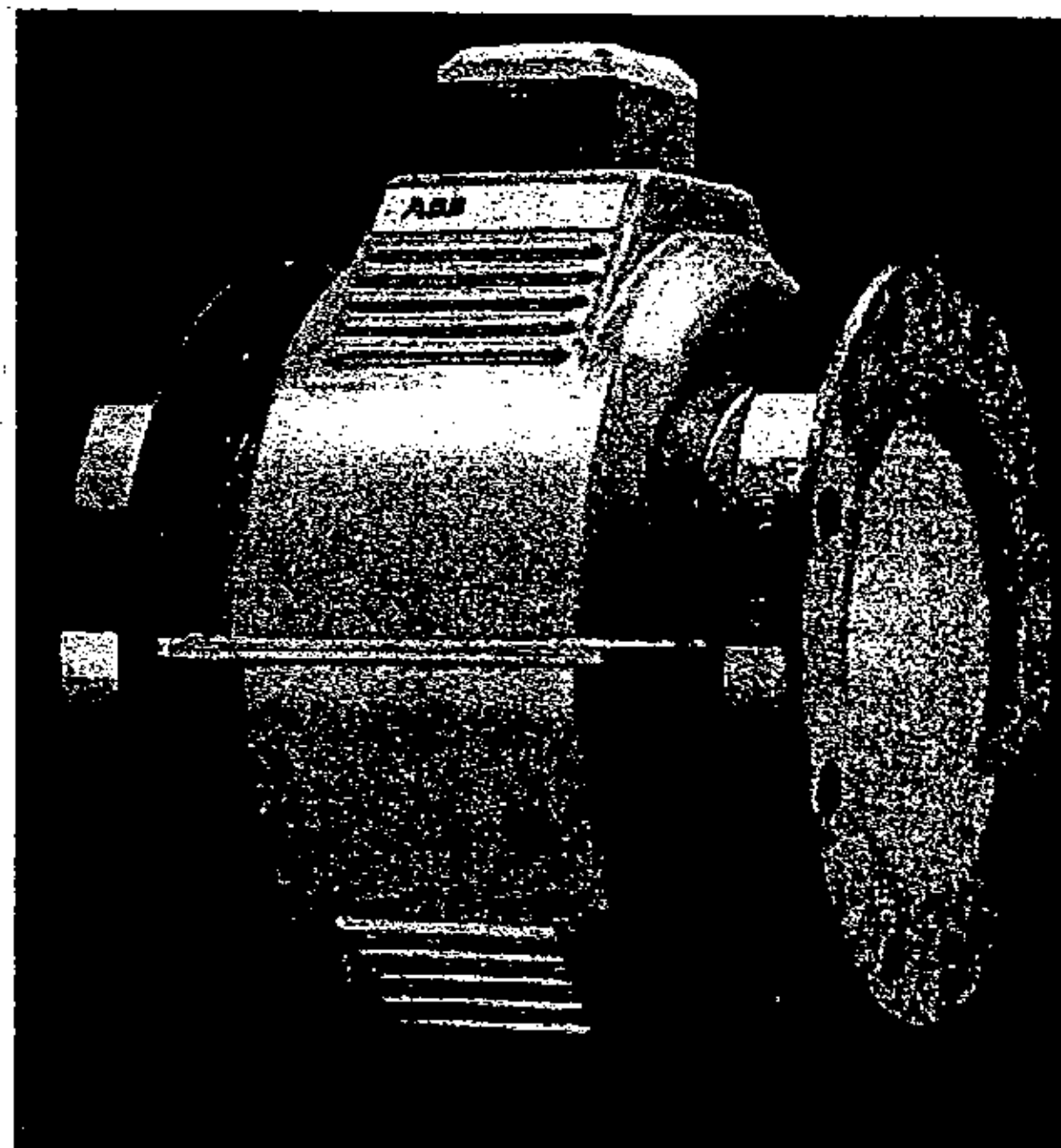
Reason: Simple calculation that does not rely on monthly customer counts from Elkins to Fayetteville.

85% represents a reasonable approximation of the wastewater volume after the meter was set to read 100%.

The 85% discounts the increased flow in 2004 caused by the spring flood.

Electro-Magnetic Flowmeters
Electromagnetic Sensor
MagMaster™ Plus MFF

- **Unrivalled, fully traceable flow performance**
 - 0.15% accuracy
- **Operable flow range: 1500:1**
 - ensures more precise revenue measurement
 - superior control of process
 - accurate night-flow measurement
- **Bi-directional system.**
- **Pulsed DC technology incorporates benefits of AC systems.**
- **Submersible and buriable**
 - inherently suitable for use in flooded environments
 - eliminates meter vaults and promotes very low installation costs
- **Designed, manufactured and calibrated to internationally accepted standards**
 - ISO 9001/UKAS(NAMAS)/NIST/NATA
 - ensures reliable, maintenance-free operation
- **2-year warranty as standard**
- **Built-in grounding electrode**
 - eliminates requirement for grounding rings
- **8 to 84 inch (200 to 2200 mm) meter sizes. Larger upon request.**
- **CalMaster enabled product.**
- **NSF approved liner material available.**



MagMaster Plus MFF
Electromagnetic Sensor

ORDINANCE 11-3-2005

AN ORDINANCE ADOPTING A NEW SEWER CONTRACT WITH THE CITY OF FAYETTEVILLE FOR THE TREATMENT AND DISCHARGE OF WASTEWATER COLLECTED AND TRANSPORTED TO FAYETTEVILLE BY THE ELKINS SEWER SYSTEM, DECLARING AN EMERGENCY TO EXIST, AND FOR OTHER PURPOSES.

WHEREAS, the existing contract between the Cities of Elkins and Fayetteville for treatment and discharge of Elkins' wastewater is restrictive as to amount of wastewater,

WHEREAS, a number of significant changes have occurred since the adoption of the existing sewer contract between the Cities of Elkins and Fayetteville,

WHEREAS, some provisions of the existing sewer contract between the Cities of Elkins and Fayetteville have created inequities which need to be corrected,

WHEREAS, both Cities desire to move forward in regard to a new sewer contract that provides for additional growth occurring in Elkins with provision for continued equitable cooperation in addressing and handling Elkins' future sewer needs, and,

WHEREAS, committees from both Cities have labored to produce a new sewer contract that has distinct advantages to both Cities both now and in the future.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF ELKINS, ARKANSAS, THAT,

Section 1: That the attached sewer contract has been filed and available to the public at the City Hall since before October 20, 2005, and notice of the public hearing scheduled for 11-3-05 at 6:30 p.m. was duly published as required by law and a public hearing held this date.

Section 2: That the sewer contract attached hereto as Exhibit A, should be and hereby

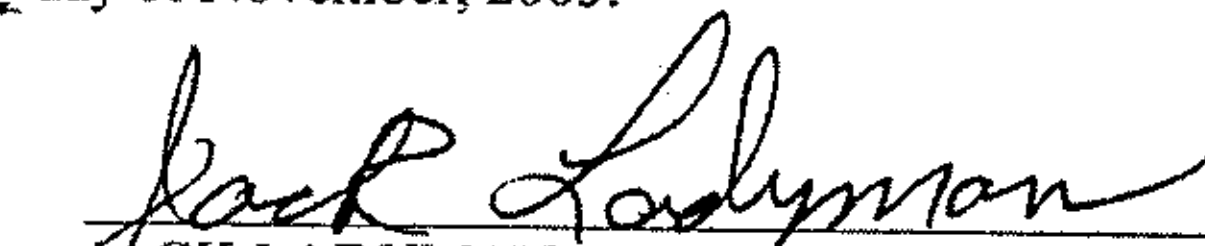
is approved and adopted by this Council to replace the contract dated July 23, 1981.

Section 3: That the Mayor and Recorder-Treasurer are hereby authorized to execute the attached sewer contract and obtain for the citizens and residents of Elkins the benefits thereof.

Section 4: That the attached sewer contract when approved and adopted by the City Council of this City and the City Council of the City of Fayetteville, Arkansas, will immediately reduce the rate charged to the City of Elkins by Fayetteville for treatment and discharge of wastewater by more than fifty percent (50%), which will enable the City of Elkins to quickly reduce the sewer rates charged to Elkins' citizens and residents. That the Council believes this to be a significant benefit to the people of Elkins, which will promote the health, safety, peace and welfare of Elkins' citizens and residents, therefore an emergency is hereby declared to exist and this ordinance shall be in full force and effect from its passage and approval.

PASSED AND APPROVED this 3rd day of November, 2005.


Peggy Barton
Recorder-Treasurer


JACK LADYMAN, Mayor

SEWER CONTRACT

This Agreement, made and entered into this _____ day of _____, 2005, by and between the City of Fayetteville, Arkansas, hereinafter referred to as "Fayetteville", and the City of Elkins, Arkansas, hereinafter referred to as "Elkins";

WITNESSETH:

WHEREAS, Fayetteville in its governmental capacity own and operates its own complete wastewater collection, treatment and discharge system; and

WHEREAS, Elkins in its governmental capacity owns and operates its own wastewater collection system and does not operate a wastewater treatment or discharge system; and

WHEREAS, Fayetteville receives wastewater from Elkins and then transports and processes the wastewater in Fayetteville's wastewater treatment facility and discharged treated wastewater effluent under Fayetteville's National Pollution Discharge Elimination System (NPDES) permit; and

WHEREAS, at this time it has been determined that the best and most feasible treatment for Elkins' wastewater can be provided by Fayetteville's wastewater treatment facilities; and

WHEREAS, Elkins desires to contract with Fayetteville to provide continued transportation and treatment for the wastewater from Elkins; and

WHEREAS, Fayetteville must ensure that this role does not place financial burden of Fayetteville's retail customers for which Fayetteville's retail customers receive no benefit; and

WHEREAS, Elkins must ensure that this role does not place financial burdens on Elkins' retail customers for which Elkins' retail customers receive no benefit; and

WHEREAS, Elkins acknowledges that Fayetteville must add and fund capacity additions from time-to-time.

NOW THEREFORE, in consideration of the mutual covenants, promises and conditions hereinafter set forth and other valuable considerations, the receipt of which is hereby acknowledged by Fayetteville and Elkins, it is hereby agreed as follows:

EXHIBIT

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A. TREATMENT OF SEWAGE

1. Fayetteville agrees to accept for treatment the sanitary sewage delivered by Elkins to the Fayetteville system and to process such wastes in the same manner as wastes from Fayetteville are treated under the following terms and conditions:
2. Elkins will construct all facilities required to deliver wastewater from Elkins to a "Point of Connection" to Fayetteville's sewer collection system as described below and as Elkins' wastewater is discharged to the environment under Fayetteville's NPDES permit or permits, as well as any other regulatory requirements that apply as a result of said permit or permits. This applies to any and all permits that pertain to any portion of the wastewater conveyance and treatment system through which Elkins wastewater flows. Fayetteville will provide Elkins a current copy of the NPDES permit and any future revisions. Permits which are issued relative to portions of the Fayetteville wastewater conveyance and treatment system through which Elkins wastewater does not flow do not apply.
3. Fayetteville and Elkins agree that Fayetteville shall accept and treat all wastewater flows from Elkins until the bio-loading at the Paul Noland Plant ("Plant") and the hydraulic loading at any point in the collection system from the Point of Connection to and including the "Plant" reaches 75%, and, at that time the Elkins and Fayetteville agree to pro-rate the remaining capacity between all cities and any non-city customers using the "Plant" based on the existing percentage of that "Plant" by each city or non-city customer until additional capacity is provided. Fayetteville will provide Elkins with the average monthly bio-loading for the Noland plant for all of 2005. Going forward, Fayetteville will provide monthly reports to Elkins showing the average bio-loading for each month.

B. RATES FOR SEWER SERVICE

1. Elkins and Fayetteville agree that rate-making shall be fair and equitable, be easy to administer and understand and shall be based on policies that result predictable rate adjustments and avoid abrupt rate changes.
2. Elkins agrees that Fayetteville's return on investment on assets employed to provide service to Elkins will be limited to 2% above the average bond coupon outstanding debt at the time of the comprehensive cost of service study noted in paragraph 5 below.
3. Elkins and Fayetteville agree the rate for sewage treatment services provided herein shall be reduced to \$2.81 per 1,000 gallons of sewage received by Fayetteville from Elkins for treatment beginning on the date this agreement is approved by both Cities. The Cities acknowledge this rate reduction is partially due to the Elkins sewer meter registering faulty volumes.

EXHIBIT

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4. Fayetteville and Elkins agree to apply and accept a retroactive adjustment reducing the 2005 rate of \$5.71/1,000 gallons to \$2.81/1,000 gallons based on actual metered volumes, back to March 1, 2005. Both cities acknowledge this is a settlement that resolved all potential claims and released any rights they might have had prior to March 1, 2005 relating to sewer rates, metering, etc. Fayetteville agrees to release its rights for all back billings for volume underreporting that has occurred prior to the effective date of this agreement.
5. Fayetteville will conduct a comprehensive cost-of-service study in the future that will reset these sewer rates based on industry standards. Fayetteville shall cause the rate per 1,000 gallons for wastewater treatment services to be determined by an independent utility rate consulting firm with demonstrable expertise in water and wastewater utilities under a wholesale contractual agreement and in compliance with the rate methodology based in part or whole on the rate making standards promulgated by the American Water Works Association (AWWA), Water Environment Federation (WEF) or other authoritative organization. All of the wastewater flows from Elkins shall flow through a metering device provided at the pump station which pumps to the point of connection of the Elkins system to the Fayetteville system.

C. IMPACT FEE IMPLEMENTATION or CONTRACTURAL SURCHARGE

1. Elkins and Fayetteville further agree that Elkins shall pay an additional \$0.25/1,000 gallons of billed sewage, beginning January 1, 2006, to fund Elkins' portion of future capacity enhancements to the Fayetteville collection and treatment facilities utilized by Elkins. Fayetteville and Elkins agree that this rate per thousand shall be evaluated concurrent with each comprehensive cost-of-service study described in Section E paragraph 5 above as governed by Section H below. Fayetteville and Elkins further agree that Elkins shall assess, collect and remit to Fayetteville the cost of increasing capacity for the sewer lines necessary to serve Elkins as depicted in APPENDIX A and described in Section I. The capacity cost is to be calculated on the volume of contributed wastewater flow caused by the development under review.
2. Fayetteville agrees to fund a wastewater impact fee feasibility analysis in compliance with the Arkansas Development Impact Fees Act. Elkins and Fayetteville agree that this contract may be amended to incorporate wastewater impact fees at the conclusion of the applicable studies required by the Arkansas Development Impact Fees Act.
3. The payment for wastewater treatment shall be based on metered water purchases discounted by the formula described in APPENDIX B. Elkins and Fayetteville agree to use eighty-five per cent (85%) as the initial percentage. This initial

EXHIBIT A
PAGE 3 OF 9

percentage shall remain in effect until December 31, 2006 at which time the percentage may be adjusted to reflect adjusted wastewater flows as calculated by a registered engineer contracted by Elkins. Elkins and Fayetteville agree that the volume of wastewater received by Fayetteville at the "Point of Connection" shall be measured by the wastewater meter installed. The Cities agree to base monthly billing on the percentage method unless the metering device readings detect any volume discrepancies greater than 10% for three consecutive months. Elkins and Fayetteville agree to use actual meter readings while the volume discrepancies are investigated. The use of the meter for billing purposes shall cease only upon mutual agreement between Elkins and Fayetteville.

4. Fayetteville shall provide the maintenance and any required replacement of the metering device, and Elkins shall be the right of inspection of the metering device and "Point of Connection" at any reasonable time. Elkins shall have full and complete access to the pump station at all times. The metering device shall be calibrated in compliance with the manufacturer's guidelines for accuracy once per year by Fayetteville.
5. A statement for sewer services shall be rendered by Fayetteville once each month, and shall be paid by Elkins in accordance with Fayetteville Code of Ordinances Chapter 51.141, as amended from time-to-time and incorporated herein as of September 14, 2005:

Sewer Billing procedure (A) Bills for sewer service shall be rendered monthly. Sewer bills are due and payable on or before the 20th day following the billing date stated on the sewer bills. Sewer bills not paid on or before the due date shall be considered delinquent and an additional charge of 10% of the total bill shall be added, and if any bill is not paid within 30 days after the bill shall be due, suit may be brought to collect the amount due, together with the expenses of collection and a reasonable attorney's fee. (B) In the case of the sewer customers outside the city limits, if the monthly service charges are not paid within the prescribed time, sewer service to the customer will be discontinued in the same manner and subject to the same provisions as prescribed for discontinuance of service under 51.140(B).

D. ELKINS RESPONSIBILITY FOR SEWER MAINTENANCE

1. Elkins shall have full responsibility for all maintenance and operations of Elkins' sanitary sewer system, including all parts thereof necessary to deliver the sanitary waste to the point of connection with the Fayetteville system in such a manner to be suitable for the treatment capabilities of the Fayetteville system. In such regard, Elkins agrees to comply with all reasonable requirements of Fayetteville.
2. Elkins agrees that Fayetteville will have the right to inspect the sanitary sewage system of Elkins at all reasonable times so as to assure Fayetteville that the construction, maintenance and operation of said sanitary sewer system in being

EXHIBIT A
PAGE 4 OF 9

carried out in a manner consistent with modern engineering and health practices. Fayetteville may inspect any taps onto the sanitary sewer system of Elkins at the time of installation of said taps, said inspection to be by a designated official of Fayetteville. Fayetteville will notify the Elkins Water and Sewer Department during normal business hours, of Fayetteville's intent to inspect portions of Elkins Wastewater Collection System. Fayetteville agrees to provide Elkins a copy of any written reports that result from the inspection(s).

E. ELKINS' ADOPTION OF SEWER CODE REQUIREMENTS

1. Elkins agrees to adopt and enforce with reference to all users of its sanitary sewer system requirements and restrictions which are, at least, as restrictive as those provisions of the ordinances of Fayetteville restricting and controlling discharges into the sanitary sewer system of the City of Fayetteville. The requirement of this subparagraph shall be interpreted as to require the adoption and enforcement of such restrictions by Elkins as are equal to any ordinances or subsequent amendments to such ordinances of Fayetteville.
2. Elkins hereby agrees to exclude from their sewage collection system any industrial process wastewater without prior written approval from Fayetteville. Elkins agrees to provide Fayetteville an official copy of the Elkins adopted guidelines.

F. REPORTING DEVELOPMENT APPROVALS

1. Elkins agrees to provide to Fayetteville, on an annual basis, all development approvals grants by the Elkins Planning Commission and/or Elkins City Council.

G. TERM OF CONTRACT

1. The term of this contract shall be for the life of loan #9206 whose original date is July 23, 1981, with the loan having an initial term of forty (40) years, from Farmers Home Administration to the City of Elkins, which is being made to enable Elkins to build its sewage facilities.

H. SEWER RATE SCHEDULE ADJUSTMENT

1. The rate schedule established herein is subject to adjustment by Fayetteville every two (2) years during this contract upon thirty (30) days written notice to Elkins that Fayetteville intends to conduct a comprehensive rate study.
2. Fayetteville agrees that Elkins may participate in the selection of the independent rate consultant

EXHIBIT A
PAGE 5 OF 9

I. POINT OF CONNECTION

1. The "Point of Connection" shall be at the end of Fayetteville's 10-inch gravity sewer line in Lewis Woods Lane in the Baldwin Community as depicted in APPENDIX A.

J. HOLD HARMLESS

1. Elkins covenants and agrees that it will defend and hold harmless against and indemnify said City of Fayetteville, Arkansas, for any judgment which might be obtained against them by reason of any negligent act on the part of Elkins in the operations, maintenance and construction of Elkins' sewage collection facilities within Elkins' service area. This provision does not waive either City's statutory sovereign immunity. Fayetteville shall not be responsible for damages resulting from acts of God, acts of war, insurrections, or rebellions, acts of public enemy, acts of any unauthorized persons, firms, or corporations, or acts of Elkins', its agents or employees.

K. CONTRACT BINDING ON SUCCESSORS

1. This contract shall be binding upon the parties hereto, their successors and assigns. In the event of any occurrence rendering Elkins incapable of performing under this contract, any successor of Elkins, whether by result of legal process, assignment, or otherwise shall succeed to the rights of Elkins under this contract.

L. NO FRANCHISE OR OTHER FEE OR TAX TO BE LEVIED

1. Elkins will not during the period of this contract or any renewal thereof, levy any franchise tax, occupation tax, or any other tax or fee of any form whatsoever, by whatever name it may be called, upon Fayetteville, or the services rendered by Fayetteville pursuant to this contract without consent of all the parties.

M. TERMINATION

1. This agreement may be terminated by either party upon a material or substantial breach by the other of any of the covenants or agreements contained herein, and the failure of the party in breach to remedy such breach within six (6) months after receipt of written notice of the existence of such breach. Either party will have the right to utilize a mediation process if they disagree with a proposed breach. Elkins reserves the right to re-negotiate or terminate this contract if it is advantageous for the Elkins to pursue a different type of sewage treatment process, subject to advance notification of at least two years.

N. NOTICES

EXHIBIT A

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1. The written notices provided for herein shall be sufficient if sent by certified mail, return receipt requested, postage prepaid, to the Mayor of the City of Fayetteville, 113 West Mountain Street, Fayetteville, Arkansas, 72701, or the Mayor of the City of Elkins, 348B North Center Street, Elkins, Arkansas, 72727, but not limited thereto.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE AND IN WITNESS WHEREOF, The Mayor and City Clerk of the City of Fayetteville, Arkansas, by authority of a Resolution adopted by the City Council of the City of Fayetteville, and the Mayor and City Recorder of the City of Elkins, Arkansas, by authority of a Resolution adopted by the City Council of the City of Elkins, have hereunto set their hand and caused the corporation seal to be affixed and dated this _____ day of _____, 2005.

CITY OF FAYETTEVILLE

By: _____
DAN COODY
Mayor of Fayetteville, AR

Attest: _____
Sondra Smith, City Clerk

CITY OF ELKINS

By: *Jack R. Ladyman*
JACK LADYMAN
Mayor of Elkins, AR

Attest: _____
_____, Recorder

EXHIBIT A
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Appendix A

Fayetteville - Elkins Wastewater Agreement 2005



EXHIBIT A

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Fayetteville - Elkins Wastewater Agreement

APPENDIX B

Wastewater Volume Based On Metered Water

FORMULA ACTIONS

Water Meter Reading Volume - September, 2005

Example

4,431,900

Wastewater Volume as a % of Water 85%

3,767,115

EXHIBIT A
PAGE 9 OF 9

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

13-Dec-05
City Council Meeting Date

Agenda Session
Only - Dec.
20, 2005
Agenda

Yolanda Fields

Submitted By

CRCC

Division

Operations

Department

Action Required:

Informational: 2006 Community Development Block Grant Action Plan

\$0.00

Cost of this request

Category/Project Budget

Program Category / Project Name

Account Number

Funds Used to Date

Grant Revenue

Project Number

\$ -

Remaining Balance

Program / Project Category Name

Community Development

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:



City Attorney

11/22/05

Received in City Clerk's Office



Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Informational Item: 2006 CDBG Action Plan.



CITY COUNCIL AGENDA MEMO

To: Mayor and Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, CRCC Director 

Date: November 21, 2005

Subject: Community Development Block Grant (CDBG) 2006 Action Plan

BACKGROUND

Fayetteville has been a Community Development Block Grant (CDBG) Entitlement city since 1975. The grants are based on a formula allocation that takes into account such factors as population, percent of low/moderate income persons and the number of housing units. Each year the Community Resources Division submits an annual "Action Plan" and funding request to the U.S. Department of Housing & Urban Development (HUD) for CDBG funding.

Grant amounts vary each year dependent on funding levels authorized by Congress through the annual federal budget process. The application amount for 2006 is \$722,566. Grant funding detail:

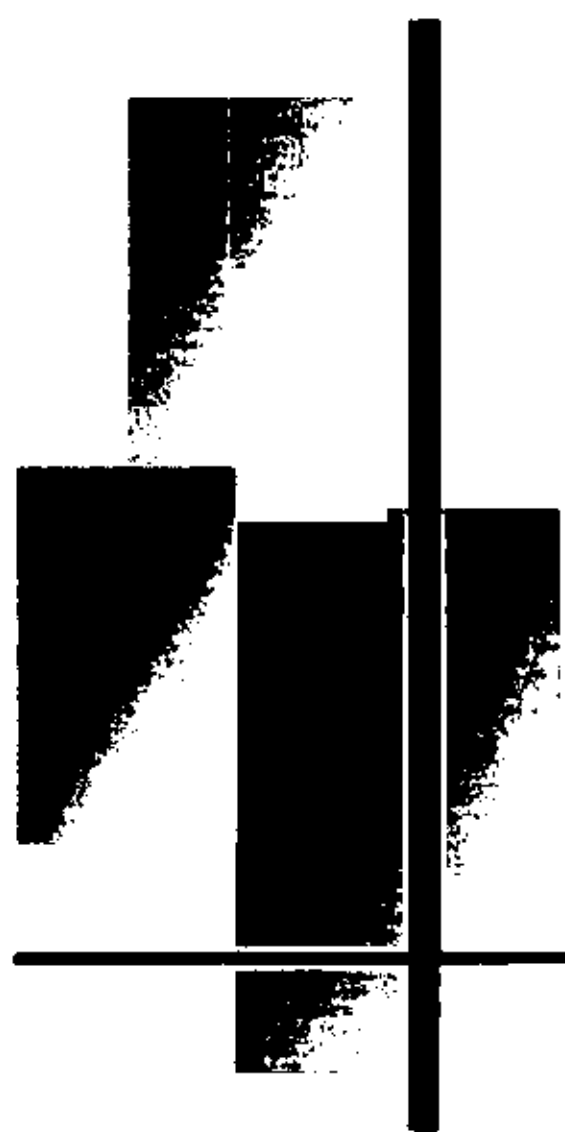
Administration	\$112,670
Rehabilitation	\$192,474
YouthCan	\$ 19,603
Elderly Taxi Program	\$ 10,000
Boys and Girls Club	\$ 17,372
NWA Community College	\$ 33,025
Code Compliance	\$ 39,524
Land Acquisition	\$ 95,000
Public Housing Authority	\$ 26,300
Public Housing Authority	\$ 76,598
Seven Hills Center	<u>\$100,000</u>
Grant Total	\$722,566

DISCUSSION

The 2006 Community Development Block Grant Action Plan is being submitted as an informational item.

BUDGET IMPACT

2006 grant revenue - \$722,566 if approved by HUD.



Fayetteville
ARKANSAS

**COMMUNITY DEVELOPMENT
BLOCK GRANT**

2006 Action Plan

“Helping to Build a Better Community”

Community Resources Division

Yolanda Fields, CGFM
Grant Administrator
125 West Mountain Street
Fayetteville, AR 72701

Phone: (479) 575-8260

Fax: (479) 444-3445

Community_Resources@ci.fayetteville.ar.us

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Community Profile

The City of Fayetteville, county seat of Washington County, is located in the northwestern part of Arkansas and is regarded as the business and cultural center of the Metropolitan Statistical Area for Benton and Washington Counties, which has an estimated population of approximately 311,000. Fayetteville is situated near the tallest of the mountains in the Ozark Mountain Range and is the fourth largest city in the state. It is located approximately 185 miles northwest of Little Rock, Arkansas, 125 miles east of Tulsa, Oklahoma, 350 miles northeast of Dallas, Texas, and 210 miles south of Kansas City, Missouri. Fayetteville and the Northwest Arkansas region have gained a national reputation as one of the best places in the country to live and raise a family. The City and the region are experiencing rapid population growth and an increasing number of visitors. Fayetteville's population has increased from approximately 20,000 in 1960 to 58,047 according to the 2000 census. The City currently encompasses 48.36 square miles or 30,950 acres.

The City was settled in 1828 and was incorporated on August 23, 1870. The City operates under a Mayor-Council form of government, in which a Mayor, City Attorney, City Clerk/Treasurer, Municipal Judge, and eight Aldermen are elected. Based on the population thresholds in Arkansas law, City Council adopted an ordinance that provides for staggered aldermanic terms. Beginning with the 2000 election, all terms for elected officials are four years.



Introduction

The City of Fayetteville is a participant in the Community Development Block Grant (CDBG) Entitlement Cities Program and is awarded funds annually to carry out eligible activities in pursuit of these statutory goals:

Provide Decent housing - - which includes:

assisting homeless persons obtain affordable housing; assisting persons at risk of becoming homeless; retention of affordable housing stock; increase the availability of affordable permanent housing in standard condition to low-income and moderate-income families, particularly to members of disadvantaged minorities without discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability; increasing the supply of supportive housing which includes structural features and services to enable persons with special needs (including persons with HIV/AIDS) to live in dignity and independence; and providing affordable housing that is accessible to job opportunities.

Provide a suitable living environment - - which includes:

improving the safety and livability of neighborhoods; increasing access to quality public and private facilities and services; reducing the isolation of income groups within areas through spatial deconcentration of housing opportunities for lower income persons and the revitalization of deteriorating neighborhoods; restoring and preserving properties of special historic, architectural, or aesthetic value; and conservation of energy resources.

Expand economic opportunities - - which includes:

job creation and retention; establishment, stabilization and expansion of small businesses (including micro businesses); the provision of public services concerned with employment; the provision of jobs to low-income persons living in areas affected by those programs and activities, or jobs resulting from carrying out activities under programs covered by the plan; availability of mortgage financing for low-income persons at reasonable rates using non-discriminatory lending practices; access to capital and credit for development activities that promote the long-term economic and social viability of the community; and empowerment and self-sufficiency for low-income persons to reduce generational poverty in federally assisted housing and public housing.



Community Development Focus in 2006

Public Access and Participation

CDBG Activities are designed and carried out based on local needs. Through public meetings, consultation with area public and non-profit service agencies, informal discussion with citizens, studies, city staff, and special purpose committees, input from community stakeholders and resource holders are integrated to designate action priorities.

Three formal public hearings were held to present and discuss proposed CDBG activities for fiscal year 2006. Non-profit agency representatives and others attended the meetings. Community Development staff has been active in the presentation of program information. Information was provided during National Community Development Week. During Homeownership month staff manned an information booth on the downtown square during the Farmer's Market one day each week of the month. Program information was also distributed at local events. During 2005 program staff manned an information booth at the Earth Day Festival on the campus of the University of Arkansas, at the Springfest on Dickson Street and at the Cinco de Mayo festival at the Fayetteville Boys and Girls Club. The development of a quarterly newsletter serves to inform the community of current and future projects. Program literature in Spanish is also available in the office. Staff continues to be very active in the Northwest Arkansas Housing Coalition and the Community Development Directors Association of Arkansas.

In accordance with Fayetteville's Citizen Participation Plan, the 2006 Consolidated Action Plan is submitted for a 30 day citizen review period. Citizen comments on the plan are encouraged and may be submitted to:

Yolanda Fields, Division Director
City of Fayetteville Community Resource Division
113 West Mountain Street
Fayetteville, AR 72701



Housing

The City of Fayetteville is committed to the development of programs which address the need for housing for Low and Moderate Income (LMI) persons and families. In response to priority needs revealed during the development of the City's five year Consolidated Plan in 2005, the City has focused on developing of community partnerships with local entities with expertise in specialized housing activities. This cooperation will further the Attainable Housing effort in the City of Fayetteville. Attainable housing has become a topic of great concern for this division. Housing costs in Northwest Arkansas have increased at a considerable rate throughout the past 10 years according to the latest round of information from the 2000 Census. The cost of the median mortgage payment in the City of Fayetteville remains the highest in Northwest Arkansas at \$916, an increase of 45 percent. It is the highest median mortgage payment of any city in Northwest Arkansas and 24 percent higher than the state median of \$737. The City of Fayetteville, Community Development program will work on the development of a plan to bring Attainable housing to the City of Fayetteville. This office is working with the Northwest Arkansas Housing Coalition (NAHC) and the committees of the organization to build a relationship with the local Public Housing Office. The HUD provided Technical Assistance will be a very important component in reaching the Attainable Housing goal.

Analysis of Impediments to Fair Housing

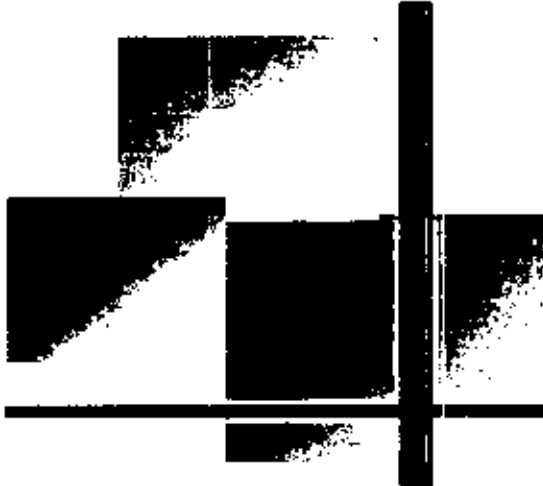
The "Analysis of Impediments to Fair Housing" (AI) has been updated. CDBG Program regulations require recipient jurisdictions to "affirmatively further fair housing," required by Section 808 of the Fair Housing Act.

The AI is conceived as an effort to affirmatively further fair housing choice by identifying all impediments to fair housing choice which presently exist in the community, and to develop strategies and actions designed to reduce or eliminate the identified impediments. Further, the process of developing the AI will foster the collaboration of stakeholders and resource providers in the public, non-profit, and private sectors, thereby promoting relationship-building and consensus on fair housing issues. The AI process will help describe a clearer picture of housing conditions for LMI households in Fayetteville, and aid us in defining current and future housing directions.

The current AI identified three areas of action:

- Further development of the Attainable Housing Element, that provides methods of enhancing attainable housing by providing a multi-faceted policy.
- Encouragement of continuing education/outreach in the realtor /developer community, and local newspapers and other publications on fair housing.
- Enhancement of local fair housing ordinance.

Action development in these areas will be the purview of the administration program.



Public Services

Utilization of CDBG funds for the provision of public services, which serve LMI groups, has been, and continues to be a focus of the Community Development Program. The Taxi Voucher program provides subsidized cab fare for our city's elder citizens, allowing an inexpensive transportation choice for many who would not have transportation available otherwise. This simple, cost effective program receives unwavering support from those who use it to go shopping, to the doctor, post office, church, out to eat, or any number of other destinations. The program is hugely successful in providing our elders opportunity to participate in community life and to live independently.

An extension of the transportation program outlined above will provide LMI households under the age of sixty-two (62) subsidized mass transit. This expansion effort will provide needed assistance in dealing with transportation challenges faced by LMI individuals in the community.

Public Facilities - Community Needs

CDBG has historically supported community services facilities projects in Fayetteville. CDBG dollars have assisted construction, renovation and development of facilities for local non-profit organizations such as Seven Hills Homeless Center, Head Start, and Peace at Home Family Shelter, as well as renovations and improvements to streets, sidewalks and other infrastructure located in the designated target area.



2006 Action Plan

AVAILABLE RESOURCES

Resources—Federal / State

The City is the recipient of a formula grant program, the Community Development Block Grant. Private non-profit organizations in Fayetteville are funded through competitive state and federal allocations, the local United Way campaign, private foundation grants, other special competitive grants, and private donations including fund-raising activities. The City anticipates the CDBG formula allocation in 2006 will be approximately \$722,566.

Resources—Municipal Government

The City's Street Division has estimated \$300,000 for street overlay and repair of streets located in the designated Community Development Target Area. The City's Budget Division has budgeted approximately \$106,182 for maintenance of city-owned buildings occupied by area non-profit agencies performing public service activities.

DESCRIPTION OF ACTIVITIES

HOUSING SERVICES

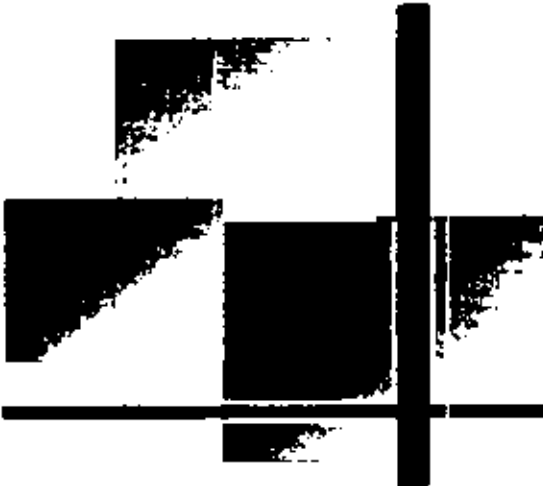
Residential Rehabilitation

This allocation provides forgivable loans to low and moderate income persons for rehabilitation of owner-occupied housing. The following services are offered:

- Minor Rehabilitation up to \$5,000
- 5 projects of Rehabilitation up to \$25,000

The program provides labor, materials, project management, Lead Based Paint (LBP) Hazard Control, and other associated costs to bring a home into compliance with State and City Housing Codes. Emphasis is placed on repairs that improve energy efficiency, those that alleviate deferred maintenance conditions, safety devices, and replacement of principal fixtures and components. \$192,474 is allocated and includes salary and program delivery costs for management and oversight of all housing programs.

Location: Citywide, applicants are prioritized according to established criteria to give preference on the waiting list to those most in need of services. Priority criteria include: Very Low Income, Elderly, Disabled, Single-parent household, Lead-based paint hazards in homes, and homes located in the Target Area.



PUBLIC SERVICES

YouthCAN!

This project will provide a 5 week summer program that will provide productive and creative activities to at-risk youth, four hours daily, four days per week for a total of 20 days. Constructive youth development programs such as this reduce the risk of experimenting with drugs and alcohol and getting in trouble. Youth will participate in art, mentoring, team building, leadership, & community services activities as well as attending field trips. The participants will work with professional artists, and other teens, and will experience a wide variety of art mediums. They will also be evaluated through a pre/post test assessment to demonstrate impact of programming.

CDBG funds allocated - \$19,603

Fayetteville Elderly Taxicab Program

This program provides an alternative transportation choice for elderly residents of Fayetteville through subsidized cab fare. Elderly physically challenged and other eligible low to moderate individuals will be served by this transportation program.

CDBG funds allocated - \$10,000

Location: Citywide

Fayetteville Boys and Girls Club

This program will assist participants with homework help, academic, prevention and health & life skills programs. Participants will receive educational and recreational programming and activities in a safe and adult caring environment to aide them in their development during early school years. Participants will also benefit from structured time to relax and participate in activities such as playing on the playground or playing in the gym, listening to music, stretching and other whole group fun activities. This project is child-focused and is aimed at developing the total person academically, socially, emotionally and physically. Approximately 120 young people will benefit from the after-school program at Jefferson Elementary. An estimated 90% of all beneficiaries reside in the target area and are low/moderate income.

CDBG funds allocated - \$17,372

Northwest Arkansas Community College

This program will identify and recruit approximately 34 low-to-moderate income residents of Fayetteville for participation in a customized computer job training program to develop new computer job skills that will expand participants' employment and economic opportunities.

CDBG funds allocated - \$33,025

ADMINISTRATION

Administration funds are used for the salary and benefits of the Community Development Director, administration staff, office supplies, travel and training costs, some Fair Housing activities and other costs associated with administration of community development activities.

CDBG funds allocated - \$112,670

Location: Community Planning & City Engineering Building
125 West Mountain Street

REDEVELOPMENT PROGRAM

Program activities conducted in the target area include code compliance, clearance and demolition and land acquisition for attainable housing.

CDBG funds allocated - \$134,524

PUBLIC FACILITIES

Seven Hills

This agency will construct a fully equipped and staffed transitional housing facility. This facility will be a transitional housing campus that will assist individuals who have found themselves unable for a variety of reasons to meet the demands of everyday life. The campus layout consists of four separate building groups:

- The first group consists of three-three bedroom units intended for use by family units of up to four individuals.
- The second series of facilities contains eight efficiency units intended to serve individuals who are disabled.
- Building three will be a central meeting room with offices for case worker(s) and an apartment for the site manager.
- The fourth building group will have 17 bedrooms with shared kitchen and bathroom facilities.

CDBG funds allocated - \$100,000.

Fayetteville Public Housing Authority

The Authority will contract for the construction of an addition at the Willow Heights Apartments (located in the target area) for use by the Head Start program for therapy and instruction of handicapped and disabled children. *CDBG funds allocated - \$26,300.*

The Authority will construct recreational areas for two public housing family complexes and complete one recreational area (the Authority has installed new playground equipment at the Willow Heights Apartments).

- Playground equipment at Morgan Manor Apartments and Lewis Plaza Apartments.
- One picnic table, on outdoor grill, and 2 outdoor benches.
- Concrete sidewalks and pads (for picnic tables) that are handicapped accessible.

CDBG funds allocated - \$76,598.



MONITORING

Community Development Programs will be monitored by the Community Development Division, State HUD staff and external auditors to ensure long-term compliance with federal, state and local regulations and statutes. Goals and objectives outlined in the Consolidated Plan will be reviewed periodically by the Community Development staff to ensure compliance to the plan.

Housing Programs will be monitored by the CDBG Housing Program staff, State HUD staff and the City of Fayetteville Building Safety Division, when needed for compliance to building ordinances. All building ordinances must be met prior to final payment on all housing rehabilitation projects. Follow up visits will be made to all minor rehabilitation project sites.

Public Service Activities Sub-recipient agreements will be required for all public service activities. Monitoring area will include program performance, financial performance and regulatory compliance. Sub-recipient agreements will require documentation of activities and results. In addition, agreements will require an estimated project schedule and a project completion date. Agreement will outline procedures to be followed in the case a non-compliance situation may occur.

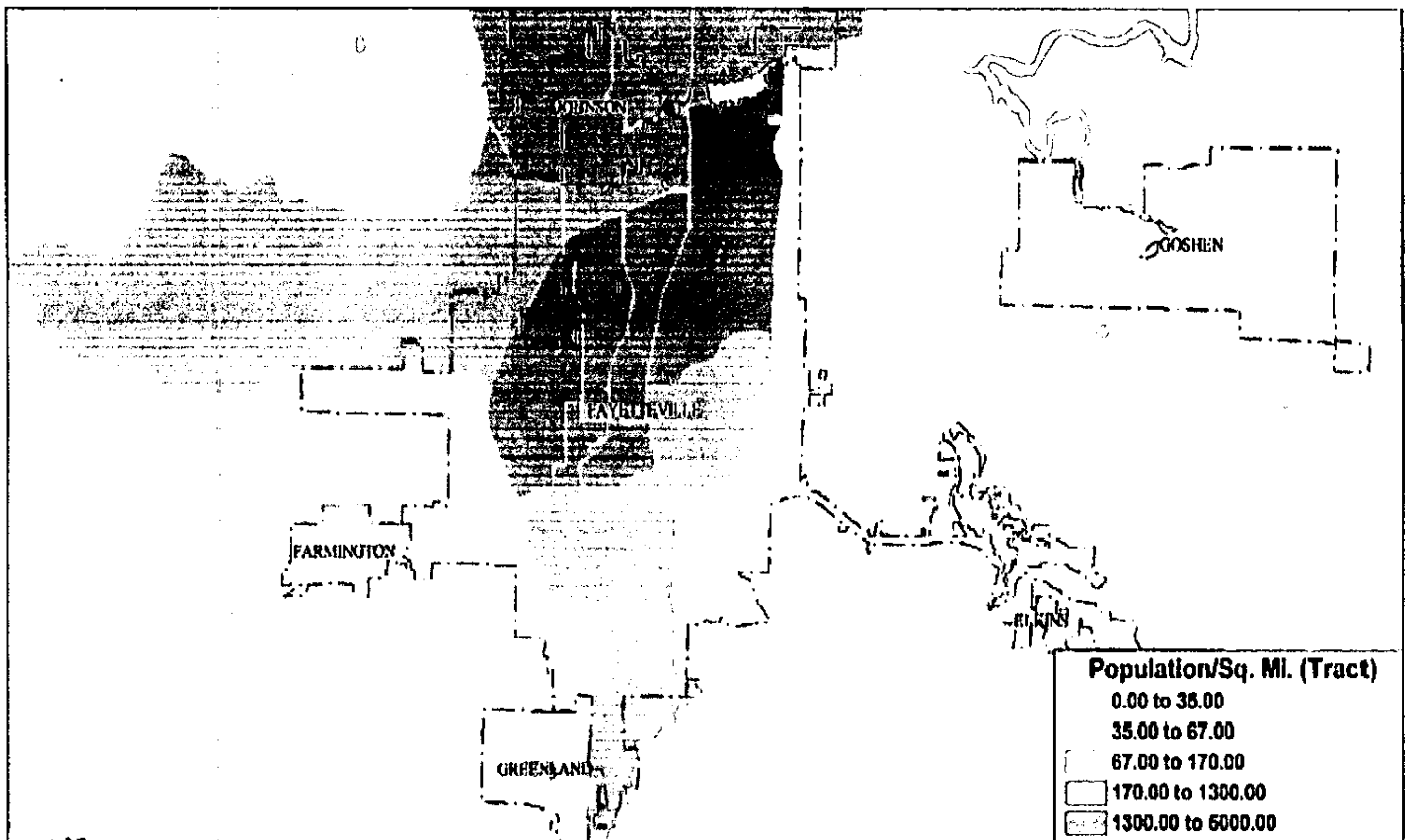
Redevelopment Programs will be monitored by the staff, State HUD staff and external auditors. Code compliance issues are administered according to city ordinances and policy/procedures guide. Land acquired will be utilized for attainable housing in the target area. Program efforts will serve to advance the revitalization of the target area.

LEAD-BASED PAINT HAZARDS

Rehabilitation projects are evaluated and tested for lead-based paint hazards in accordance with the City of Fayetteville lead-based paint policy. The policy has been established based on current federal regulation for lead-based paint. This policy will be reviewed on an annual basis by CDBG staff.

2006 Action Plan

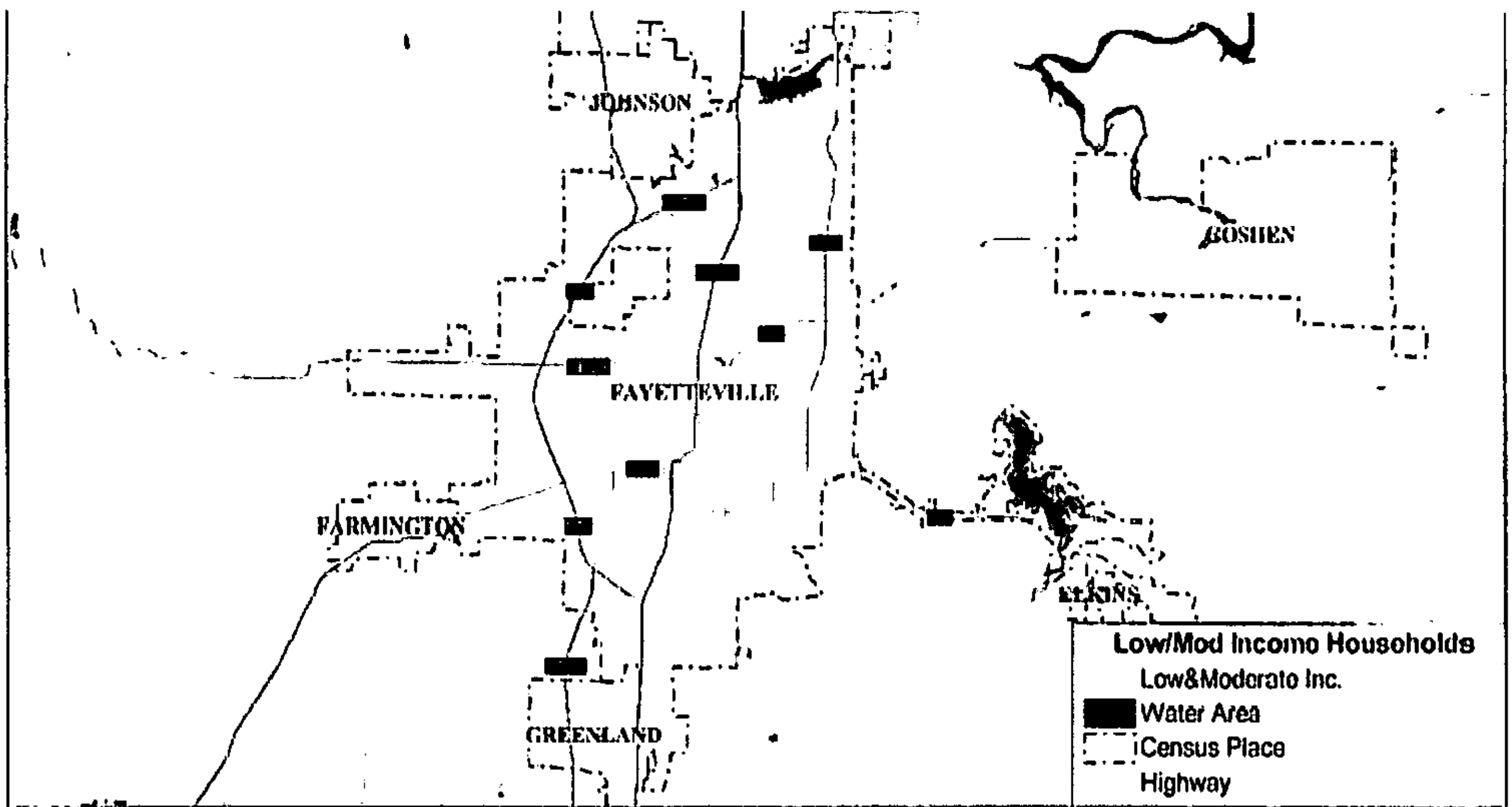
Population





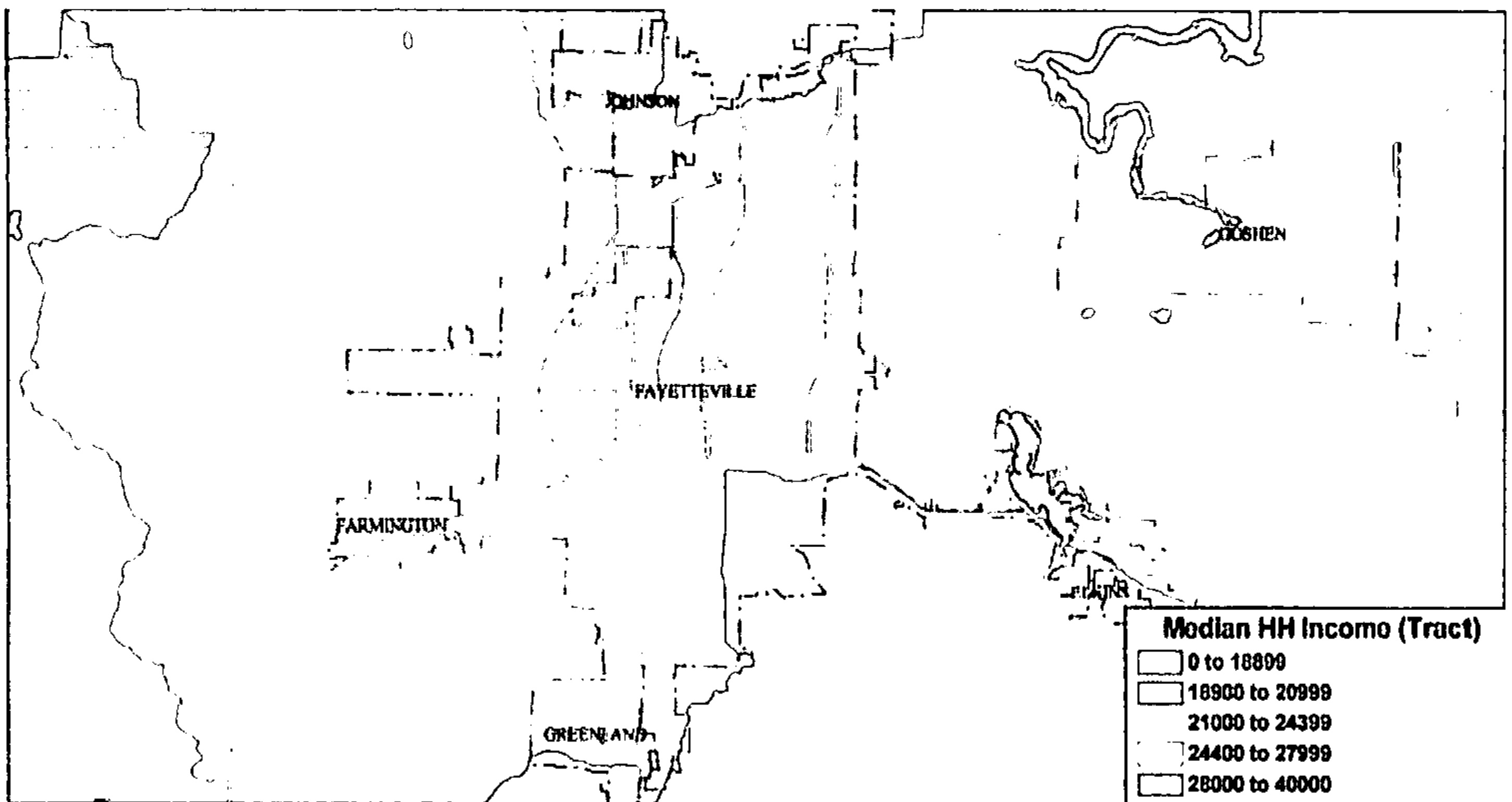
2006 Action Plan

Low/Moderate Income Households



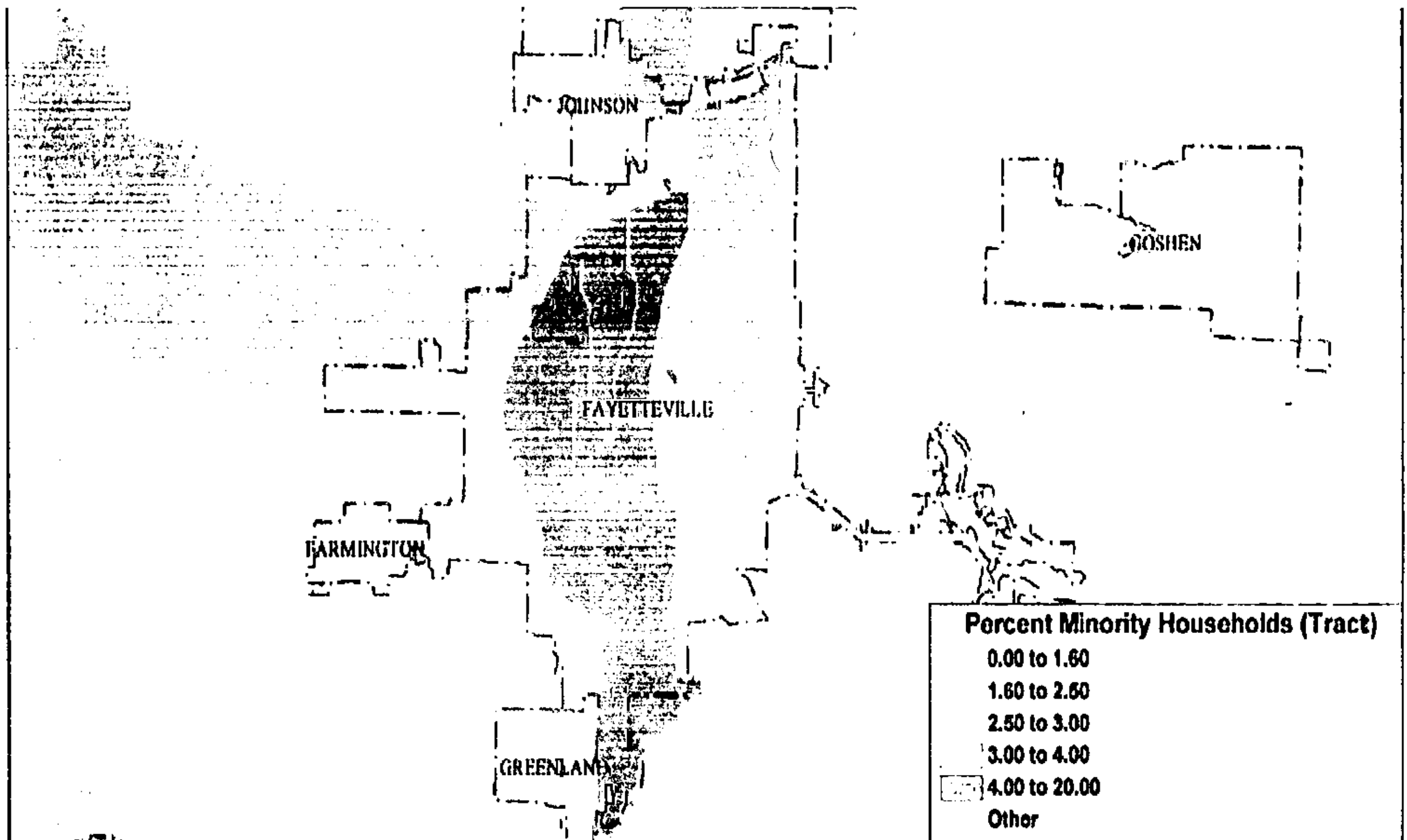
2006 Action Plan

Median Household Income



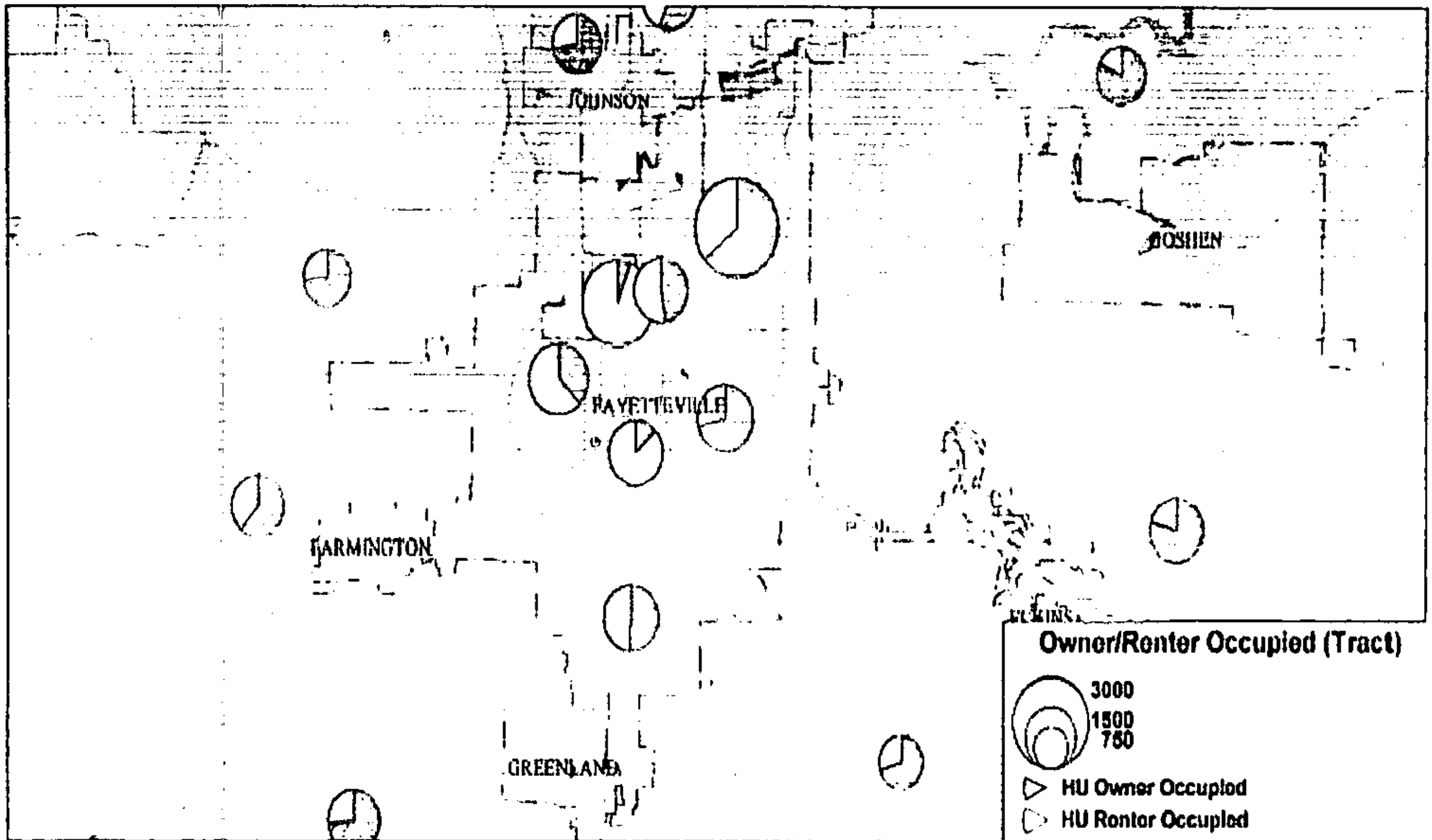
2006 Action Plan

Minority Households



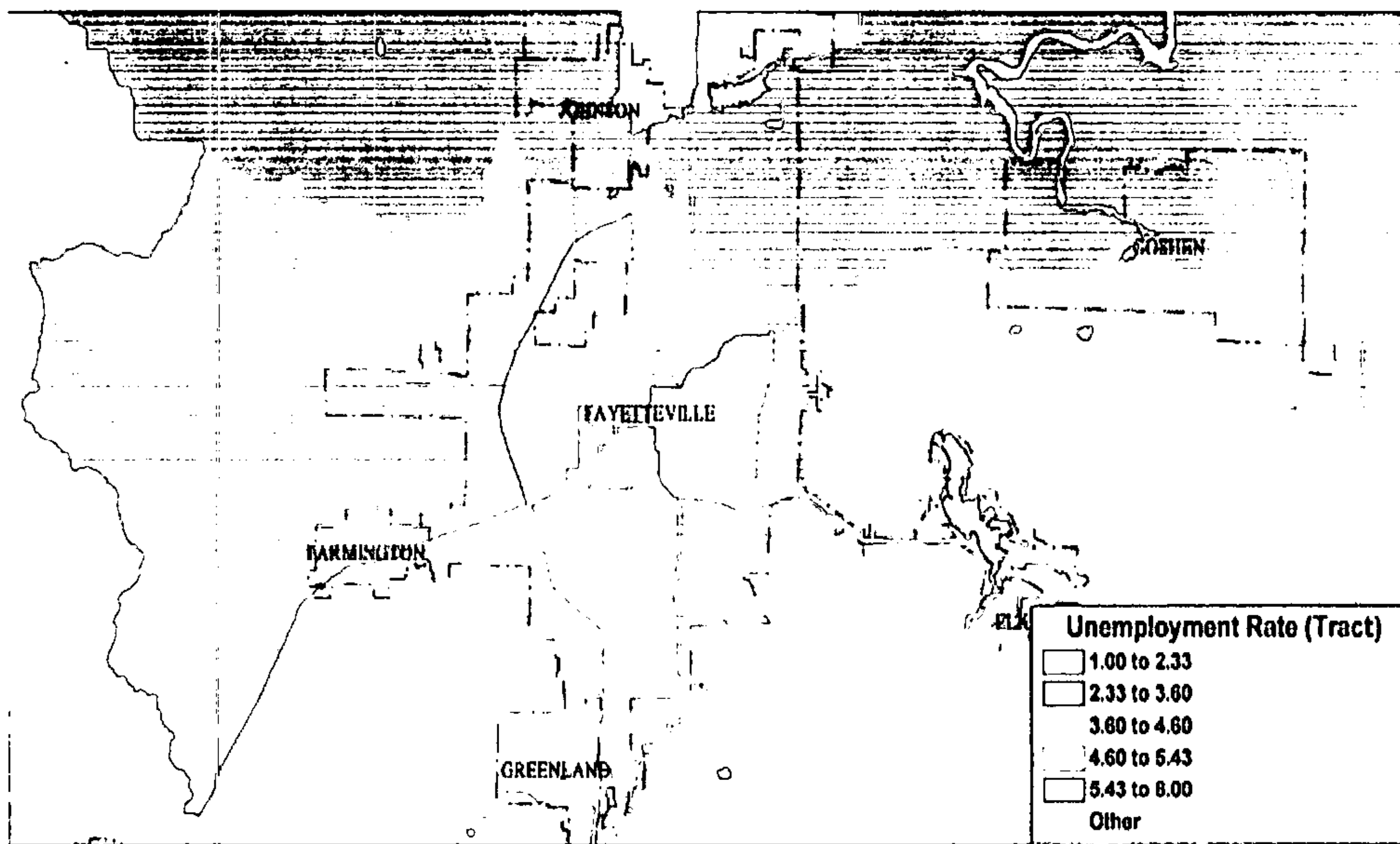
2006 Action Plan

Owner/Renter Occupied



2006 Action Plan

Unemployment Rate



2006 Action Plan

Listing of Proposed Projects

U.S. Department of Housing & Urban Development CPD Consolidated Plan Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0003	Public Services-YouthCan	05D Youth Services	CDBG \$ 19,603
	Public Services	570.201(e)	ESG \$ 0
		25 Youth	HOME \$ 0
			HOPWA \$ 0
			ASSISTED HOUSING \$ 0
			PHA \$ 0
			TOTAL \$ 19,603
			Total Prior Funding \$ 0

Help the Homeless? No Start Date: 01/01/06
 Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele
 Subrecipient: Subrecipient Public 570.500(c)
 Location(s): Community Wide

U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0002	Housing	14A Rehab; Single-Unit Residential	CDBG \$ 182,474
			ESG \$ 0
	Housing	570.202	HOME \$ 0
			HOPWA \$ 0
	Addressing current housing conditions for low to moderate income residents including permanent housing rehabilitation and minor repair	50 Households (General)	ASSISTED HOUSING \$ 0
			PHA \$ 0
			TOTAL \$ 182,474
			Total Prior Funding \$ 0

Help the Homeless? No Start Date: 01/01/06

Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.202(a)(2) - Low / Mod Limited Clientele

Subrecipient: Local Government

Location(s): Community Wide

U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0003	Public Services-YouthCan	05D Youth Services	CDBG \$ 19,603
	Public Services	570.201(e)	ESG \$ 0
		25 Youth	HOME \$ 0
			HOPWA \$ 0
			ASSISTED HOUSING \$ 0
			PHA \$ 0
			TOTAL \$ 19,603
			Total Prior Funding \$ 0

Help the Homeless? No Start Date: 01/01/06
 Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele
 Subrecipient: Subrecipient Public 570.500(c)
 Location(s): Community Wide

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0004	Public Service-NWA Community College	05 Public Services (General)	CDBG \$ 33,025
	Public Services	570.201(e)	ESG \$0
		34 People (General)	HOME \$0
			HOPWA \$0
	Provide computer skills for individuals to expand employment and economic opportunities		ASSISTED HOUSING \$0
			PHA \$0
			TOTAL \$ 33,025
			Total Prior Funding \$0

Help the Homeless? No Start Date: 01/01/06
Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele
Subrecipient: Subrecipient Public 570.500(c)
Location(s): Community Wide

U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0005	Public Services-Boys and Girls Club	05D Youth Services	CD8G \$ 17,372
	Public Services	570.201(e)	ESG \$0
		60 Youth	HOME \$0
			HOPWA \$0
			ASSISTED HOUSING \$0
			PHA \$0
			TOTAL \$ 17,372
			Total Prior Funding \$0

Help the Homeless? No Start Date: 6/1/06
 Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele
 Subrecipient: Subrecipient Public 570.500(c)
 Location(s): Community Wide

U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0006	Public Services-Fayetteville Elderly Tax Program	05A Senior Services	CD8G \$ 10,000
	Public Services	570.201(e)	ESG \$ 0
	Alternative transportation choice for the elderly residents of Fayetteville through subsidized cabfare program	200 Elderly	HOME \$ 0
			HOPWA \$ 0
			ASSISTED HOUSING \$ 0
			PHA \$ 0
			TOTAL \$ 10,000
			Total Prior Funding \$ 0

Help the Homeless? No Start Date: 01/01/06
 Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.206(a)(2) - Low / Mod Limited Clientele
 Subrecipient: Local Government
 Location(s): Community Wide

U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0007	Redevelopment Program-Code Compliance assistance	15 Code Enforcement	COBG \$ 39,524
	Other	570.202(c)	ESG \$ 0
			HOME \$ 0
			HOPWA \$ 0
		25 Households (General)	ASSISTED HOUSING \$ 0
	Assistance to low to moderate, owner occupied properties in the Community		PHA \$ 0
			TOTAL \$ 39,524
			Total Prior Funding \$ 0

Help the Homeless? No Start Date: 01/01/06
 Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele
 Subrecipient: Local Government
 Location(s): Community Wide

U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0008	Redevelopment Program-land acquisition	01 Acquisition of Real Property	CD8G \$ 85,000
	Housing	570.201(a)	ESG \$ 0
			HOME \$ 0
			HOPWA \$ 0
		3 Housing Units	ASSISTED HOUSING \$ 0
	Land acquisition for attainable housing		PHA \$ 0
			TOTAL \$ 85,000
			Total Prior Funding \$ 0

Help the Homeless? No Start Date: 01/01/06
 Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele
 Subrecipient: Subrecipient Public 570.500(c)
 Location(s): Community Wide

U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0009	Public Facilities-Fayetteville Housing Authority	03 Public Facilities and Improvements (General)	COBG \$ 26,300
	Public Facilities		ESG \$ 0
			HOME \$ 0
		570 201(c)	HOPWA \$ 0
	Building addition for use by the Head Start program for therapy and instruction of handicapped and disabled children	100 People (General)	ASSISTED HOUSING \$ 0
			PHA \$ 0
			TOTAL \$ 26,300
			Total Prior Funding \$ 0

Help the Homeless? No Start Date: 01/01/06
 Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele
 Subrecipient: Subrecipient Public 570.500(c)
 Location(s): Community Wide

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0010	Public Facilities-Fayetteville Housing Authority	03 Public Facilities and Improvements (General)	CDBG \$ 78,598
	Public Facilities	570.201(c)	ESG \$ 0
			HOME \$ 0
			HOPWA \$ 0
			ASSISTED HOUSING \$ 0
	Playground structures and recreational equipment at 3 public housing family complexes	100 People (General)	PHA \$ 0
			TOTAL \$ 78,598
			Total Prior Funding \$ 0
Help the Homeless? No Start Date: 01/01/06 Help those with HIV or AIDS? No Completion Date: 12/31/06 Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele Subrecipient: Subrecipient Public 570.500(c) Location(s): Community Wide			

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0011	Public Facilities-Seven Hills Center	03C Homeless Facilities (not operating costs)	CDBG \$ 100,000
			ESG \$ 0
	Public Facilities		HOME \$ 0
		570.201(c)	HOPWA \$ 0
			ASSISTED HOUSING \$ 0
	Used towards construction of a fully equipped and staffed transitional housing facility	34 Persons who are Homeless	PHA \$ 0
			TOTAL \$ 100,000
			Total Prior Funding \$ 0

Help the Homeless? Yes Start Date: 01/01/06
Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.208(c) - Urgent Need
Subrecipient: Subrecipient Public 570.500(c)
Location(s): Community Wide

CERTIFICATIONS

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the jurisdiction certifies that:

Affirmatively Further Fair Housing—The jurisdiction will affirmatively further fair housing, which means it will conduct an analysis of impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard.

Anti-displacement and Relocation Plan—It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential anti-displacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

Drug Free Workplace—It will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about -
 - (a) The dangers of drug abuse in the workplace;
 - (b) The grantee's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will -
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
 - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1,2,3,4,5 and 6.

Anti-Lobbying—To the best of the jurisdiction's knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
3. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

Authority of Jurisdiction — The consolidated plan is authorized under State and local law (as applicable) And the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

Consistency with plan—the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

Section 3 — It will comply with section 3 of the Housing and Urban Development Act of 1968, and implementing regulations at 24 CFR Part 135.

Signature/Authorized Official

Date

Mayor

Title

Specific CDBG Certifications

The Entitlement Community certifies that:

Citizen Participation -- It is in full compliance and following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105.

Community Development Plan—its consolidated housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that provide decent housing, expand economic opportunities primarily for persons of low and moderate income. (See CFR 24 570.2 and CFR 24 part 570)

Following a Plan—it is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

Use of Funds -- It has complied with the following criteria:

1. **Maximum Feasible Priority.** With respect to activities expected to be assisted with CDBG funds, it certifies that it has developed its Action Plan so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight. The Action Plan may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available);
2. **Overall Benefit.** The aggregate use of CDBG funds including section 108 guaranteed loans during program year(s) 2001, (a period specified by the grantee consisting of one, two, or three specific consecutive program years), shall principally benefit persons of low and moderate income in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period;
3. **Special Assessments.** It will not attempt to recover any capital costs of public improvements assisted with CDBG funds including Section 108 loan guaranteed funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements.

However, if CDBG funds are used to pay the proportion of a fee or assessment that relates to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds.

The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108, unless CDBG funds are used to pay the proportion of fee or assessment attributable to the capital costs of public improvements financed from other revenue sources. In this case, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. Also, in the case of properties owned and occupied by moderate-income (not low-income) families, an assessment or charge may be made against the property for public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

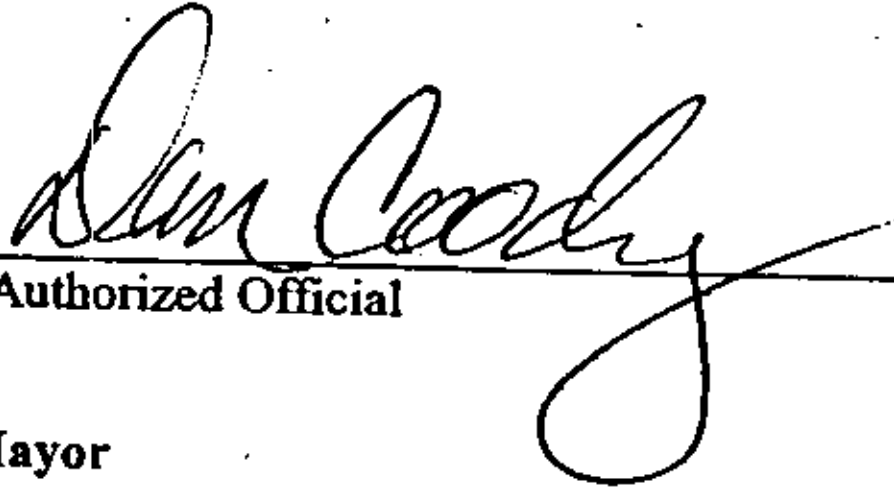
Excessive Force—It has adopted and is enforcing:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;

Compliance With Anti-discrimination laws—The grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 USC 2000d), the Fair Housing Act (42 USC 3601-3619), and implementing regulations.

Lead-Based Paint—Its notification, inspection, testing and abatement procedures concerning lead-based paint will comply with the requirements of 24 CFR §570.608;

Compliance with Laws—It will comply with applicable laws.



Signature/Authorized Official

Date

11/10/05

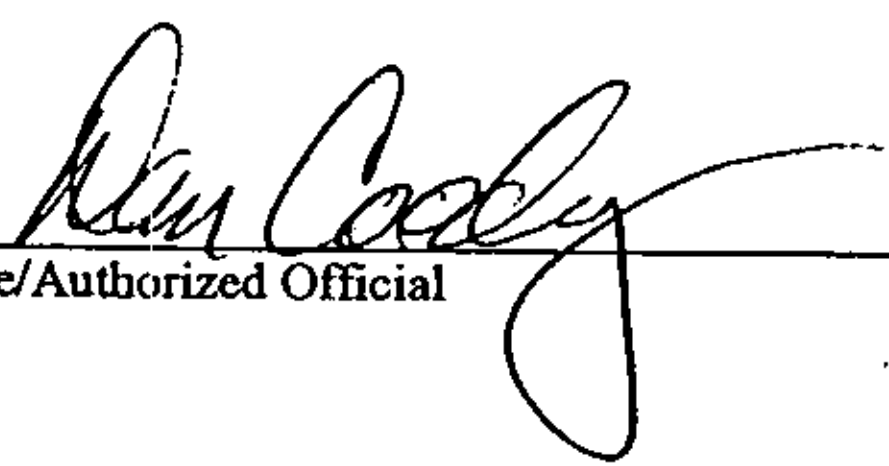
Mayor

Title

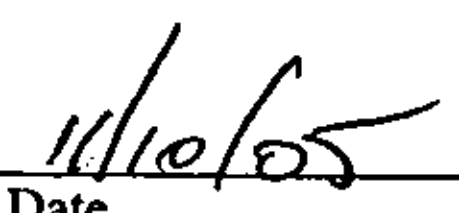
**OPTIONAL CERTIFICATION
CDBG**

Submit the following certification only when one or more of the activities in the action plan are designed to meet other community development needs having a particular urgency as specified in 24 CFR 570.208©:

The grantee hereby certifies that the Annual Plan includes one or more specifically identified CDBG-assisted activities which are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.



Signature/Authorized Official



Date

Mayor

Title

Specific HOME Certifications

The HOME participating jurisdiction certifies that:

Tenant Based Rental Assistance—if the participating jurisdiction intends to provide tenant-based rental assistance:

The use of HOME funds for tenant-based rental assistance is an essential element of the participating jurisdiction's consolidated plan for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing.

Eligible Activities and Costs—it is using and will use HOME funds for eligible activities and costs, as described in 24 CFR § 92.205 through 92.209 and that it is not using and will not use HOME funds for prohibited activities, as described in § 92.214.

Appropriate Financial Assistance—before committing any funds to a project, it will evaluate the project in accordance with the guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other Federal assistance than is necessary to provide affordable housing;

Signature/Authorized Official

Date

Mayor

Title

ESG Certifications

The Emergency Shelter Grantee certifies that:

Major rehabilitation/conversion—It will maintain any building for which assistance is used under the ESG program as a shelter for homeless individuals and families for at least 10 years. If the jurisdiction plans to use funds for purposes less than tenant-based rental assistance, the applicant will maintain any building for which assistance is used under the ESG program as a shelter for homeless individuals and families for at least 3 years.

Essential Services—it will provide services or shelter to homeless individuals and families for the period during which the ESG assistance is provided, without regard to a particular site or structure as long as the same general population is served.

Renovation—any renovation carried out with ESG assistance shall be sufficient to ensure that the building involved is safe and sanitary.

Supportive Services—It will assist homeless individuals in obtaining appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living, and other Federal State, local, and private assistance.

Matching Funds—It will obtain matching amounts required under §576.71 of this title.

Confidentiality—It will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project except with the written authorization of the person responsible for the operation of that shelter.

Homeless Persons Involvement—to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, operating facilities, and providing services assisted through this program.

Consolidated Plan—it is following a current HUD-approved Consolidated Plan or CHAS.

Signature/Authorized Official

Date

Mayor

Title

HOPWA Certifications

The HOPWA grantee certifies that:

Activities—Activities funded under the program will meet urgent needs that are not being met by available public and private sources.

Building—any building or structure assisted under that program shall be operated for the purpose specified in the plan:

1. For at least 10 years in the case of assistance involving new construction, substantial rehabilitation, or acquisition of a facility,
2. For at least 3 years in the case of assistance involving non-substantial rehabilitation or repair of a building or structure.

Signature/Authorized Official

Date

Title
Mayor

APPENDIX TO CERTIFICATIONS
INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS:

A. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. Drug-Free Workplace Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification.
2. The certification is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio stations).
5. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

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

Check X if there are workplaces on file that are not identified here.

The certification with regard to the drug-free workplace is required by 24 CFR part 24, subpart F.

7. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of sub recipients or subcontractors in covered workplaces).

Request for Release of Funds and Certification

U.S. Department of Housing
and Urban Development
Office of Community Planning
and Development

OMB No. 2506-0087
(exp. 12/31/2007)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s) Community Development	2. HUD/State Identification Number B-05-MC-0001	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s)	5. Name and address of responsible entity City of Fayetteville 113 W. Mountain Fayetteville, AR 72701	
6. For information about this request, contact (name & phone number) Yolanda Fields, 479-575-8290	7. Name and address of recipient (if different than responsible entity) Honorable Dan Coody, Mayor	
8. HUD or State Agency and office unit to receive request		

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)

11. Program Activity/Project Description

24 CFR 58.34 EXEMPT ACTIVITIES
ADMINISTRATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT
HOMEBUYER ASSISTANCE AND TRAINING PROGRAM
TAXI PROGRAM
TRANSPORTATION PROGRAM
"YOUTH CAN" PROGRAM
NWA COMMUNITY COLLEGE
BOYS AND GIRLS CLUB
PUBLIC HOUSING AUTHORITY
SEVEN HILLS CENTER

24 CFR 58.35 CATEGORICALLY EXCLUDED ACTIVITIES
HOUSING SERVICES PROGRAM
REDEVELOPMENT PROGRAM
HABITAT FOR HUMANITY OF WASHINGTON COUNTY

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal ☐ did ☐ did not require the preparation and dissemination of an environmental impact statement.
4. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
5. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
6. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

7. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
8. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity

Title of Certifying Officer

X

Address of Certifying Officer

Date signed

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient

Title of Authorized Officer

X

Date signed

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

AFFIDAVIT OF PUBLICATION

I, Erin Emis, 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:

Notice of Finding
October 16, 2005 was inserted in the regular editions on

PO# _____

** Publication Charge: \$ 208.32

Subscribed and sworn to before me this

17 day of October, 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.

Att
Dane
208 32
from
Dane

1010 Notice 2x7 10/11/05 12:51 PM Page 1

1010X Notice 2x7

**NOTICE OF FINDING OF NO
SIGNIFICANT IMPACT AND
NOTICE OF INTENT TO REQUEST
RELEASE OF FUNDS**



October 10, 2005

City of Fayetteville
113 W Mountain Street
Fayetteville, Arkansas 72701
(479) 576-8200

The notices shall satisfy two separate, but related procedural requirements for activities to be undertaken by the City of Fayetteville, Community Development Division.

REQUEST FOR RELEASE OF FUNDS

On or about November 15, 2005 the City of Fayetteville will submit a request to the Department of Housing & Urban Development (HUD)/Arkansas for the release of Community Development Block Grants under Title I of the Housing and Community Development Act of 1974, as amended, to undertake the projects known as: Administration Program, Administration of the Community Development Block-Grants Program, (\$142,670); Housing Services Program, Provide grants and for deferred forgivable loans for extremely low to low/moderate income homeowners on a city wide basis under the COBG Minor & Moderate Housing Rehabilitation Programs, (\$102,747); Public Services Program, Tax and Transportation Program to assist the elderly by providing tax coupons (\$10,000); Boys & Girls Club provide homework assistance, academic, prevention, health, and life skills programs after school in the target area (\$17,322); Youth Can is a summer program that will provide productive and creative activities to the at-risk youth, (\$19,600); MWA Community College will identify and recruit no fewer than 34 extremely low to moderate income residents of Fayetteville for participation in a customized computer job training program to develop new computer job skills that will expand participants' employment and economic opportunities; (\$33,026); Public Facilities Program, Public Housing Authority to build an addition for use by the Head Start Program for therapy and instruction of handicapped and disabled children, (\$20,300) to be used for playground structures and recreational equipment at 3 public housing family complexes (\$76,598); Seven Hills will be used toward the construction of a fully equipped and staffed transitional housing facility (\$100,000); Redevelopment Program, activities conducted in the target area included, but not limited to code compliance, clearance, demolition, and land acquisition, (\$134,524).

FINDING OF NO SIGNIFICANT IMPACT

The City of Fayetteville, community Development Division has determined that the projects will have no significant impact on the human environment; therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 is not required. Additional project information is contained in the Environmental Review Report (ERR) on file at the City of Fayetteville's Community Development Division, 125 W Mountain St., Fayetteville, AR 72701 can be reviewed, examined, or copied weekdays 8:00 A.M. to 5:00 P.M.

PUBLIC COMMENTS

Any individual, group, or agency, disagreeing with this determination or wishing to comment on the projects may submit written comments to the City of Fayetteville, Community Development Division, 113 W. Mountain St., Fayetteville, AR 72701. All comments received by November 15, 2005 will be considered by the City of Fayetteville prior to submission of a Request for Release of Funds. Comments should specify which Notice is being addressed.

RELEASE OF FUNDS

The City of Fayetteville certifies to the HUD/Arkansas that Dan Coody, in his capacity as Mayor consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD/Arkansas's acceptance of this certification establishes its responsibilities under NEPA and allows the Community Development Division to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD/Arkansas will accept objections to its release of funds and the City of Fayetteville's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if it is on one of the following bases: (a) the certification was not executed by the Certifying Officer of the City of Fayetteville; (b) The City of Fayetteville has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient has incurred costs not authorized by 24 CFR Part 58 before approval of release of funds by HUD/Arkansas; (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to HUD/Arkansas Grant Administration Office at U.S. Department of Housing & Urban Development, TCBY Building Suite 900, 426 W. Capitol Avenue, Little Rock, AR 72201. Potential objectors should contact HUD/Arkansas to verify the actual last day of the objection period.

Dan Coody, Mayor, City of Fayetteville

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

A.2.
Airport SAAG Grant
Page 1 of 6

12/20/2005

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

Airport

Department

Action Required:

Approve grant application and acceptance of a grant from the Arkansas Department of Aeronautics for the Terminal Rehabilitation project.

REVENUE

\$ 100,000.00

Cost of this request

\$ 100,000.00

Category / Project Budget

Terminal Building Rehabilitation

Program Category / Project Name

5550.0955.6805.00

Account Number

\$ -

Funds Used to Date

Aviation & Eco Dev Improvements

Program / Project Category Name

05021.1

Project Number

\$ 100,000.00

Remaining Balance

Airport

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution # 170-05

Original Contract Date:

4/30/2003

City Attorney

Date

Original Contract Number:

917

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED
11/30/05

Mayor

Date

Received in Mayor's Office

ENTERED
12/1/05

Comments: Construction contract w/ Bossler Construction pending - for approval at 12/5/05 council meeting.

CITY COUNCIL AGENDA MEMO:

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: November 29, 2005

SUBJECT: Approve application to the State of Arkansas Department of Aeronautics and acceptance of a State Airport Aid Grant for \$100,000.00 to help fund the Airport Terminal renovation project which was approved by the Council at their December 6, 2005 meeting.

RECOMMENDATION: Approve application and acceptance of a State of Arkansas Department of Aeronautics SAAG Grant for \$100,000.00 for the Terminal Remodeling project.

BACKGROUND: The City Council at their December 6, 2005 meeting approved a contract with Bossler Contracting Inc. to remodel the Airport Terminal Building. This action will approve the application and acceptance of a State of Arkansas SAAG grant for \$100,000.00 to offset the cost of the project.

DISCUSSION: Task Order 11 with McClelland Consulting Engineers was approved by the City Council September 6, 2005 to design and oversee the work to remodel the Airport Terminal Building. Following the design process and many meetings with the Airport Board and the users of the Terminal Building, the final plan was developed and bids were solicited and received. The low bid was from Bossler Contracting Inc for \$254,600.00. A contingency fund of \$25,460.00 was added. The City Council approved the project contract at their December 6, 2005 meeting. This action will approve application and acceptance of the State grant.

BUDGET IMPACT: The bid is within the budget amount for the project. The project is funded with \$40,000.00 from Million Air of Fayetteville, \$100,000.00 from the State of Arkansas and the remainder from the Airport fund.

Attachments: Staff Review Form
Grant Application

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING AIRPORT STAFF TO APPLY FOR AND ACCEPT A SAAG GRANT IN THE AMOUNT OF \$100,000.00 FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS TO FUND A PORTION OF THE COST TO REMODEL THE TERMINAL BUILDING AT THE FAYETTEVILLE MUNICIPAL AIRPORT; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes Airport staff to apply for and accept a SAAG grant in the amount of \$100,000.00 from the Arkansas Department of Aeronautics to fund a portion of the cost to remodel the Terminal Building at the Fayetteville Municipal Airport.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment recognizing the Grant Revenue.

PASSED and APPROVED this 20th day of December, 2005.

ATTEST:

By:

SONDRA SMITH, City Clerk

By:

DAN COODY, Mayor

ARKANSAS DEPARTMENT OF AERONAUTICS

APPLICATION FOR STATE AIRPORT AID

The City/County of Fayetteville, herein called "Sponsor", hereby makes application to the Arkansas Department of Aeronautics for State funds pursuant to Act 733 of 1977, for the purpose of aiding in financing a project for the development of a municipal airport located in the City of Fayetteville, Arkansas, Washington County.

Date of Request: December 20, 2005

Name of Airport: Fayetteville Municipal Airport / Drake Field (FYV)

Name and address of City/County Commission sponsoring request:

City of Fayetteville

Person to contact about project:

113 West Mountain St.

Ray M. Boudreaux, Director

Fayetteville, AR 72701

4500 S School Ave, Suite F

Phone/Fax Number: 479-718-7642

Phone/Fax Number: 479-718-7646

Name and address of Engineering Firm (If Applicable):

McClelland Consulting Engineers Contact Person: Wayne Jones

Phone/Fax Number: 479.443.2377 / 479.443.9241

Describe the work to be accomplished: Rehabilitation of old airline terminal building.

State and Local Project Costs:

Federal AIP Projects:

Please indicate: x 50-50% Match
 75-25% Match
 90-10% Match

Total Cost of Project \$ 293,950.00

Local Share/Funds 193,950.00

Local Share/In-Kind

State Share 100,000.00

Total Cost of Project \$

Federal Share (90%) \$

Local Share (5%) \$

State Share (5%) \$

State Airport Aid Application
Page Two

Provide the information listed below as it applies to your project:

FUNDS:

Source of Funds:

State Funding: Arkansas State Department of Aeronautics

Local Funding: Fayetteville Municipal Airport Funds, Woolsey Aviation DBA

Million Air Fayetteville contribution.

Source of In-Kind Services N/A

Estimate starting date of project: January 2006

Estimate completion date of project: March 2006

Project will be for: New Airport _____ Existing Airport XX

Is land to be leased or purchased? NO

Description of land and cost per acre:

Provide the Federal AIP Grant Number (AIP Projects Only) _____

State Representatives for your area:

State Senator Sue Madison

State Representative Bill Pritchard Dist 89

State Airport Aid Application
Page Three

The Sponsor agrees to furnish the Arkansas Department of Aeronautics a copy of the legal instrument affecting use of the property for an airport. In application for a new landing site or expansion of existing facility, the FAA Form 7480.1, Notice of Landing Area Proposal, must be approved by FAA before review for grant can be made by the state.

No land purchased with State Grant Funds may be sold or disposed of without State Commission approval. All requests for sale or disposal of property will be considered on an individual case basis.

No airport accepting State Grant funding may issue an Exclusive Rights Lease.

All applications for navigational aids (such as NDB or ILS) must have FAA site approval before a state grant can be approved.

All Grant applications involving Federal Airport Improvement Program (AIP) funding must be accompanied by the approved FAA application.

If this project is approved by the Arkansas Department of Aeronautics, and is accepted by the sponsor, it is agreed that all developments and construction shall meet standard FAA construction practices as outlined in the specifications of this agreement. Runways, Taxiways, Parking Ramps, etc., shall have a base and a thickness that will accommodate the weight of aircraft expected to operate at this airport.

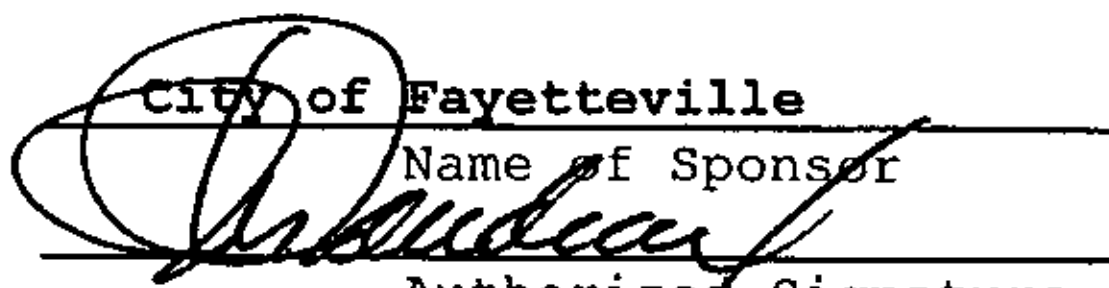
All grant applicants (City and/or County) are totally responsible for compliance with all Federal, State, County and City Laws, Statutes, Ordinances, Rules, Regulations, and Executive Orders concerning contracts and purchases for which this grant is approved and issued. All grant applicants must submit with their applications a completed Contract and Grant Disclosure and Certification Form. (Form F-1-Pages 1&2).

It is understood and agreed that should the sponsor fail to start this project within three (3) months of the Arkansas Department of Aeronautics' date of acceptance, that this grant is null and void.

It is also agreed that this project, except FAA funded projects, shall be completed within one year from the date of acceptance of this grant by the Arkansas Department of Aeronautics. Applications for extension will be entertained if circumstances beyond the sponsor's control occur.

Funds will be disbursed according to Department procedures and final inspection of completed project. (See Instruction Page).

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this 20th day of December, 2005.

City of Fayetteville
Name of Sponsor

Authorized Signature
Ray M. Boudreaux, Director
Title

**City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts**

20-Dec

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Accept a proposal from Northwest Roofing Company, DBA Arkansas American Roofing, Contact: Jack Bradley, Secretary, 806 Barret Pl., Lowell, AR, 72745, phone: 479-263-7663, fax: 479-756-3976, to replace the roof of the Arkansas Air Museum hangar building. Approve a 10% project contingency.

\$34,076.00

Cost of this request

5550.3960.5400.00

Account Number

04022.1

Project Number

\$ 28,215.00

Category/Project Budget

\$ 12,128.00

Funds Used to Date

\$ 16,087.00

Remaining Balance

Roof Maintenance Program

Program Category / Project Name

Avi / ED Imp

Program / Project Category Name

Airport

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

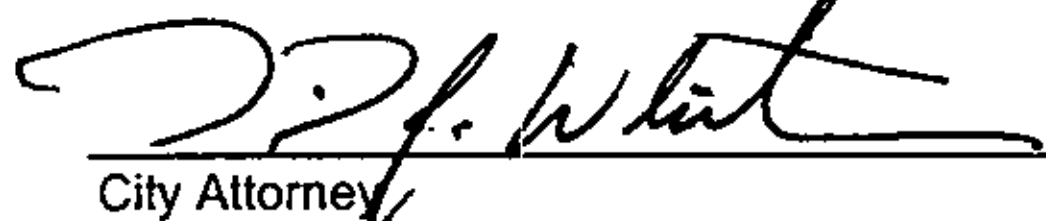
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Department Director

11/30/05
Date

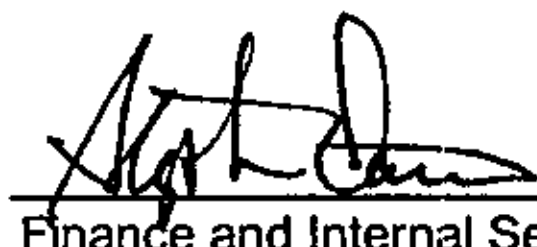
Previous Ordinance or Resolution #

Original Contract Date:


City Attorney

12/1/05
Date

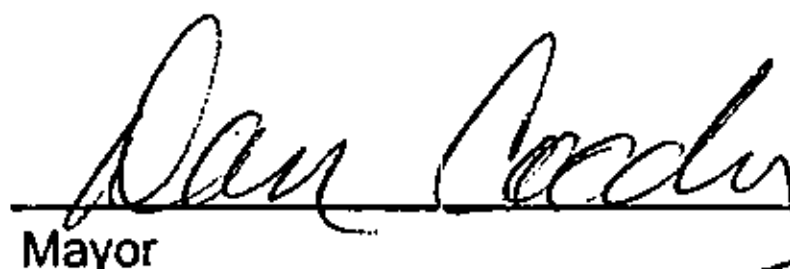
Original Contract Number:


Finance and Internal Service Director

12/1/05
Date

Received in City Clerk's Office

ENTERED
11/30/05
60


Mayor

12/2/05
Date

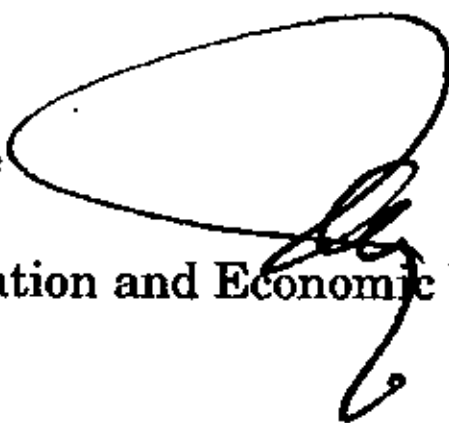
Received in Mayor's Office

ENTERED
12/1/05
108

Comments: \$18,012.12 revenue is received from Travelers Insurance for hail damage to the roof.

CITY COUNCIL AGENDA MEMO:

TO: Mayor and City Council

THRU: Staff/Contract Review Committee 

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: November 29, 2005

SUBJECT: Approve contract with Northwest Roofing Company dba Arkansas American Roofing for the replacement of the Arkansas Air Museum roof for \$30,977.89 plus a 10% contingency of \$3,098.11 for a total project budget of \$34076 and approve a budget adjustment.

RECOMMENDATION: Approve contract with Northwest Roofing Company dba Arkansas American Roofing for the replacement of the Arkansas Air Museum roof for \$30,977.89.

BACKGROUND: Building Maintenance Division prepared the specification for the roof replacement project. Bids were solicited and advertised and one bid was received. The project is unusual as the roof is very steep and requires two different roof systems on the same surface. The project requires that new decking be installed as required. The last know roof project for this building is 30 plus years ago. Several repair jobs have been performed but the roof has deteriorated to the point that it needs to be replaced. There is hail damage as well. The insurance company allowed \$18,012.12 towards the repair for the hail damage.

DISCUSSION: Arkansas American Roofing is well qualified to do this work and will provide the City an excellent product. The building is an historical building and should at some future date be converted to the original configuration and placed on the historical register. It now houses the Arkansas Air Museum but in truth, the building is the real museum. It was constructed in the war and due to the shortage of steel the rafters are made of wood--a real feat of engineering. The roof has always been shingles at least to the best of our knowledge and research.

BUDGET IMPACT: The bid is within the budget amount for the project. The project is funded with \$18,012.12 from insurance and the remainder from the airport fund.

Attachments: Staff Review Form
Roofing Contract

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #05-83 TO NORTHWEST ROOFING COMPANY D/B/A ARKANSAS AMERICAN ROOFING IN THE AMOUNT OF \$30,977.89 FOR REPLACEMENT OF THE ROOF OF THE ARKANSAS AIR MUSEUM HANGAR BUILDING; APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$3,098.11; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$18,012.00.

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 awards Bid #05-83 to Northwest Roofing Company d/b/a Arkansas American Roofing in the amount of \$30,977.89 for replacement of the roof of the Arkansas Air Museum hangar building.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Project Contingency in the amount of \$3,098.11.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$18,012.00 to recognize revenue from a claim paid by Travelers Insurance Co.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A.3.
American Roofing
Page 4 of 14

Budget Year 2005	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 12/20/2005	Adjustment Number
----------------------------	--	-------------------------------------	-------------------

Project or Item Added/Increased: \$17,989.00 is requested in the Building Maintenance account. \$ 23.00 is requested in the Use of Fund Balance account.	Project or Item Deleted/Reduced: None. To recognize \$18,012.00 revenue received from Travelers Insurance Co.
---	---

Justification of this Increase: Will provide for a new roof for the Arkansas Air Museum.	Justification of this Decrease: Travelers insurance paid claim for hail damage to Museum roof.
--	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Building & grounds maint	5550	3960	5400	00	17,989	04022	01
Use of fund balance	5550	0955	4999	99	23		

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Miscellaneous revenue	5550	0955	4999	00	18,012	04022	02

Approval Signatures

	12-1-05
Requested By	Date
	12/1/05
Budget Manager	Date
	12/1/05
Department Director	Date
	12/1/05
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B  E

Date of Approval

Initial	Date
Posted to General Ledger	
Initial	Date
Posted to Project Accounting	
Initial	Date
Entered in Category Log	
Initial	Date

City Of Fayetteville (Not a Purchase Order)										Requisition No.	Date:
										P.O Number	12/20/2005
										Expected Delivery Date:	30 days
Vendor # 67890	Vendor Name: Ark American Roof			Fob Point:			Mail Yes: ☐ No: ☐		Quotes Attached Yes: ☐ No: ☐		
Address: 295 Madison 6276			State: AR			Zip Code: 72773			Ship to code: 065		
City: Wesley			Requester's Employee # 2087			Requester's Name: Ray M. Boudreaux			Extension: 643		
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #		
1	Replace Roof Air Museum	1	LS	30,977.89	\$30,977.89	5550.3960.5400.00	04022.1				
2					\$0.00						
3					\$0.00						
4					\$0.00						
5					\$0.00						
6					\$0.00						
7					\$0.00						
8					\$0.00						
9					\$0.00						
10					\$0.00						
Shipping/Handling			Lot		\$0.00						
Special Instructions:											
Bld # 05-83 (re-bld)											
Subtotal: \$30,977.89 Tax: \$0.00 Total: \$30,977.89 Purchasing Manager: _____ IT Manager: _____ Other: _____											
Approvals:											
Mayor: _____											
Finance & Internal Services Director: _____											
Dispatch Manager: _____											
Department Director: _____											
Budget Manager: _____											
Utilities Manager: _____											

City of Fayetteville
Bid 05-83, Roof Replacement on Air Museum Re-Bid
Bidder Information & Proposal Form

PLEASE NOTE: ALL ITEMS MARKED * ARE CONSIDERED MANDATORY REQUIREMENTS FOR CONSIDERATION OF BID. FAILURE TO COMPLETE THESE ITEMS MAY RESULT IN REJECTION OF BID. IN THE MINIMUM SPECIFICATIONS, BLANKS WILL BE PROVIDED FOR EACH VENDOR TO LIST THEIR OWN DIMENSIONS, STANDARDS OR EXPLANATIONS.

Bidder Information:	
*CONTRACTORS NAME:	<u>Northwest Roofing Company DBA Arkansas American Roofing</u>
*CONTRACTORS LICENSE NUMBER:	<u>0163560406</u>
*CONTACT NAME:	<u>Jack Bradley</u> *TITLE: <u>Secretary</u>
*BUSINESS ADDRESS:	<u>806 Barrett Place (Lowell, AR 72745)</u>
*CITY:	<u>Lowell</u> *STATE: <u>AR</u> *ZIP: <u>72745</u>
*PHONE:	<u>(479) 263-7663</u> FAX: <u>(479) 756-3976</u>
*E-MAIL ADDRESS:	

Proposal (in US Dollars):
Total Turn-Key Bid Amount: <u>*\$ 30,977 ⁸⁹/_{xx}</u>
*Complete amount to complete project based on specified with the exception of damaged decking.

EXECUTION OF BID - Upon signing this Bid, the bidder certifies that he/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on. Bids must be submitted on this bid form in its entirety AND accompanied by descriptive literature on the products being bid. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein. Unsigned bids will be rejected. Items marked * are mandatory for consideration.

Jack Bradley
*AUTHORIZED BY (PRINTED NAME)
Jack Bradley
*AUTHORIZED SIGNATURE
Secretary
*TITLE
11.22.2005
*DATE

All bids must be submitted no later than 3:00 p.m., November 29, 2005 to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed envelope marked "Bid 05-83, Roof Replacement on Air Museum Re-Bid". Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid. Questions should be directed to Andrea Foren, City of Fayetteville Purchasing Division, at (479) 575-8220 or aforen@ci.fayetteville.ar.us

City of Fayetteville
Bid 05-83, Roof Replacement on Air Museum Re-Bid
Bidder Warranty Information

*Please sign this form and submit it as a part of your bid. This form will be completed along with the contract, after approval from the Fayetteville City Council.

By signing this form and submitting it as a part of your bid, you agree to the warranty terms stated.

Warranty Requirements:

- A. Install replacement roofing in accordance with Manufacturer's specifications and details. More stringent requirements shall govern unless they conflict with Manufacturer's warranty requirements. In this case, the Contractor is responsible for notifying the City of Fayetteville of all such conflicts.
- B. Installer Qualifications: A qualified firm that is approved, authorized, or licensed by roofing system manufacturer to install manufacturer's product and that is eligible to receive manufacturer's warranty.
 - 1. Installer must have at least five (5) years of experience installing the specified roofing systems.
 - 2. The installer shall provide references from at least three (3) building owners for similar roofing projects.
 - 3. Installer must maintain a full-time supervisor/foreman on the job site.
 - 4. Foreman shall be experienced in installing roofing systems similar to type and scope required for this Project.
- C. Special Warranty: Manufacturer's standard form, without monetary limitation, in which manufacturer agrees to repair or replace components of roofing system that fail in materials or workmanship within specified warranty period. Failure includes roof leaks.
 - 1. Special warranty includes roofing membrane, base flashings, roofing membrane accessories, roof insulation, fasteners and other components of roofing system.
 - 2. Warranty Period: **Twenty (20) years** from date of Substantial Completion.
 - 3. Warranty shall not deprive the City of Fayetteville of other rights the City may have under other provisions of the Contract Documents and will be in addition to and run concurrent with other warranties made by the Contractor under requirements of the Contract Documents.
- D. Special Project Warranty: Submit roofing Installer's warranty, on warranty form at end of this Section, signed by Installer, covering Work of this Section, including all components of roofing system such as roofing membrane, base flashing, roof insulation, fasteners, sheet metal flashing and other components of roofing system.
 - 1. Warranty Period: **Five (5) years** from date of Substantial Completion.
 - 2. In the first two years, the Contractor shall repair all leaks within 24 hours of notification of leak.

Roofing Installers Warranty:

- E. WHEREAS < _____ > of < _____ >, herein called the "Roofing Installer," has performed roofing and associated work ("work") on the following project:
 - 1. Owner: City of Fayetteville
 - 2. Address: 113 W Mountain
 - 3. Building Name/Type: Arkansas Air Museum

4. Address: 4290 S School Ave.
5. Area of Work: Roof
6. Acceptance Date: _____
7. Warranty Period: _____
8. Expiration Date: _____

F. AND WHEREAS Roofing Installer has contracted (either directly with the City of Fayetteville or indirectly as a subcontractor) to warrant said work against leaks and faulty or defective materials and workmanship for designated Warranty Period,

G. NOW THEREFORE Roofing Installer hereby warrants, subject to terms and conditions herein set forth, that during Warranty Period he will, at his own cost and expense, make or cause to be made such repairs to or replacements of said work as are necessary to correct faulty and defective work and as are necessary to maintain said work in a watertight condition.

H. This Warranty is made subject to the following terms and conditions:

1. Specifically excluded from this Warranty are damages to work and other parts of the building, and to building contents, caused by:
 - a. lightning;
 - b. peak gust wind speed exceeding mph stated by manufacturer of shingles;
 - c. fire;
 - d. failure of roofing system substrate, including cracking, settlement, excessive deflection, deterioration, and decomposition;
 - e. vapor condensation on bottom of roofing; and
 - f. activity on roofing by others, including construction contractors, maintenance personnel, other persons, and animals, whether authorized or unauthorized by the City of Fayetteville.
2. When work has been damaged by any of foregoing causes, Warranty shall be null and void until such damage has been repaired by Roofing Installer and until cost and expense thereof have been paid by the City of Fayetteville.
3. Roofing Installer is responsible for damage to work covered by this Warranty but is not liable for consequential damages to building or building contents resulting from leaks or faults or defects of work.
4. During Warranty Period, if the City of Fayetteville allows alteration of work by anyone other than Roofing Installer, including cutting, patching, and maintenance in connection with penetrations, attachment of other work, and positioning of anything on roof, this Warranty shall become null and void on date of said alterations, but only to the extent said alterations affect work covered by this Warranty. If the City of Fayetteville engages Roofing Installer to perform said alterations, Warranty shall not become null and void unless Roofing Installer, before starting said work, shall have notified the City of Fayetteville in writing, showing reasonable cause for claim, that said alterations would likely damage or deteriorate work, thereby reasonably justifying a limitation or termination of this Warranty.
5. During Warranty Period, if original use of roof is changed and it becomes used for, but was not originally specified for, a promenade, work deck, spray-cooled surface, flooded basin, or other use or service more severe than originally specified, this Warranty shall become null and void on date of said change, but only to the extent said change affects work covered by this Warranty.
6. The City of Fayetteville shall promptly notify Roofing Installer of observed, known, or suspected leaks, defects, or deterioration and shall afford reasonable opportunity for Roofing Installer to inspect work and to examine evidence of such leaks, defects, or deterioration.
7. This Warranty is recognized to be the only warranty of Roofing Installer on said work and shall not operate to restrict or cut off the City of Fayetteville from other remedies and resources lawfully available to the City of Fayetteville in cases of roofing failure. Specifically, this Warranty shall not operate to relieve Roofing Installer of responsibility for performance of original work according to requirements of the Contract Documents, regardless of whether Contract was a contract directly with the City of Fayetteville or a subcontract with the City of Fayetteville's General Contractor.

8. Mandatory response time to all service calls within twenty four (24) hours of notification of problem.

I. IN WITNESS THEREOF, this instrument has been duly executed this 22nd day of November, 2005.

Authorized Signature: Jack Bradley

Name: JACK BRADLEY

Title: SECRETARY

License No. 0163560406

AMENDED

A.3.
American Roofing
Page 10 of 14

State of Arkansas
Contractors Licensing Board

NORTHWEST ROOFING COMPANY, D/B/A ARKANSAS AMERICAN ROOFING CO.
806 BARETT PLACE
LOWELL, AR 72745

This is to Certify That NORTHWEST ROOFING COMPANY, D/B/A ARKANSAS AMERICAN ROOFING CO.

is duly licensed under the provisions of Act 150 of the 1965 Acts as amended and is entitled to practice Contracting in the State of Arkansas within the following classification:

SPECIALTY
Roofing, Roof Decks

with the following suggested bid limit \$250,000

from June 10, 2005 until April 30, 2006

amended September 23, 2005

when this Certificate expires.

Witness our hands of the Board, dated at North Little Rock, Arkansas:



Michael T. A.

David L. Malone

CHAIRMAN

SECRETARY

September 23, 2005

CNA INSURANCE COMPANIES

BID BOND

KNOW ALL MEN BY THESE PRESENTS: That we

Northwest Roofing Company dba Arkansas American Roofing, Inc.

and Western Surety Company, Principal,
Surety, are held and firmly bound unto

The Arkansas Air Museum 4290 S School Ave Fayetteville, AR 72701, Oblige, in the sum of 5% of bid

Dollars (\$)
for the payment of which we bind ourselves, our legal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has submitted or is about to submit a proposal to Oblige on a contract for Arkansas Air Museum-Roofing the Museum 250 squares

NOW, THEREFORE, if the said contract be awarded to Principal and Principal shall, within such time as may be specified, enter into the contract in writing and give such bond or bonds as may be specified in the bidding or contract documents with surety acceptable to Oblige; or if Principal shall fail to do so, pay to Oblige the damages which Oblige may suffer by reason of such failure not exceeding the penalty of this bond, then this obligation shall be void; otherwise to remain in full force and effect.

Signed, sealed and dated

Northwest Roofing Company dba Arkansas
(Principal) American Roofing, Inc.

by Jack B. Smith (Seal)

Western Surety Company

(Surety)

by Mike A. Luttrell
Mike A Luttrell Attorney-in-Fact

G-23054-C



For All the Commitments You Make®

Western Surety Company

A.3.
American Roofing
Page 12 of 14

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Adrain W Luttrell, Jacque Lindsey, Mike A Luttrell, Individually

of Springdale, AR, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 6th day of October, 2005.



WESTERN SURETY COMPANY

Paul T. Bruflat, Senior Vice President

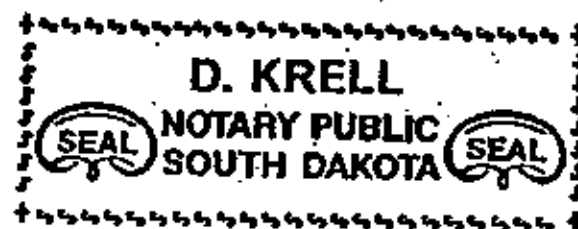
State of South Dakota
County of Minnehaha

ss

On this 6th day of October, 2005, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

November 30, 2006



D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 26th day of October, 2005.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

City of Fayetteville
Bid 05-83, Roof Replacement on Air Museum Re-Bid
CONTRACT

This contract executed this ____ day of _____, 2005, between the City of Fayetteville, Arkansas, and _____. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Northwest Roofing Company at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per bid 05-83 as stated in Northwest Roofing Company's bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #05-83, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay Northwest Roofing Company based on their bid proposal in an amount not to exceed \$30,977.89. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and Northwest Roofing Company consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 05-83 with the specifications and conditions typed thereon.
 - B. Northwest Roofing Company's bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and Northwest Roofing Company and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Northwest Roofing Company.
5. Northwest Roofing Company shall not assign its duties under the terms of this agreement.
6. Northwest Roofing Company agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Northwest Roofing Company performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
7. Northwest Roofing Company shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Northwest Roofing Company shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Northwest Roofing Company will be responsible for providing the following after approval of the contract from the Fayetteville City Council:

- a.) Workers compensation as required by Arkansas State statutes
- b.) Bodily Injury: \$250,000 for each person injured & \$1,000,000 for each accident.
- c.) Property Damage Liability: \$1,000,000 aggregate
- d.) General Liability Insurance as required at a minimum of \$1,000,000.

The premiums for all insurance and the bond required herein shall be paid by Northwest Roofing Company.

- 8. Northwest Roofing Company to furnish proof of licensure as required by all local and state agencies.
- 9. This contract may be terminated by the City of Fayetteville with 10 days written notice.
- 10. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.
- 11. Changes in Scope or Price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees."

WITNESS OUR HANDS THIS _____ DAY OF _____, 2005.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

Attest:

Sondra Smith, City Clerk

Northwest Roofing Company
Northwest Roofing Company

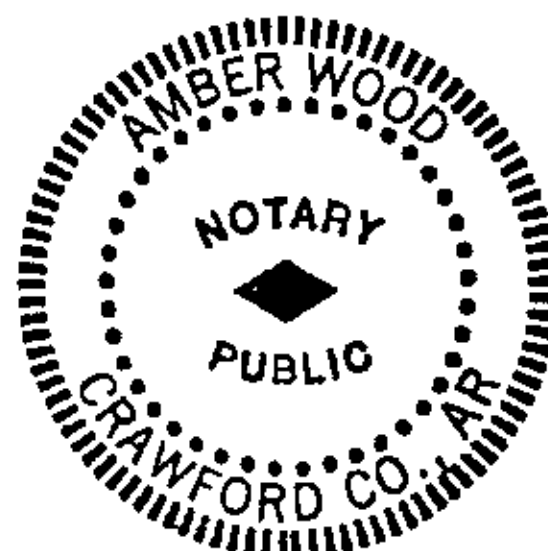
BY

Jack Bradley - Secretary
Jack Bradley - Secretary

ATTEST: NOTARY

Amber Wood

113 W. Main St., Fayetteville
BUSINESS ADDRESS 72701



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

20-Dec-05
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #05-74 for one medium size double drum vibratory asphalt roller for use by Transportation Division, (Trails) to Equipment Resource Management in the amount of \$78,692.00 and approval of the Budget Adjustment to move funds to the Fleet Expense account.

\$78,692.00 Cost of this request	\$ 345,030.00 Category/Project Budget	Other Equipment - Replcmt Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 172,071.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02080.1 Project Number	\$ 172,959.00 Remaining Balance	Shop Fund Fund Name

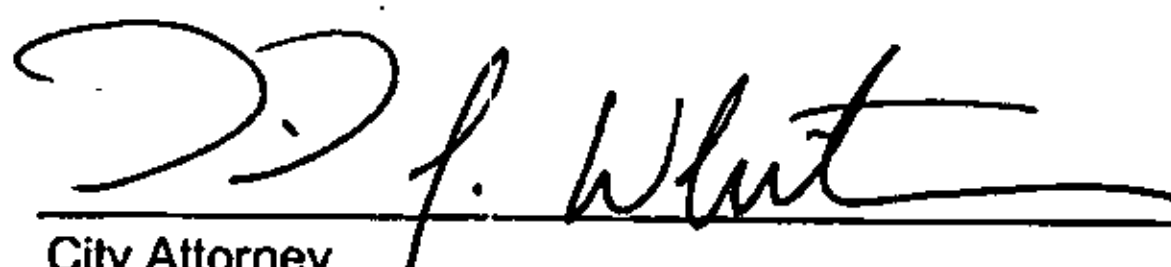
Budgeted Item ☐ Budget Adjustment Attached ☒


Department Director 12-2-05
Date

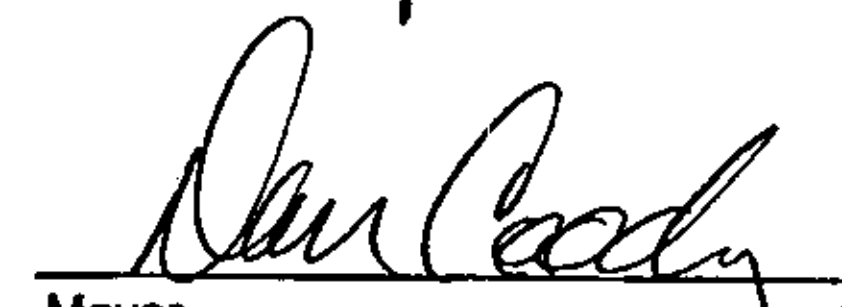
Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney 12/5/05
Date

Received in City Clerk's Office



Mayor 12/5/05
Date

Received in Mayor's Office


Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A.4.
Equipment Resource
Page 2 of 8

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent *2005*
Date: December 1, 2005
Subject: Purchase of one Asphalt Roller, Medium

RECOMMENDATION: That City Council award Bid #05-74 for one medium double drum vibratory asphalt roller for use by Transportation Division for Trails to Equipment Resource Management in the amount of \$78,692 and approval of the Budget Adjustment to move funds to the Fleet Expense Account.

BACKGROUND: Bid #05-74 was opened on November 15, 2005 for one Double drum vibratory asphalt roller – medium size for use by Transportation Division for the Trails program. Five bid responses were received. A detailed tabulation sheet is attached. The lowest bid from Clark Machinery Co. is deficient in the following areas: engine horsepower, size of water spray system, sun canopy, maximum width, and rotating multi position operator station. The second lowest bid from Equipment Resource Management meets all specifications.

I recommend acceptance of the lowest bid meeting specifications from Equipment Resource Management in the amount of \$78,692.

This roller is an expansion unit for the recently approved trails program. Funds are available for this purchase in the trails program special project account. Necessary funds will be transferred to the Fleet expense account for the equipment purchase so that funds will be available in Fleet Account 9700.1910.5802.00, Project #02080 –Other Equipment.

The purchase of this unit was approved by the Equipment Committee on November 30, 2005.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) MEDIUM DOUBLE DRUM VIBRATORY ASPHALT ROLLER FROM EQUIPMENT RESOURCE MANAGEMENT IN THE AMOUNT OF \$78,692.00 FOR USE BY THE TRANSPORTATION DIVISION (TRAILS); AND APPROVING A BUDGET ADJUSTMENT.

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 the purchase of one (1) medium double drum Vibratory Asphalt Roller from Equipment Resource Management in the amount of \$78,692.00 for use by the Transportation Division (Trails).

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$78,692.00.

PASSED and APPROVED this 20th day of December, 2005

APPROVED

By:

DAN GOODY, Mayor

ATTEST

By:

SONDRA SMITH, City Clerk

DRAFT

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A.4.
Equipment Resource
Page 4 of 8

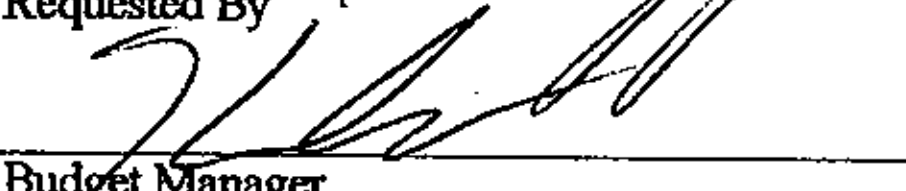
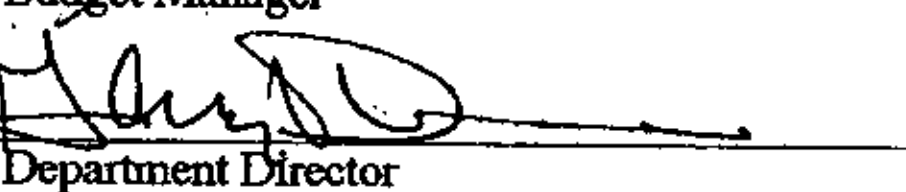
Budget Year 2005	Department: Operations Division: Fleet Operations Program: Capital Expenditures	Date Requested 12/1/2005	Adjustment Number
----------------------------	--	------------------------------------	-------------------

Project or Item Requested: \$78,692 is requested in the Fleet Operations Capital Expenses Account, Project# 02080.	Project or Item Deleted: Move \$78,692 from Fleet Revenue Account to Fleet Expense account for the purchase of one medium double drum vibratory roller.
---	--

Justification of this Increase: Expansion medium size roller has been approved for the Trails Program	Justification of this Decrease: Recognizing revenue of \$78,692 from Transportation for the purchase of one medium size double drum vibratory roller.
--	--

Increase Budget (Decrease Revenue)							
Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	78,692	02080	1

Decrease Budget (Increase Revenue)							
Account Name	Account Number				Amount	Project Number	
Trans from Cap Improv	9700	0970	6602	47	78,692	02080	1

Approval Signatures	
Requested By 	Date 12/2/05
Budget Manager 	Date 12-2-05
Department Director 	Date 12-2-05
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only	
Type: A B C <u>D</u> E	
Date of Approval	Initial Date
Posted to General Ledger	Initial Date
Posted to Project Accounting	Initial Date
Entered in Category Log	Initial Date



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A.4.
Equipment Resource
Page 5 of 8

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman Don Marr
Bobby Ferrell Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 22, 2005

SUBJECT: Award of Equipment Bid – Asphalt Roller - Medium

Bid #05-74 was opened on November 15, 2005 for one Double Drum Vibratory Asphalt Roller - Medium for use by Transportation Division. Five bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Clark Machinery Co. is deficient in the following areas:

	Specified	Bid
Engine horsepower	80	75
Water spray system – gallons	190	158
Sun canopy	Fiberglass	None
Maximum width greater than drum	6"	7"
Rotating multi position operator station	Yes	No

The second lowest bid from Equipment Resource Management meets all specifications.

I recommend acceptance of the lowest bid meeting specifications from Equipment Resource Management in the amount of \$78,692.00 and request approval to place this purchase on the agenda for the December 20, 2005 Council meeting.

This roller is an expansion unit for the recently approved trails program. Funds are available for this purchase in the trails program special project account. Necessary funds will be transferred to the Fleet expense fund for equipment purchase.

Cc:
Gary Dumas

APPROVED

11/30/05

2RB

FOR 2

AGAINST 1

ABSENT 1

BID: 05-74
DATE: 11/16/05
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Fayetteville
AR 72701

Bid 05-74, Double Drum Vibratory Asphalt Roller - Medium

BIDDER		Manufacturer	Model	Price Each	Total
1	Clark Machinery Co.	SAKAI	SW651	\$77,150.00	\$77,150.00
2	Hugg & Hall Equipment	INGERSOLL - RAND	DD70	\$82,395.00	\$82,395.00
3	Riggs	CATERPILLAR	CB434D	\$89,667.00	\$89,667.00
4	Equipment Resource Management	HAMM	HD-70 HV	\$78,692.00	\$78,692.00
5	H&E Equipment Services	DYNAPAC	CC222HF	\$88,353.00	\$88,353.00

CERTIFIED: P. Vice
P. VICE PURCH MGR
WITNESS: [Signature]
DATE: 11-16-05

City Of Fayetteville (Not a Purchase Order)				Requisition No.		Date: 12/2/2005	
Vendor # 12737 Vendor Name: Equipment Resource Management				P.O Number		Expected Delivery Date:	
				Mail Yes: No: XX_			
Address:				Taxable Yes: XX No: XX_			
				Fob Point:			
City:				Zip Code	Ship to code: 050	Division Head Approval Yes: No:	
Requester: BARBARA OLSEN <i>BO</i>				Requester's Employee # 1940		Extension: 495	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #
1	HAMM HD-70 HV Medium size	1	EA	\$78,692.00	\$78,692.00	9700.1920.5802.00	02080.1
2	double drum vibratory roller, to be		EA		\$0.00		
3	unit #810, Fixed asset #700810		EA		\$0.00		
4			EA		\$0.00		
5			EA		\$0.00		
6			EA		\$0.00		
7			EA		\$0.00		
8			EA		\$0.00		
9			EA		\$0.00		
10			EA		\$0.00		
			Lot		\$0.00		
Special Instructions:				Subtotal: 78,692.00		Inventory # Fixed Asset #	
				Tax: EXEMPT			
				Total: 78,692.00			
Approvals:							
Mayor: _____ Department Director: _____ Purchasing Manager: _____ Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____ Dispatch Manager: _____ Utilities Manager: _____							

**City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts**

20-Dec-05
City Council Meeting Date

<u>David Bragg</u>	<u>Fleet Operations</u>	<u>Operations</u>
Submitted By	Division	Department

Action Required:

A resolution approving the purchase of eight police patrol sedans from North Point Ford of North Little Rock through the State vehicle purchase contract in the amount of \$164,928.00 and execution of the required waiver to Ford Motor Company.

\$164,928.00 Cost of this request	\$ 576,670.00 Category/Project Budget	Police/Passenger Replcmt. Vehicles Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 408,111.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02081.1 Project Number	\$ 168,559.00 Remaining Balance	Shop Fund Fund Name

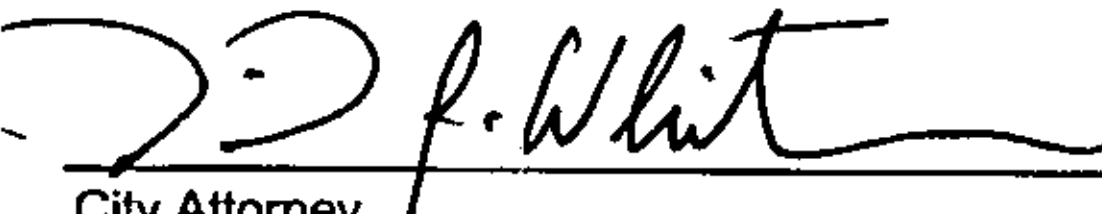
Budgeted Item ☒ Budget Adjustment Attached ☐

 12.2.05
Department Director Date

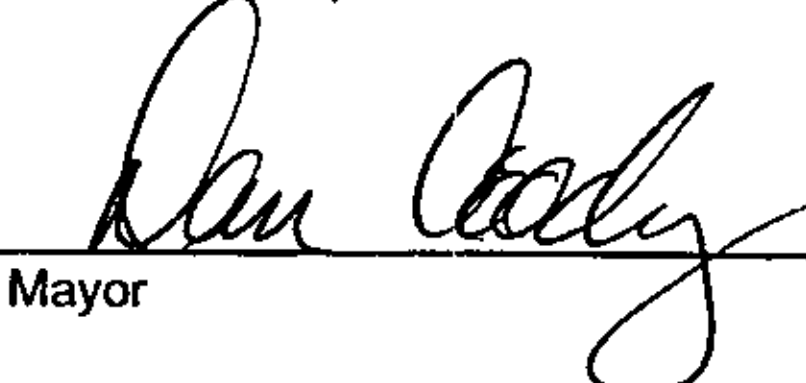
Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

 12/5/05
City Attorney Date

Received in City Clerk's Office ENTERED
12/02/05

 12/5/05
Mayor Date

Received in Mayor's Office ENTERED
12/5/05

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A.5.
North Point Ford
Page 2 of 8

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent *DB*
Date: December 1, 2005
Subject: Purchase of 8 Police Patrol sedans

RECOMMENDATION: That City Council approve the purchase of eight Police Patrol sedans from North Point Ford of North Little Rock at a cost of \$20,616.00 each; and that City Council execute the required waiver to Ford Motor Co. related to the Arkansas Attorney General's ongoing investigation.

BACKGROUND: Analysis of projected mileage data and wreck history dictates a need for eight replacement police patrol sedans between March and December 31, 2006. Orders must be placed no later than January, 2006 to insure production and delivery in the 2006 model year. The vehicles available through the State vehicle purchase contract from North Point Ford meet City of Fayetteville specifications.

Funds for the eight replacement units are available in Fleet Account 9700.1910.5802.00, Project #02081 – Police Passenger Vehicles.

The purchase of these units was approved by the Equipment Committee on November 30, 2005.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PURCHASE OF EIGHT (8) POLICE PATROL SEDANS FROM NORTH POINT FORD OF NORTH LITTLE ROCK AT A TOTAL COST OF \$164,928.00; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A WAIVER WITH THE FORD MOTOR COMPANY.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the purchase of Eight (8) police patrol sedans from North Point Ford of North Little Rock at a cost of \$164,928.00.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute a waiver with the Ford Motor Company, a copy of which, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman Don Marr
Bobby Ferrell Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 22, 2005

SUBJECT: Purchase of Ford Police Interceptors from State Contract

Analysis of projected mileage data and wreck history dictates a need for 8 replacement police patrol sedans between March and December 31, 2006. Orders must be placed no later than January, 2006 to insure production and delivery in the 2006 model year.

Vehicles meeting City of Fayetteville specifications are available through the State vehicle purchase contract from North Point Ford of North Little Rock at a cost of \$20,616.00.

I request approval of the Equipment Committee to place the purchase of eight (8) replacement police patrol sedans from North Point Ford of North Little Rock on the agenda for the December 20, 2005 Council meeting and to recommend execution of the required waiver to Ford Motor Co. related to the Arkansas Attorney General's ongoing investigation.

Funds for the 8 replacement units are available in 2005 Special Project Account 02081 – Police/Passenger Vehicles.

Cc:
Gary Dumas

APPROVED

11/30/05

[Signature]

City Of Fayetteville

(Not a Purchase Order)

Requisition No. _____ Date: **12/2/2005**
P.O Number _____ Expected Delivery Date: _____

Vendor # **6481** Vendor Name: **North Point Ford Inc.**

Address: _____ Fob Point: _____ Mail Yes: ☐ No: ☐ Taxable Yes: ☐ No: ☐

City: _____ State: _____ Zip Code **050** Ship to code: **2885** Division Head Approval Yes: ☐ No: ☐

Requester **BARBARA OLSEN** Requester's Employee # **1940** Extension: **495**

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2006 Ford Crown Interceptors,	8	EA	\$20,616.00	\$164,928.00	9700.1920.5802.00	02081.1		
2	white, per State vehicle purchase		EA		\$0.00				
3	contract. To be:		EA		\$0.00				
4	#1145, Fixed Asset #701145		EA		\$0.00				
5	1146, Fixed Asset #701146		EA		\$0.00				
6	1147, fixed asset #701147		EA		\$0.00				
7	1148, fixed asset #701148		EA		\$0.00				
8	1149, fixed asset #701149		EA		\$0.00				
9	1150, fixed asset #701150		EA		\$0.00				
10	1151, fixed asset #701151		EA		\$0.00				
	1152, fixed asset #701152		Lot		\$0.00				

Special Instructions:

Subtotal: **164,928.00**
Tax: **EXEMPT**

Total: **164,928.00**

Approvals:

Mayor: _____ Department Director: _____

Finance & Internal Services Director: _____ Budget Manager: _____

Dispatch Manager: _____ Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A.5.
North Point Ford
Page 7 of 8

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman Don Marr
Bobby Ferrell Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 22, 2005

SUBJECT: Purchase of Ford Police Interceptors from State Contract

Analysis of projected mileage data and wreck history dictates a need for 8 replacement police patrol sedans between March and December 31, 2006. Orders must be placed no later than January, 2006 to insure production and delivery in the 2006 model year.

Vehicles meeting City of Fayetteville specifications are available through the State vehicle purchase contract from North Point Ford of North Little Rock at a cost of \$20,616.00.

I request approval of the Equipment Committee to place the purchase of eight (8) replacement police patrol sedans from North Point Ford of North Little Rock on the agenda for the December 20, 2005 Council meeting and to recommend execution of the required waiver to Ford Motor Co. related to the Arkansas Attorney General's ongoing investigation.

Funds for the 8 replacement units are available in 2005 Special Project Account 02081 – Police/Passenger Vehicles.

Cc:
Gary Dumas

APPROVED

WITH WAIVER

11/30/05

3 FOR

1 ABSENT

David Bragg

GENERAL RELEASE AND WAIVER

For good and valuable consideration, the receipt of which is hereby acknowledged, the _____ on behalf of itself and on behalf of its past, present or future administrators ("the Releasing Parties"), hereby releases and forever waives from Ford Motor Company as well as any of Ford's past, present and future parent and subsidiary corporations, divisions, affiliates, partners, joint venturers, stockholders, predecessors, successors, assigns, officers, directors, employees, administrators, trustees and fiduciaries ("the Released Parties") all claims arising from Ford Motor Company's advertising or sale of the Crown Victoria Police Interceptors relating to the following systems (1) Heavy Duty Frame and Body Mounts; (2) Heavy Duty Suspension; (3) Heavy Duty Rear Springs; (4) Heavy Duty U-Joints; (5) Nitrogen Shock Absorbers; (6) Stabilizer Bars; (7) Heavy Duty Alternator; (8) Heavy Duty Steel Wheels; (9) Police Level Four Wheel Drive Disc Brakes; (10) Police Level Cooling Package; and (11) Upper ball joints.

The Releasing Parties expressly waive any right or claim of right to assert hereafter any claims, demand, obligation, and/or cause of action that it has, through ignorance, oversight, or error, been omitted from the terms of this Agreement related to the sale or advertising of the Crown Victoria Police Interceptors which are currently or in the future a part of the Civil Investigative Demand made by the Arkansas Attorney General's Office.

The Releasing Parties acknowledge that there is a risk that, subsequent to the execution of this Agreement, it or another Releasing Party may incur damage or loss that one or more of the Releasing Parties deems in some way attributable to the Released Parties' conduct relating to the sale or advertising of the above-described systems on the Crown Victoria Interceptors, but that is unknown or unanticipated at the time this Agreement is executed. The Releasing Parties acknowledges and assumes such risk that the advertising or sale damages presently known may become more progressive, greater or more serious that is now known, expected or anticipated.

Notwithstanding the above paragraphs, this release and waiver does not limit warranty coverage on the Crown Victoria Police Interceptors; does not waive any claims unrelated to those under investigation by the Arkansas Attorney General's investigation; does not waive any personal injury claim; and does not waive any claim of any sort on any vehicle purchased before the execution of this Agreement.

Print name and title of Authorized Signatory

Signature and title of Authorized Signatory

Date

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

12/20/2005
City Council Meeting Date

Stephen Davis
Submitted By

Finance & Internal Services Dir.
Division

Finance & Internal Services
Department

Action Required:

To join the County and the City of Springdale in establishing an Emergency Operations Center in Washington County and approval of a budget adjustment in the amount of \$30,000.

\$ 30,000.00 Cost of this request	\$ 945,412.00 Category / Project Budget	Transfers/Outside Agencies Program Category / Project Name
1010.6600.5738.00 Account Number	\$ 945,412.00 Funds Used to Date	Miscellaneous Program / Project Category Name
Project Number	\$ - Remaining Balance	General Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☒

Alfred Davis
Department Director

12-2-05
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

D. J. White
City Attorney

12/5/05
Date

Received in City Clerk's Office
12/2/05

Stephen Davis
Finance and Internal Service Director

12-2-05
Date

Received in Mayor's Office
12/5/05

Don Coady
Mayor

12/5/05
Date

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

A.6.
Emergency Operations Center
Page 2 of 6

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor

FROM: Stephen Davis, FIS Director 

DATE: December 2, 2005

SUBJECT: County-wide Emergency Operations Center

Recommendation

Staff requests City Council approve a cost-share with Washington County and approve a budget adjustment for Fayetteville to participate with Washington County and Springdale in establishing a county-wide emergency operations center.

Discussion

Both Fayetteville and Washington County have dealt with emergencies over the past two years that have highlighted the need for more emergency preparedness. The 2004 flood and the region's response to the 2005 hurricane events demonstrated the need to better prepare for natural disasters.

Budget Impact

Funding for this request is from General Fund reserves.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING PAYMENT NOT TO EXCEED \$30,000.00 TO WASHINGTON COUNTY AS THE CITY OF FAYETTEVILLE'S SHARE OF THE COST OF ESTABLISHING AN EMERGENCY OPERATIONS CENTER IN WASHINGTON COUNTY; AND APPROVING A BUDGET ADJUSTMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes payment not to exceed \$30,000.00 to Washington County as the City of Fayetteville's share of the cost of establishing an Emergency Operations Center in Washington County.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$30,000.00.

PASSED and APPROVED this 20th day of December, 2005

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT



JERRY HUNTON
County Judge

280 North College, Suite 210
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

November 21, 2003

NOV 23 2005

CLERK'S OFFICE

Dan Coody, Mayor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Jerre Van Hoose, Mayor
City of Springdale
201 North Spring Street
Springdale, AR 72764

Dear Mayors:

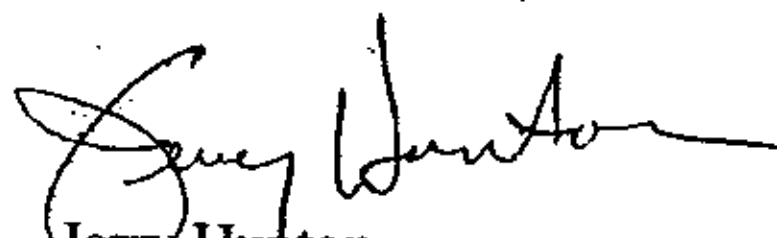
You may recall that at last month's Intergovernmental Council meeting, we discussed an Emergency Operations Center in Washington County. Recent events with the hurricanes in the gulf and the concerns with an outbreak of Avian Flu have made all of us more aware of the need for a secure place for all city and county officials to gather in time of emergency.

We are now going forward with remodeling and equipping the Center. The Center will be located in the former Juvenile Detention Center on Mill Street in Fayetteville. The layout and security features of the building makes it better suited for an EOC than the location also being considered in the Sheriff's Department annex on Clydesdale Drive. The remodeling costs will be somewhat less at this location, providing more funds for hardware, software, and other equipment needed for the operation of the Center.

This Center may be used for emergency operations in time of disaster, but can also be used as a training center for emergency management training sessions. The Center will be open to both Springdale and Fayetteville officials to use in time of emergency in their respective cities. Washington County has committed \$60,000 to this effort. We are asking the Cities of Fayetteville and Springdale for a \$30,000 commitment from each city to help fund this project.

Thank you for your consideration and cooperation in making this much-needed project a reality. This is another example of the major cities working with the County to help make it a better place to live for all of our citizens.

Sincerely,


Jerry Hunton
County Judge

JH:va

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A.6.
Emergency Operations Center
Page 5 of 6

Budget Year 2005	Department: General Government Division: Miscellaneous Program: Miscellaneous	Date Requested 12/20/2005	Adjustment Number
-------------------------	---	----------------------------------	-------------------

Project or Item Requested:
\$30,000 in the Transfer to Washington County account.

Project or Item Deleted:
Use of fund balance is proposed.

Justification of this Increase:
To established an Emergency Operations Center in Washington County.

Justification of this Decrease:
Sufficient funding remains to comply with City policies.

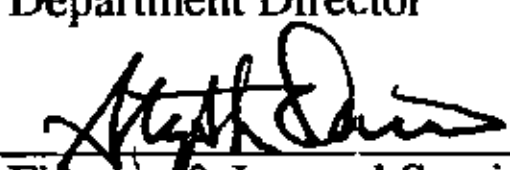
Increase Budget (Decrease Revenue)

Account Name	Account Number	Amount	Project Number
Transf to Washington Co	1010 6600 5732 00	30,000	

Decrease Budget (Increase Revenue)

Account Name	Account Number	Amount	Project Number
Use of fund balance	1010 0001 4999 99	30,000	

Approval Signatures

Requested By	Date
Budget Manager	Date
Department Director	Date
 Finance & Internal Services Director	12-2-05 Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval

Initial Date

Posted to General Ledger

Initial Date

Posted to Project Accounting

Initial Date

Entered in Category Log

Initial Date

City Council Meeting Date

Department

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor

FROM: Stephen Davis, Finance & Internal Services Director 

DATE: November 29, 2005

Subject: **Financial Advisor Services – Wastewater System Improvements Project**

Recommendation

Staff recommends approval of a contract amendment with Stephens Inc in the amount of \$20,000.00 for continued financial advisory services in conjunction with the wastewater system improvement project.

Background

The City determined that fee-based financial advisory expertise was necessary to develop the most cost effective financing plan for the WSIP. In May 2000 City staff developed an RFP requesting proposals from qualified firms for financial advisory services in RFP 2000-12. The City advertised as prescribed by Arkansas code and direct solicited RFP's from several financial advisory firms nationwide. Stephens Inc submittal was accepted by the selection committee and City Council awarded the initial contract in August 2000.

Discussion

The original contract with Stephens Inc was for a not-to-exceed amount of \$22,500. This authorization has essentially been utilized and Staff is requesting an additional \$20,000.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE FINANCIAL ADVISORY SERVICES AGREEMENT WITH STEPHENS, INC., IN AN AMOUNT NOT TO EXCEED \$20,000.00 TO ASSIST WITH THE FINANCING OF THE WASTEWATER SYSTEM IMPROVEMENTS PROJECT.

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 an amendment to the Financial Advisory Services Agreement with Stephens, Inc., in an amount not to exceed \$20,000.00 to assist with the financing of the Wastewater System Improvements Project (WSIP). A copy of the amendment marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

Stephens Inc.

November 29, 2005

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

Re: Amendment to Agreement for Financial Advisory Services

Dear Mayor Coody:

This letter is to serve as an amendment to our Financial Advisory Services Agreement dated November 11, 2005 between the City of Fayetteville, Arkansas ("the City") and Stephens Inc. ("Stephens") ("the Agreement") pursuant to which Stephens will serve as Financial Advisor to the City to assist with the financing of the City's Wastewater Treatment Plant Expansion Project.

"Section 3. Compensation" of the Agreement shall be amended to add the following language:

Total compensation to Stephens for services under this Agreement shall be limited to \$20,000 unless otherwise approved by the City.

If the above amendment accurately amends our Agreement for these services, please sign below and return one copy.

Sincerely,



Dennis Hunt
Senior Vice President

Agreed and Accepted on _____, 2005

City of Fayetteville, Arkansas

By: _____

cc: Steve Davis

Stephens Inc.

November 29, 2005

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

Re: Amendment to Agreement for Financial Advisory Services

Dear Mayor Coody:

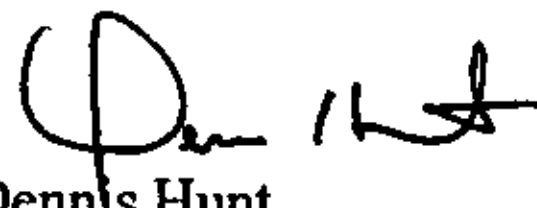
This letter is to serve as an amendment to our Financial Advisory Services Agreement dated November 11, 2005 between the City of Fayetteville, Arkansas ("the City") and Stephens Inc. ("Stephens") ("the Agreement") pursuant to which Stephens will serve as Financial Advisor to the City to assist with the financing of the City's Wastewater Treatment Plant Expansion Project.

"Section 3. Compensation" of the Agreement shall be amended to add the following language:

Total compensation to Stephens for services under this Agreement shall be limited to \$20,000 unless otherwise approved by the City.

If the above amendment accurately amends our Agreement for these services, please sign below and return one copy.

Sincerely,



Dennis Hunt
Senior Vice President

Agreed and Accepted on _____, 2005

City of Fayetteville, Arkansas

By: _____

cc: Steve Davis

RESOLUTION NO. 104-00

MICROFILMED

A RESOLUTION APPROVING A LETTER AGREEMENT IN AN AMOUNT NOT TO EXCEED \$22,500, WITH STEPHENS, INC. TO PROVIDE FINANCIAL ADVISORY SERVICES ON THE WASTEWATER TREATMENT PLANT EXPANSION PROJECT AT A RATE OF \$225/PER HOUR (RESTRICTIVE TO CERTAIN IDENTIFIED INDIVIDUALS); AND APPROVAL OF A BUDGET ADJUSTMENT.

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

Section 1. That the City Council hereby approves a letter agreement in an amount not to exceed \$22,500, with Stephens, Inc. to provide financial advisory services on the wastewater treatment plant expansion project at a rate of \$225/per hour (restrictive to certain identified individuals); and authorizes the Mayor and City Clerk to execute said agreement. A copy of the letter agreement is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. The City Council here approves a budget adjustment in the amount of \$22,500 increasing Professional Services, Acct. No. 5400 5700 5314 00, Project No. 98047 40 by decreasing Waterline Improvements, Acct. No. 5400 5600 5808 00, Project No. 99084 1. A copy of the budget adjustment is attached hereto marked Exhibit "B" and made a part hereof.

PASSED AND APPROVED this 1st day of August, 2000.



APPROVED:

By: *Fred Hanna*
Fred Hanna, Mayor

ATTEST

By: *Heather Woodruff*
Heather Woodruff, City Clerk



Stephens Inc.

Dennis R. Hunt
Senior Vice President and Manager

July 5, 2000

Mr. John Maguire
Administrative Services Director
City of Fayetteville
113 W Mountain
Fayetteville, AR 72701

RE: Agreement for Financial Advisory Services

Dear Mr. Maguire:

This letter is to serve as an engagement agreement between the City of Fayetteville, Arkansas ("the City") and Stephens Inc ("Stephens") pursuant to which Stephens will serve as Financial Advisor to the City to assist with the financing of the City's Wastewater Treatment Plant Expansion Project (WWTP). Our firm was selected to act in such capacity as a result of its response to the City's Request for Proposals dated May 23, 2000 ("RFP 2000-12"). Based on the City's RFP and information in our proposal, we have agreed as follows:

1. Services to be provided. Subject to the direction of the City, Stephens will provide advisory services as presented below:

Development of a Plan of Finance

- a) Stephens will assist in developing a financing plan and recommend financing alternatives designed to assure that the City's goals and objectives are met.
- b) In the course of this preliminary work, Stephens will analyze the City's capacity to support the proposed debt and make recommendations regarding the financing structure, which will insure that the City has available sufficient funds for annual debt service payments and operational flexibility.
- c) Stephens' professionals will attend public meetings to present information regarding the recommended Plan of Finance.

Management of the Financing

- a) As the City's Financial Advisor, Stephens will manage all aspects of the financing.
- b) Stephens will assist the City in the selection of other members of the project team including underwriters, attorneys, trustees and other parties as required.

Investment Bankers
www.stephens.com

2592 North Gregg Avenue • Suite 1 • Fayetteville, Arkansas 72073 • 501-718-7400 • Fax 501-718-7490
800-205-8613 • dhunt@stephens.com

- c) Stephens will develop a financing timetable that assigns specific responsibilities to the project team. The timetable will be monitored throughout the financing process and amended as required.
- d) Stephens will be responsible for coordinating the work of all members of the financing team including the City's staff and officials, state agencies, bond counsel, underwriters, engineers, accountants, printers, rating agencies and credit enhancement providers.
- e) Should the City seek ratings and/ or credit enhancement, Stephens will coordinate preparation and presentation of information to the rating agencies and credit enhancement providers.
- f) Stephens will work with attorneys in drafting documents that provide the City with maximum operational flexibility and insure the integrity of the transaction.

Support of City Officials and Staff

- a) Stephens' professionals will provide information for public briefings and attend meetings as requested by the City.
- b) Stephens' professionals will keep the financing on schedule in order to meet all public commitments.

Implementation of Financing Plan

- a) Stephens will advise the City on proper timing of the sale of the securities in order to take advantage of maximum investor demand and windows of opportunity in the marketplace.
 - b) Stephens will advise the City on pricing of the issue to provide for lowest possible debt service costs.
 - c) Stephens will manage the closing of the financing and the delivery of funds to the City.
 - d) Stephens will advise the City on interim investment of financing proceeds.
 - e) Stephens will be available following the closing of each financing to work with the City should any issues arise.
2. Compensation. As compensation for our services, Stephens shall receive \$225.00 per hour for services rendered by professionals employed by Stephens, identified as Dennis Hunt, Mark McBryde and Ron Pyle, plus out-of-pocket expenses incurred in connection with the provision of such services by Stephens. Out-of-pocket expenses shall be limited to out of the city travel and priority mail costs. Each out of pocket expense shall be subject to approval by the City.

Stephens will invoice the City for its services on a monthly basis or at other such intervals acceptable to the City, and invoices will be due and payable within 30 days of receipt by the City. Each invoice will present a description in reasonable detail of the services performed, including dates and professionals providing such services, and of the expenses incurred.

July 21, 2000

3. Term. This contract shall remain in effect until the earlier of the completion of the WWTP financing or up to three years from the date of this agreement with an option for renewal by the City for an additional two years. In the event that current plans to finance the WWTP principally through ADEQ are not feasible, the City and Stephens may mutually cancel this agreement which would permit Stephens to compete in the sale of bonds or other financing by the City.

If the foregoing accurately describes our agreement for this financing, please sign and return one copy as indicated below.

Sincerely,

Dennis Hunt

Dennis Hunt
Senior Vice President

by WW

Agreed and Accepted on _____, 2000.

City of Fayetteville, Arkansas

By: _____

DH/whw

Financial Advisor Services

List of Firms Proposals were Sent Out To:

Stephens Inc.
Attn: Dennis Hunt
2592 N Greg, Suite 1
Fayetteville, AR 72703

Wachovia Securities Inc.
Attn: Andy Bethell
#1 East Center, Suite 302
Fayetteville, AR 72701
abethell_ijl@msn.com

American Governmental Financial Services Co.
rdoty@agfs.com Robert Doty-President

Henderson Capital Partners, Inc.
hcp@hendersoncapital.com On line form filled out and sent to them.

Sage Advisory Services
%rgsmith@sageadvisory.com Robert Smith, III- President

MAI- Financial Advisory Services
munadv@pinn.net On line form filled out and sent to them.

The Financial Legacy Group
www.networthadvisors.com/hdvisor.htm On line form filled out and sent to them.

PFA.Inc.
Faxed to Phil Bennett- President

Koch, Inc.
Brad Heyka- heykab@kochind.com

Bank of Oklahoma
Paul Iwanaga
BOK Tower-8N
1 Williams Center
Tulsa, OK 74103
piwanaga@BOKF.com

CITY OF FAYETTEVILLE, ARKANSAS
Request for Proposals For Financial Advisor Services
May 23, 2000
Request for Proposal Number RFP2000 - 12

SECTION I. BACKGROUND AND SUMMARY OF WORK:

Notice is hereby given that the City of Fayetteville is seeking requests for proposals from persons/firms desiring to be considered to perform financial advisory services necessary to evaluate funding options for the Wastewater Treatment Plant Expansion (WWTP) project. The WWTP project is estimated to cost at least \$60 million.

The City may retain a single individual or firm as financial advisor who will be responsible for delivering the above services, whether performed by that individual or firm or by others working in the employ of that firm.

SECTION II. GENERAL REQUIREMENTS FOR PROPOSING

1. Notice to Those Submitting: Information provided in these specifications is to be used only for purposes stated. It is further expected that each proposer will read these specifications with care.

The City of Fayetteville (hereinafter referred to as the "City") believes that the data contained in these specifications are sufficient for preparation of proposals. The information is believed to be accurate and is based on the latest available information but is not to be considered in any way as a warranty. Therefore, the proposer, in submitting a proposal, assumes the risk of any inaccuracies in the information provided herein which might result from failure to provide any other information which might have been available.

Each proposer shall provide the name and telephone number of the appropriate contact person for the firm.

2. Submission of Proposals and Questions: If your firm is interested in submitting a proposal to provide Financial Advisor Services, please return your written proposal to the address below by the date and time set forth.

City of Fayetteville
Purchasing Division
Peggy Vice, Purchasing Manager
113 West Mountain Street
Fayetteville, AR 72701

Ten (10) copies of each proposal must be received by the Purchasing Division at Room 306, 113 West Mountain Street, Fayetteville, Arkansas, by 4:00 p.m. on June 19, 2000.

All proposals will become the property of the City. All proposals shall remain firm and subject to acceptance for 90 days after receiving.

The proposal submission should be clearly labeled RFP 2000-__ on the outside of the envelope.

3. Proposals Not Considered: All proposals received after the time specified shall not be considered. Where proposals are mailed, the proposer assumes all risk for nondelivery by the U.S. Post Office to the designated office by the deadline established. Only those proposals considered responsive to the Request for Proposal (RFP) will be eligible for consideration in the selection process.
4. Rejection of Proposal: The City reserves the right to reject any and all proposals received in response to this RFP if determined to be in the best interest of the City.

The City may not award a contract solely on the basis of this RFP and does not intend to pay for information solicited or obtained. The information obtained will be used to determine suitability of the proposal.

Nonacceptance of any proposal does not convey criticism nor imply deficiency of that proposal. Nonacceptance of any proposal will mean that another proposal was deemed more advantageous to the City.

5. Amendments: The City may require changes in the Scope of Services to be performed hereunder. Such changes which are mutually agreed upon by and between the City and the firm, shall be incorporated by an amendment to the contract.
6. Insurance: Please provide as part of your response to the Request for Proposal, evidence of insurance showing type and amount of coverage for workers compensation, general liability, completed operations, professional liability, and errors and omissions insurance.
7. Independence: The firm should provide certification that it is independent of the City of Fayetteville, the City's elected officials, and the City's employees as part of the proposal.
8. Applicable Laws and Venue: The contract shall be made subject to all applicable Federal and Arkansas State Laws, the Charter and Ordinances of the City of Fayetteville as amended, and all applicable rules and regulations promulgated by all local, state, and national boards, bureaus, and agencies. The contract shall be enforceable in Fayetteville, Arkansas and if any legal action is necessary by either party with respect to the enforcement of any or all terms and conditions herein, exclusive venue for same shall lie in Fayetteville, Arkansas. The contract shall be governed and construed in accordance with the laws and court decisions of the State of Arkansas.

SECTION III. SCOPE OF SERVICE:

The following is a general list of services to be provided by the selected financial advisor. It is not intended to be all inclusive.

- The Financial Advisor shall assist the City and Counsel in developing a financial plan for the WWTP project.

- The City may request the Financial Advisor to appear and/or assist the City by appearing before or responding to any oversight body, financial rating agency or other interested body. The Financial Advisor may be requested to explain the Financial Plan and any other work products and the assumptions and projections used in their development. The Financial Advisor shall document the development of the work products so that an objective third party can verify that appropriate care was exercised in their development.
- At the direction of the City, the Financial Advisor will assist and participate in the preparation of all documents and may serve as a clearinghouse for any credit facility or loan documents. The extent of involvement in document preparation will be dependent on the nature and form of the borrowing used by the City to finance the WWTP project.
- If the City elects to issue the bonds by sealed bid, the Financial Advisor will assist the City in the actual structuring of the issue and other tasks necessary to issue the bonds.
- If the City elects to issue any bonds or other creditor documents, including and not limited to; notes, mortgages or commercial paper, by negotiated sale, the Financial Advisor will advise the City with respect to the terms proposed for the offering. The Financial Advisor may be requested to review the work of the underwriter selected by the City and to advise the City as necessary or as requested.
- The Financial Advisor may be requested to coordinate all closing events including signature details, pre-closing and closing formalities, the wire transfer proceeds, the necessary communication with City Officials, and the review of closing documents.
- The Financial Advisor shall not participate or be affiliated with any underwriter for the bonds or other lending institution or any purchaser of the bonds by competitive bid.

SECTION IV. SELECTION PROCEDURES AND CRITERIA

Proposals will be reviewed by a committee that may consist of representatives of citizens, City Council, and City staff which will make a recommendation for selection to the City Council. Selection will be made pursuant to the City's professional selection policy with relevant factors as follows:

- | | |
|---|-----|
| (1) Qualifications in relation to the specific project to be performed: | 25% |
| (2) Experience, competence, and capacity for performance: | 20% |
| (3) Proposed method of doing work: | 10% |
| (4) Past record of performance: | 25% |
| (5) Price: | 20% |

ANTIDISCRIMINATION POLICY

The City is an Equal Opportunity Employer. It is the policy of this City that there be no discrimination against any person or entity on the basis of race, color, national origin, religion, gender, age, disability, or sexual orientation.

SECTION V. SPECIFIC REQUIREMENTS FOR PROPOSAL

Proposals will not be considered unless the following basic and qualifying conditions are met in full and are set out explicitly in the proposal as being processed by and having been previously performed by the consultant or consulting firm.

1. Summary Statement: The City requests proposals for Financial Advisory Services.

Any questions and correspondence may be directed in writing to Stephen Davis, Budget Manager, at 113 West Mountain Street, Fayetteville, Arkansas 72701, by fax at (501) 575-8273, by e-mail at sdavis@ci.fayetteville.ar.us or by telephone by calling (501) 575-8296.

2. Firm Requirements and Guarantees:

The Firm shall submit a schedule of fees for services rendered that will set forth the fees to be charged for each hour of service performed. The fee schedule should address any staff member of the successful firm that may be used in performing the task outlined in this RFP and as set forth in Appendix A.

The Firm shall submit the details of and cost of any "extra services" or "add-on services" not included in your basic price.

3. Qualifications:

Respondents to this request will provide the following information concerning their qualifications.

- Respondents shall acknowledge an understanding of the intent of the required work and illustrate why the firm or talent should be enlisted for the Bond Program.
- If your firm has experienced any significant financial problems or other problems that could negatively affect its ability to carry out its duties and responsibilities to the City, please specifically identify the problem(s) and discuss why each problem(s) should not affect your selection.
- Are there pending charges, investigations or litigation by or involving the United States Securities and Exchange Commission or other regulatory body or court (local, state, or federal) regarding the conduct of your firm or its management? If so, please provide a list and brief explanation.

- Qualifications of anticipated staffing will be a significant consideration in the selection process. Provide the names of the principals of the firm including the partners, junior partners, president, vice presents, and other significant personnel along with a detailed statement of the qualifications of the firm and of each individual who will be assigned to carry out charges of the resulting contract. In the event staff members are unable to fulfill the term of the contract, substitutions of equal skill levels will be entertained subject to approval by the City.
- Describe how the firm is organized. Provide the scope of services the firm offers in the municipal bonding field and the years of continuous experience to indicate the firm's qualifications in a given category. List any prior experience capabilities that distinguish the firm from competitors.
- Provide a representative list of clients (minimum of 6) served by you in the municipal bond market for a period not to exceed the last five (5) years and indicate those that are currently under contract. Indicate if the issues were sealed bids, negotiated placements or a combination thereof. Include the names and telephone numbers of appropriate individuals in the client firms so the City may contact them as references, if necessary. Specify for each client listed: (1) underwriter used; (2) bond council used; and (3) the role of your firm i.e. financial advisor only or financial advisor and underwriter.
- Provide the number and amounts of any wastewater treatment plant and collection system or water and/or sewer financing programs handled as a financial advisor.
- Provide a copy of no more than two (2) recent Official Statements in which the firm served as financial advisor and which are closely related to the City's proposed financings.
- Provide a copy of your firm's policy prohibiting discrimination against individuals or entities based on race, color, national origin, religion, gender, age, disability or sexual orientation.

APPENDIX A

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES
For Financial Advisor Services

	Hourly Rates
Executive/Partners:	\$ _____
Managers:	\$ _____
Supervisory:	\$ _____
Staff:	\$ _____
Other (specify): _____	\$ _____
Out-of-pocket expenses	
Transportation:	\$ _____
Other (specify): _____	\$ _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

A.8.
Hansen Software
Page 1 of 6

①

12/20/2005

City Council Meeting Date

S. Huddleston

Submitted By

Information Technology

Division

Finance and Internal Services

Department

Action Required:

Approve payment for 2006 Hansen Software Maintenance Fees.

\$ 57,987.04

Cost of this request

\$ 214,690.00

Category / Project Budget

Maintenance

Program Category / Project Name

1010-1710-5416.00

Account Number

\$

Funds Used to Date

Program / Project Category Name

\$ 214,690.00

Remaining Balance

General

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution # 10-05

Original Contract Date:

1/15/2002

City Attorney

Date

Original Contract Number:

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED
12/2/05
RA

Mayor

Date

Received in Mayor's Office

ENTERED
12/2/05
RA

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

A.8.
Hansen Software
Page 2 of 6

December 13, 2005 Agenda Session

December 1, 2005

TO: Mayor Coody

THRU: Steve Davis, Finance and Internal Services Director 

FROM: Scott Huddleston, Information Technology Manager 

SUBJECT: AGENDA ITEMS TO APPROVE PURCHASE REQUESTS TO HANSEN
INFORMATION TECHNOLOGIES 2006 SERVICE AND MAINTENANCE FEES.

Recommendations:

Staff recommends approval of purchase requests to Hansen Information Technologies 2006 Service and Maintenance Fees.

Discussion:

Service and Maintenance fees are necessary to keep software current. These fees allow the City to receive updates and enhancements to the software as they become available. In addition, Service and Maintenance fees provide technical phone support and problem troubleshooting and resolution. The software products that we have purchased from Hansen are essential to the City's day to day operations and it is important that we keep these assets current.

Background:

January 15, 2002, City Council approved a resolution (7-02) contracting with Hansen Information Technologies for purchase of software, and professional services for installation and training. Installation began in March of 2002, and the first module went live in April of 2002. Installation of all modules was completed by year end 2002. The Hansen software provides modules and applications utilized by the City for many daily operations. Hansen applications include Building Permits and Inspections, Code Enforcement, Planning, Customer Service, Asset Management, Work Orders, and Citizen Requests for Service processed from the web.

To date, the Hansen system has been used to process almost 30,000 Customer Service Requests, approximately 3,200 Code Enforcement Cases, approximately 19,700 Building Applications, and over 77,100 Inspections. In addition, over 47,900 city maintained assets have been entered into the system. Work orders associated with assets total approximately 5,000 with total allocated work order costs of over 3.1 million dollars. Total paid Fees generated through Hansen applications equals over 7.2 million dollars.

RESOLUTION NO. _____

A RESOLUTION TO AUTHORIZE PAYMENT OF \$57,987.04 TO
HANSEN FOR 2006 SOFTWARE MAINTENANCE FEES

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
authorizes the purchase of and the payment for the 2006 Software Maintenance Fees of
Hansen, Inc. in the amount of \$57,987.04.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

HANSEN®

People. Government. Solutions.

A.8.
Hansen Software
Page 4 of 6

FAYETTEVILLE, CITY OF
SCOTT HUDDLESTON
113 WEST MOUNTAIN STREET
FAYETTEVILLE AR 72701

Invoice	SMAR101327
Date	10/28/2005
Page	1

Customer Number		Purchase Order No	Payment Terms
FAYETTEVILLE,AR		PLEASE ISSUE PO/CK	Net 00
Item	Description		
SMA-CS-LAND	Service and Maintenance for Land Products V7.x Land Management: Customer Service (9), Building (25), Code Enforcement (9), and Licensing (5)		\$11,233.00
SMA-CS-ASSETS	Service and Maintenance for Asset Products V7.x Assets: Customer Service (13), Bldg (1), Complex (3), Park (3), Plant (12), Sewer (3), Storm (4), Street (4), Water (6), Pvmnt, Adv. Asset Insp., VRM, and Tab Editor		\$37,923.00
SMA-CS-DYP	Service and Maintenance for Dynamic Portal Dynamic Portal for Customer Service		\$1,898.00
SMA-CS-GIS	Service and Maintenance for GIS Products V7.x GIS (7): GeoAdministrator (1) w/IMV (5) and GeoAssistant (1)		\$3,580.00
SMA-CS	Service and Maintenance Fees Each line item above contains an incremental increase based on a Consumer Price Index of 2% (\$1,036)		\$0.00
Due on or before 1/1/06 for Cov Term: 1/1/06 - 12/31/06. A reinstatement fee of \$2,500 will be due if pymt is rec'd after 2/15/06. Please direct questions to Diane at ext. 3002. Thank you!		Subtotal	\$54,634.00
		Tax	\$0.00
		Total	\$54,634.00

AUCKLAND • LONDON • MELBOURNE • SACRAMENTO • SYDNEY • TORONTO

Corporate Headquarters: 11092 Sun Center Drive • Rancho Cordova, CA, USA 95670-6109
Phone: 800.821.9316 • 916.921.0883 • Fax: 916.921.6620 • www.hansen.com

HANSEN®

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FAYETTEVILLE, CITY OF
SCOTT HUDDLESTON
113 WEST MOUNTAIN STREET
FAYETTEVILLE AR 72701

Invoice	SMAR101327
Date	10/28/2005
Page	1

Customer Number		Purchase Order No.	Payment Terms
FAYETTEVILLE, AR		PLEASE ISSUE PO/CK	Net 00
Item	Description		
SMA-CS-LAND	Service and Maintenance for Land Products V7.x Land Management: Customer Service (9), Building (25), Code Enforcement (9), and Licensing (5)	\$11,233.00	
SMA-CS-ASSETS	Service and Maintenance for Asset Products V7.x Assets: Customer Service (13), Bldg (1), Complex (3), Park (3), Plant (12), Sewer (3), Storm (4), Street (4), Water (6), Pvmnt, Adv. Asset Insp., VRM, and Tab Editor	\$37,923.00	
SMA-CS-DYP	Service and Maintenance for Dynamic Portal Dynamic Portal for Customer Service	\$1,898.00	
SMA-CS-GIS	Service and Maintenance for GIS Products V7.x GIS (7): GeoAdministrator (1) w/IMV (5) and GeoAssistant (1)	\$3,580.00	
SMA-CS	Service and Maintenance Fees Each line item above contains an incremental increase based on a Consumer Price Index of 2% (\$1,036)	\$0.00	
Due on or before 1/1/06 for Cov Term: 1/1/06 - 12/31/06. A reinstatement fee of \$2,500 will be due if pymt is rec'd after 2/15/06. Please direct questions to Diane at ext. 3002. Thank you!		Subtotal	\$54,634.00
		Tax	\$0.00
		Total	\$54,634.00

AUCKLAND • LONDON • MELBOURNE • SACRAMENTO • SYDNEY • TORONTO

Corporate Headquarters: 11092 Sun Center Drive • Rancho Cordova, CA, USA 95670-6109
Phone: 800.821.9316 • 916.921.0883 • Fax: 916.921.6620 • www.hansen.com

City Of Fayetteville

(Not a Purchase Order)

Vendor #:		11273		Vendor Name:		Hansen Information Technologies		Requisition No.:		Date:		11/30/2005	
Address:		1745 Markstron Road		City:		Sacramento		P.O Number:		Expected Delivery Date:			
State:		CA		Fob Point:				Mail Yes: ☐		No: ☒			
Zip Code:		95825		Ship to code:		030		Taxable Yes: ☐		No: ☐		Quotes Attached Yes: ☐	
Requester:		Scott Huddleston		Requester's Employee #:		331		Division Head Approval:		No: ☐			
Extension:		320		Project/Subproject #				Inventory #		Fixed Asset #			
Item Description		Quantity		Unit of Issue		Unit Cost		Extended Cost		Account Numbers			
1 Annual Maintenance Fees		1		EA		\$54,634.00		\$54,634.00		1010-1710-5416.00			
2								\$0.00					
3								\$0.00					
4								\$0.00					
5								\$0.00					
6								\$0.00					
7								\$0.00					
8								\$0.00					
9								\$0.00					
10								\$0.00					
Shipping/Handling				Lot				\$0.00					
Special Instructions:													
Subtotal: \$54,634.00 Tax: \$3,353.04 Total: \$57,987.04													

Approvals:

Mayor:

Department Director:

Purchasing Manager:

Finance & Internal Services Director:

Budget Manager:

IT Manager:

Dispatch Manager:

Utilities Manager:

Other:

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

12/20/2005
City Council Meeting Date

S. Huddleston
Submitted By

Information Technology
Division

Finance and Internal Services
Department

Action Required:

Approve three year maintenance contract and payment of 2006 New World Systems, Inc Software Maintenance fees.

\$ <u>64,762.30</u> 84,762.40 Cost of this request	\$ <u>214,690.00</u> Category / Project Budget	<u>Maintenance</u> Program Category / Project Name
<u>1010-1710-5416.00</u> Account Number	\$ <u>89,060.43</u> Funds Used to Date	<u>Program / Project Category Name</u>
<u>Project Number</u>	\$ <u>125,629.57</u> Remaining Balance	<u>General</u> Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

<u>Steph Davis</u> Department Director	<u>12-2-05</u> Date	Previous Ordinance or Resolution # <u>12-03</u>
<u>K. Miller</u> City Attorney	<u>12-2-05</u> Date	Original Contract Date: <u>7/2/1991</u>
<u>Steph Davis</u> Finance and Internal Service Director	<u>12-2-05</u> Date	Original Contract Number: _____
<u>Don Hardy</u> Mayor	<u>12/6/05</u> Date	Received in City Clerk's Office 
		Received in Mayor's Office 

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

December 13, 2005 Agenda Session

December 1, 2005

TO: Mayor Coody

THRU: Steve Davis, Finance and Internal Services Director 

FROM: Scott Huddleston, Information Technology Manager 

SUBJECT: AGENDA ITEM TO APPROVE 3-YEAR STANDARD SOFTWARE
MAINTENANCE AGREEMENT CONTRACT WITH NEW WORLD SYSTEMS,
INC. FOR 2006-2008 SERVICE AND MAINTENANCE FEES.

Recommendations:

Staff recommends approval of 3-Year Standard Software Maintenance Agreement Contract with New World Systems, Inc.

Discussion:

Service and Maintenance fees are necessary to keep software current. These fees allow the City to receive updates and enhancements to the software as they become available. In addition, Service and Maintenance fees provide technical phone support and problem troubleshooting and resolution. The software products that we have purchased from New World are essential to the City's day to day operations and it is important that we keep these assets current.

Background:

The City purchased and implemented New World Systems, Inc. software in 1992. The City currently maintains and utilizes New World applications with unlimited user counts that include 15 different modules of Financial Management software, 4 modules of Human Resources software, 3 modules of Utility Billing software, 1 module of licensing software, and 2 modules of NettoGov internet interfacing software.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A THREE YEAR SOFTWARE
MAINTENANCE CONTRACT WITH NEW WORLD SYSTEMS,
INC. IN A AMOUNT OF \$64,777.40 FOR 2006.

**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 a three year Software Maintenance Contract with New World Systems, Inc.
(attached as Exhibit A) with the 2006 costs to be ~~\$64,777.40~~ 64,762.30

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

NEW WORLD SYSTEMS CORPORATION
STANDARD SOFTWARE MAINTENANCE AGREEMENT

This Standard Software Maintenance Agreement (SSMA) between New World Systems Corporation (New World) and City of Fayetteville, Arkansas (Customer) sets forth the standard software maintenance support services provided by New World.

1. Service Period

This SSMA shall remain in effect for a period of three (3) years from (start date) 01/01/06 to (end date) 12/31/08.

2. Services Included

The following services or features are available under this SSMA:

- (a) Upgrades, including new releases, to the Licensed Standard Software (prior releases of Licensed Standard Software application packages are supported no longer than nine (9) months after a new release is announced by New World);
- (b) Temporary fixes to Licensed Standard Software (see paragraph 6 below);
- (c) Revisions to Licensed Documentation;
- (d) Reasonable telephone support for Licensed Standard Software on Monday through Friday from 8:00 a.m. to 8:00 p.m. (Eastern Time Zone); and
- (e) Invitation to and participation in user group meetings.

Items a, b, and c above will be distributed to **Customer** on magnetic media or other means, as appropriate. After installation, **Customer** shall return any magnetic media to New World.

Additional support services are available as requested by **Customer** using the then-current hourly rates or applicable fees. Exhibit B of your original License Agreement has a description of support services available.

3. Maintenance for Modified Licensed Standard Software and Custom Software

Customer is advised that if it requests or makes changes or modifications to the Licensed Standard Software, these changes or modifications (no matter who makes them) make the modified Licensed Standard Software more difficult to maintain. If New World agrees to provide maintenance support for Custom Software or Licensed Standard Software modified at **Customer's** request, then the additional New World maintenance or support services provided shall be billed at the then-current Exhibit B hourly fees plus reasonable expenses.

4. Billing

Maintenance costs will be billed annually as detailed on the following page. (Any Exhibit B support or service hours and travel costs incurred are billed weekly for the previous calendar week.) If taxes are imposed, they are the responsibility of the **Customer** and will be remitted to New World upon being invoiced.

5. Additions of Software to Maintenance Agreement

Additional Licensed Standard Software licensed from New World will be added to the SSMA as they are installed at **Customer's** location. Maintenance costs for the additional software will be billed to **Customer** on a pro rata basis for the remainder of the current maintenance year and on a full year basis thereafter.

CONFIDENTIAL

6. Requests for Software Correction on Licensed Standard Software

At any time during the SSMA period, if Customer believes that the Licensed Standard Software does not conform to the current specifications set forth in the user manuals, Customer must notify New World in writing that there is a claimed defect and specify which feature and/or report it believes to be defective. Before any notice is sent to New World, it must be reviewed and approved by the Customer Liaison. Documented examples of the claimed defect must accompany each notice. New World will review the documented notice and when a feature or report does not conform to the published specifications, New World will provide software correction service at no charge. A non-warranty request is handled as a billable Request for Service (RFS) using Exhibit B Support Services.

The no charge software correction service does not apply to any of the following:

- (a) situations where the Licensed Standard Software has been changed by anyone other than New World personnel;
- (b) situations where Customer's use or operations error causes incorrect information or reports to be generated; and
- (c) requests that go beyond the scope of the specifications set forth in the current User Manuals.

7. Non-funding Clause

In the event Customer does not appropriate funds to complete payments due under this SSMA, the amount due for the fiscal year not appropriated shall be terminated; provided, however, the Customer shall have given New World ninety (90) days written notice from the anniversary date that they are exercising the non-funding provision, and further provided that any other payments due to New World are fully paid, and further provided that New World's obligations and services under this SSMA shall also be terminated. Without Customer's fulfillment of the above provisions, Customer's obligation to pay New World the annual SSMA payments remains in effect through the expiration date of this SSMA Agreement.

8. Maintenance Costs for Licensed Standard Software Packages Covered for IBM AS/400 Model 2043

New World agrees to provide software maintenance at the costs listed below for the following New World Licensed Standard Software packages installed at Customer's location:

<u>Application Package</u>	<u>Number of Modules</u>
1. Logos® - Financial Management Software	15
2. Logos® - Human Resources Software	4
3. Logos® - Utility Information Software	3
4. Logos® - Licensing Software	1
5. Logos® - Logos Net.toGov	2
6. Logos® - Other Logos Software	1
7. Application Source Code	

TOTAL LIST COST: \$436,000 **ANNUAL MAINTENANCE COST: see below**

<u>Period Covered</u>	<u>Annual Amount</u>	<u>Billing Date</u>
1/1/06 to 12/31/06	\$61,040	12/1/05
1/1/07 to 12/31/07	\$65,400	12/1/06
1/1/08 to 12/31/08	\$69,760	12/1/07

Note: Unless extended by New World, the above costs are available for 90 days after submission of the costs to Customer. After 90 days, New World may change the costs.

ALL INVOICES ARE DUE THRITY (30) DAYS FROM RECEIPT OF INVOICE.

CONFIDENTIAL

8. Terms and Conditions

A.9.
New World Systems, Inc
Page 6 of 10

This Agreement is covered by the Terms and Conditions from our Licensing Agreement signed by
City of Fayetteville, Arkansas (Customer) on July 8, 1991

ACCEPTED BY:

Customer: City of Fayetteville, Arkansas

Name: _____

Title: _____

Date: _____

ACCEPTED BY:

New World Systems Corporation

Name: *Larry D. Olenchak*

Title: *President*

Date: *12-02-05*

By signing above, each of us agrees to the terms and conditions of this Agreement and as incorporated herein. Each individual signing represents that (s)he has the requisite authority to execute this Agreement on behalf of the organization for which (s)he represents and that all the necessary formalities have been met. If the individual is not so authorized then (s)he assumes personal liability for compliance under this Agreement

CONFIDENTIAL

Fayetteville, AR

Licensed Application Software

January, 2006

1. Logos® Financial Management Software

- Financial Management Base Package
 - General Ledger Module
 - Budgetary Reporting Module
 - Annual Budget Processing Module
 - Requisition Processing Module
 - Purchasing Module
 - Accounts Payable Module
 - Revenue Accounting Module
- Financial Cash Register Interface
- Integrated Inventory
- Project/Grant Accounting
- Accounts Receivable
- Fixed Assets
- Management Reporting
- Financial Management Report Writer

2. Logos® Human Resources Software

- Payroll with Base Personnel
- Advanced Personnel
- Position Control and Budgeting
- HR/Payroll Report Writer

3. Logos® Utility Information Software

- Water / Sewer Base
- Auto PC Meter Read
- Utility Mgt. Report Writer

4. Logos® Licensing Software

- Animal Licensing

5. Logos® Logos Net.toGov

- Utility Information
- LogosNet.toGov iSeries Module

6. Logos® Other Software

- Parking Tickets

CONFIDENTIAL

City Of Fayetteville
(Not a Purchase Order)

City Of Fayetteville (Not a Purchase Order)										Requestion No.:		Date: 12/5/2005	
										P.O. Number:		Expected Delivery Date:	
Vendor # 2368		Vendor Name: New World Systems, Inc		Fob Point:		Mail Yes: ☐ No: ☒		Quotes Attached Yes: ☐ No: ☐					
Address: 888 W Big Beaver Ste 600		City: Troy		State: MI		Zip Code: 48084		Ship to code: 1030		Division Head Approval: 			
Requester: Scott Huddleston		Requester's Employee # 331		Account Numbers 1010-1710-5416.00		Project/Subproject #		Inventory #		Fixed Asset #			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost								
1	Annual Maintenance Fees	1	EA	\$61,040.00	\$61,040.00								
2					\$0.00								
3					\$0.00								
4					\$0.00								
5					\$0.00								
6					\$0.00								
7					\$0.00								
8					\$0.00								
9					\$0.00								
10					\$0.00								
Shipping/Handling			Lot		\$0.00								
Special Instructions:													
					Subtotal:	\$61,040.00							
					Tax:	\$3,722.30							
					Total:	\$64,762.30							

Approvals:

Mayor: _____	Department Director: _____	Purchasing Manager: _____
Finance & Internal Services Director: _____	Budget Manager: _____	IT Manager: _____
Dispatch Manager: _____	Utilities Manager: _____	Other: _____



New World Systems

The Public Sector Software Company

INVOICE NO 35237
INVOICE DATE 12/5/05

Ms. Marsh Farthing
Accounting Director
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Standard Software Maintenance Agreement

<u>DESCRIPTION</u>	<u>AMOUNT</u>
SSMA Coverage Period 1/1/06 – 12/31/06	\$61,040.00
Sales Tax	\$ 3,722.30
TOTAL INVOICE AMOUNT	<u>\$64,762.30</u>

PLEASE CALL IF YOU HAVE ANY QUESTIONS

**SSMA Summary for
Fayetteville, AR**

Customer #: 446

Billing frequency: Annual

SSMA is taxed

Coverage Period * 1/1/2006 To 12/31/2006

	Original Contract	Units	24 x 7 Coverage	SSMA Not Yet Begun	Total
Logos iSeries Software					
Financial Management Software					26,740
Financial Management Base Package	7/8/91	1			
Financial Cash Register Interface	7/8/91	1			
Integrated Inventory	7/8/91	1			
Project/Grant Accounting	7/8/91	1			
Accounts Receivable	7/8/91	1			
Fixed Assets	7/8/91	1			
Management Reporting	7/8/91	1			
Financial Management Report Writer	8/14/02	1			
Human Resources Software					10,500
Payroll with Base Personnel	7/8/91	1			
Advanced Personnel	7/8/91	1			
Position Control and Budgeting	10/28/02	1			
HR/Payroll Report Writer	8/14/02	1			
Utility Information Software					11,060
Water / Sewer Base	7/8/91	1			
Auto PC Meter Read	7/8/91	1			
Utility Mgt. Report Writer	8/14/02	1			
Licensing Software					2,380
Animal Licensing	7/8/91	1			
Logos Net.toGov					4,200
Utility Information	3/29/02	1			
LogosNet.toGov iSeries Module	3/29/02	1			
Other Software					6,160
Parking Tickets	7/8/91	1			
Total current billing amount					61,040
				Sales Tax	3,737.00

Total annual SSMA for all modules licensed **	61,040
---	--------

* If the period covers more than one year, the amount shown is the annual cost for each year during the period.

** This is the annual SSMA total for all modules for the period. The amount billed may be less if any modules are still under warranty. Prepaid PSMA service hours are not included in this total.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

A.10.
ESRI Software
Page 1 of 10

12/20/2005

City Council Meeting Date

S. Huddleston

Submitted By

Information Technology

Division

Finance and Internal Services

Department

Action Required:

Approve payment for 2006 ESRI Software Maintenance Fees.

\$ 31,073.38

Cost of this request

\$ 214,690.00

Category / Project Budget

Maintenance

Program Category / Project Name

1010-1710-5416.00

Account Number

\$ 57,987.04

Funds Used to Date

Program / Project Category Name

\$ 156,702.96

Remaining Balance

General

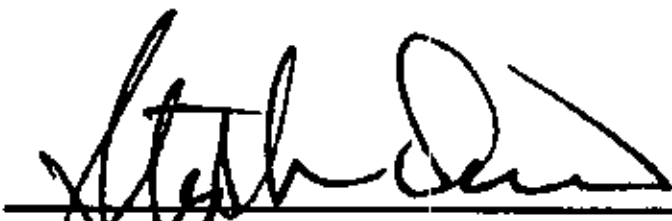
Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐



Department Director

12/2/05
Date

Previous Ordinance or Resolution # 09-05

Original Contract Date: 3/5/2002



City Attorney

12/2/05
Date

Original Contract Number:

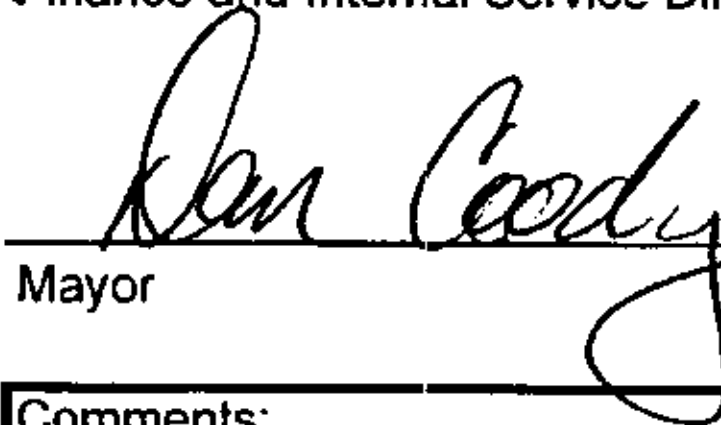


Finance and Internal Service Director

12/2/05
Date

Received in City Clerk's Office

ENTERED
12/2/05
EP



Mayor

12/6/05
Date

Received in Mayor's Office

ENTERED
12/5/05
EP

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

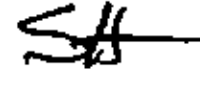
A.10.
ESRI Software
Page 2 of 10

December 13, 2005 Agenda Session

December 1, 2005

TO: Mayor Coody

THRU: Steve Davis, Finance and Internal Services Director 

FROM: Scott Huddleston, Information Technology Manager 

SUBJECT: AGENDA ITEMS TO APPROVE PURCHASE REQUESTS TO ESRI FOR 2006
SERVICE AND MAINTENANCE FEES.

Recommendations:

Staff recommends approval of purchase request to ESRI for 2006 Service and Maintenance Fees.

Discussion:

Service and Maintenance fees are necessary to keep software current. These fees allow the City to receive updates and enhancements to the software as they become available. In addition, Service and Maintenance fees provide technical phone support and problem troubleshooting and resolution. The software products that we have purchased from ESRI are essential to the City's day to day operations and it is important that we keep these assets current.

Background:

The City began using ESRI software products in 1996. ESRI provides software utilized for the development, analysis and utilization of the City's Geographic Information System data. All maps and analysis of the City's geographic information are stored and produced through the utilization of ESRI software products.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE PURCHASE OF 2006
ESRI SOFTWARE MAINTENANCE FEES IN THE AMOUNT
OF \$31,073.38

**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 the purchase of 2006 ESRI Software Maintenance fees and authorizes the
payment to ESRI, Inc. in the amount of \$31,073.38.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

By: _____
DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date: 11/15/2005
Vendor #: 5221										P.O. Number:	Expected Delivery Date:
Address:										Mail Yes: No:	Quotes Attached Yes: No:
City: Los Angeles										Division Head Approval: <i>S. Hutter</i>	
Requester: John Goddard										Extension: 219	
File # 54630										Project/Subproject #	Fixed Asset #
State: CA										2055	
Quantity										Account Numbers	
Unit of Issue										4470-9470-5209.00	
Unit Cost											
Extended Cost											
Item Description											
1 2006 Software Maint.											
2											
3											
4											
5											
6											
7											
8											
9											
10											
Shipping/Handling											
Special Instructions:											
Subtotal:										\$29,243.75	
Tax:										\$1,829.63	
Total:										\$31,073.38	
Approvals:											
Mayor:											
Finance & Internal Services Director:											
Dispatch Manager:											
Department Director:											
Budget Manager:											
Utilities Manager:											
Purchasing Manager:											
IT Manager:											
Other:											



ESRI Inc
380 New York Street
REDLANDS CA 92373

SUBJECT: MAINTENANCE QUOTE

DATE: 11/16/2005
TO: John Goddard
ORGANIZATION: CITY OF FAYETTEVILLE
INFORMATION TECHNOLOGY DEPT
FAX #: 479-575-8316 **PHONE #:** 479-575-8219
FROM: Avidahn Buckner
FAX #: 909-307-3083 **PHONE #:** 888-377-4575 Ext. 2596
EMAIL: abuckner@esri.com

Number of pages transmitted
(including this cover sheet): 6

QUOTATION #25175699

Please find the attached quotation for your forthcoming software maintenance term. As you know, keeping your maintenance current entitles you to exclusive benefits that may include technical support, software upgrades, and User Conference registrations. If you choose to discontinue your maintenance, you will become ineligible for maintenance benefits and services. All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your coverage at a later date.

This quote has been prepared using new ArcGIS 9.1 licensing guidelines. At 9.1, ArcInfo will include the functionality and data from ArcScan, ArcPress, Maplex, and StreetMap; ArcEditor will include the functionality and data from ArcScan, ArcPress, and Streetmap; ArcView will include the functionality and data from ArcPress and Streetmap; ArcGIS Engine will include the functionality and data from StreetMap; and ArcGIS Server will include the functionality and data from StreetMap. Due to these changes, these extensions are no longer itemized in maintenance quotes because coverage will be included with the maintenance fee for the core product.

Customers who have multiple copies of some ESRI products may have the option of supporting some of their licenses with secondary maintenance. Secondary maintenance entitles users to software upgrades and technical support through a primary license. Users must support at least one primary license for every ten copies of each version of a product (e.g., ArcView 3.x licensing is regarded as separate from ArcView 9.x). Please contact Customer Service to find out more about the availability of secondary maintenance.

If you are using ESRI products that are at previous versions, or if you have software that is not currently covered by one of our programs, please contact us for information about the different options that are available to you.



ESRI Inc
380 New York Street
REDLANDS CA 92373

Do you need training? You can get affordable ESRI software training for your entire organization with a subscription to ESRI Virtual Campus. To find out how, visit the campus: <http://campus.esri.com/campus/catalog/subscriptions>

If you have any questions or need additional information, please contact Customer Service at 888-377-4575.



ESRI

380 New York Street
REDLANDS, CA 92373
Phone: 888-377-45752596
Fax #: 909-307-3083

Quotation

Date: 10/17/2005

Quotation Number: 25175699

CITY OF FAYETTEVILLE
INFORMATION TECHNOLOGY DEPT
113 W MOUNTAIN
FAYETTEVILLE AR 72701
Attn: John Goddard

Customer Number: 23472

Send Purchase Orders To:

ESRI, Inc.
380 New York Street
Redlands, CA 92373-8100
Attn: Avidahn Buckner

**Please include the following
remittance address on your
Purchase Order:**

ESRI Inc.
File #54630
Los Angeles, CA 90074-4630

Item	Qty	Product#	Description	Unit Price	Extended Price
IF YOU HAVE ANY QUESTIONS REGARDING YOUR MAINTENANCE QUOTATION, PLEASE CONTACT CUSTOMER SERVICE AT 888-377-4575					
10	1	52384	MAINT,PRIM,AI,FL ArcInfo Floating Primary Maintenance Start Date: 01/16/2006 End Date: 01/15/2007	3,000.00	3,000.00
20	2	52385	MAINT,SCNDRY,AI,FL ArcInfo Floating Secondary Maintenance Start Date: 01/16/2006 End Date: 01/15/2007	1,200.00	2,400.00
30	1	52390	MAINT,PRIM,NET,FL Network Floating Primary Maintenance Start Date: 01/16/2006 End Date: 01/15/2007	500.00	500.00
60	1	86497	MAINT,PRIM,AE,CU ArcEditor Concurrent Use Primary Maintenance Start Date: 01/11/2006 End Date: 01/15/2007	1,520.55	1,520.55

This quotation is valid for 90 days and is subject to your ESRI License Agreement. The quotation information is proprietary and may not be copied or released other than for the express purpose of system selection and purchase/license. This information may not be given to outside parties or used for any other purpose without consent from Environmental Systems Research Institute, Inc. (ESRI).

Any estimated sales and/or use tax has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. ESRI reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state taxes directly, then prior to invoicing, your organization must provide ESRI with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Issued By: Avidahn Buckner

Ext: 2596

[CSBATCHDOM]

To expedite your order, please reference your customer number and this quotation number on your purchase order.



380 New York Street
REDLANDS, CA 92373
Phone: 888-377-45752596
Fax #: 909-307-3083

Quotation

Page 2

Date: 10/17/2005

Quotation Number: 25175699

Item	Qty	Product#	Description	Unit Price	Extended Price
70	1	86500	MAINT,SCNDRY,AE,CU ArcEditor Concurrent Use Secondary Maintenance Start Date: 01/11/2006 End Date: 01/15/2007	1,216.44	1,216.44
80	4	87192	MAINT,PRIM,AV,SU ArcView Single Use Primary Maintenance Start Date: 01/16/2006 End Date: 01/15/2007 Hardware Platform: GENERIC DESKTOP	400.00	1,600.00
90	32	87193	MAINT,SCNDRY,AV,SU ArcView Single Use Secondary Maintenance Start Date: 01/16/2006 End Date: 01/15/2007 Hardware Platform: GENERIC DESKTOP	300.00	9,600.00
100	1	87198	MAINT,PRIM,AG 3D,CU ArcGIS 3D Analyst Concurrent Use Primary Maintenance Start Date: 01/16/2006 End Date: 01/15/2007 Hardware Platform: WINDOWS NT-INTEL	500.00	500.00
110	1	87213	MAINT,DSG,ASDE,SRVR,2CPU ArcSDE Developer Support Group Maintenance for One Server Two CPUs and Five Read and Write Connections Start Date: 01/16/2006 End Date: 01/15/2007	3,000.00	3,000.00
120	1	87232	MAINT,PRIM,AG SA,CU ArcGIS Spatial Analyst Concurrent Use Primary Maintenance Start Date: 01/16/2006 End Date: 01/15/2007 Hardware Platform: WINDOWS NT-INTEL	500.00	500.00

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Issued By: Avidahn Buckner

Ext: 2596

[CSBATCHDOM]

To expedite your order, please reference your customer number and this quotation number on your purchase order.



380 New York Street
REDLANDS, CA 92373
Phone: 888-377-4575/2596
Fax #: 909-307-3083

Quotation

Page 3

Date: 10/17/2005

Quotation Number: 25175699

Item	Qty	Product#	Description	Unit Price	Extended Price
130	1	93303	MAINT,PRIM,AE,SU ArcEditor Single Use Primary Maintenance Start Date: 07/26/2006 End Date: 01/15/2007 Hardware Platform: GENERIC DESKTOP	715.07	715.07
140	1	97534	MAINT,AIMS,1SRVR,2CPU ArcIMS One Server Two CPUs Maintenance Start Date: 01/16/2006 End Date: 01/15/2007	2,000.00	2,000.00
150	1	98696	MAINT,PRIM,AG PUB,CU ArcGIS Publisher Concurrent Use Primary Maintenance Start Date: 01/16/2006 End Date: 01/15/2007 Hardware Platform: WINDOWS NT-INTEL	500.00	500.00

Subtotal	27,052.06
Shipping & Handling	0.00
Estimated Taxes	2,191.69
Total	\$ 29,243.75

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Any estimated sales and/or use tax has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. ESRI reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state taxes directly, then prior to invoicing, your organization must provide ESRI with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Issued By: Avidahn Buckner

Ext: 2596

[CSBATCHDOM]

To expedite your order, please reference your customer number and this quotation number on your purchase order.



380 New York Street
REDLANDS, CA 92373
Phone: 888-377-45752596
Fax #: 909-307-3083

Quotation

Page 4

Date: 10/17/2005

Quotation Number: 25175699

Item	Qty	Product#	Description	Unit Price	Extended Price
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BY SIGNING BELOW, YOU ARE INDICATING THAT YOU ARE AUTHORIZED TO OBLIGATE FUNDS FOR YOUR ORGANIZATION. DO NOT USE THIS FORM FOR ORDER ACTIVATION IF YOUR ORGANIZATION WILL NOT HONOR AND PAY AN INVOICE THAT HAS BEEN ISSUED AT YOUR DIRECTION WITHOUT ADDITIONAL AUTHORIZING PAPERWORK.

To expedite your order, either attach a copy of this quotation to your purchase order when it is remitted to ESRI, or sign below and return this quotation to indicate your acceptance. ESRI's address and fax number are provided on the first page of this quotation.

If you have made ANY alterations to the line items included in this quote and have chosen to sign the quote to indicate your acceptance, you must fax ESRI the signed quote in its entirety in order for the quote to be accepted. You will be contacted by your Customer Service Representative if additional information is required to complete your request.

If your organization is a US Federal, state, or local government agency; an educational facility; or a company that will not pay an invoice without having issued a formal purchase order, a signed quotation will not be accepted unless it is accompanied by your purchase order.

If you choose to discontinue your support, you will become ineligible for support benefits and services. All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your support coverage at a later date.

By signing below, you are authorizing ESRI to issue a software maintenance invoice in the amount of:
\$_____.

Signature of Authorized Representative

Name (Please Print)

Title

This quotation is valid for 90 days and is subject to your ESRI License Agreement. The quotation information is proprietary and may not be copied or released other than for the express purpose of system selection and purchase/license. This information may not be given to outside parties or used for any other purpose without consent from Environmental Systems Research Institute, Inc. (ESRI).

Any estimated sales and/or use tax has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. ESRI reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state taxes directly, then prior to invoicing, your organization must provide ESRI with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Issued By: Avidahn Buckner Ext: 2596

[CSBATCHDOM]

To expedite your order, please reference your customer number and this quotation number on your purchase order.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

6-Dec-05
City Council Meeting Date

Stephen Davis FIS Director Finance & Internal Services
Submitted By Division Department

Action Required:

Ordinance revisions to amend monthly sewer rates to comply with the Fayetteville-Elkins Sewer services contract and to postpone the scheduled rate increase from January 1, 2006 to May 1, 2006.

\$39,000 estimated Cost of this request	Category/Project Budget	Program Category / Project Name
Account Number	Funds Used to Date	Program / Project Category Name
Project Number	\$ - Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Stephen Davis 11-16-05
Department Director Date

[Signature] 11-17-05
City Attorney Date

Stephen Davis 11-16-05
Finance and Internal Service Director Date

Dan Coody 11/18/05
Mayor Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office
ENTERED Nov 17, 2005

Received in Mayor's Office
ENTERED 11/18/05

Comments: The budget impact is to forgo revenue to assist Citizens during the 2005/2006 heating season.

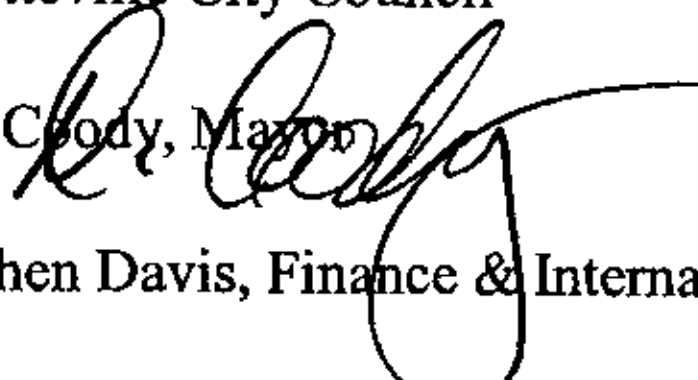
Left on Second Reading 12/6/05

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor 

FROM: Stephen Davis, Finance & Internal Services Director 

DATE: November 16, 2005

SUBJECT: Sewer Rate Ordinance Revision

Recommendation

Staff recommends amending Fayetteville Code of Ordinance §51.137 Monthly Sewer Rates to implement the volume charges contained in the Sewer Services contract between Fayetteville and Elkins and to postpone the pre-approved January 1, 2006 rate adjustment until after April 30, 2006 as more particularly set forth in the attachment.

Background/Discussion

Fayetteville City Council approved Ordinance 4536 on December 30, 2003 implementing rate adjustments beginning February 9, 2004, after December 31, 2004 and after December 31, 2005 for all retail and wholesale customers of the Fayetteville sewer system. This request consists of two parts:

Part 1: Adjust the rate per 1,000 gallons for Elkins in compliance with the 2005 Sewer Services contract between Fayetteville and Elkins; and,

Part 2: Postpone the scheduled rate increase from December 31, 2005 to begin after April 30, 2006.

The purpose for Part 1 is compliance with a negotiated contract.

The purpose of Part 2 is to enable the City to reduce monthly cost to Citizens during this heating season. The recently completed hurricane season has negatively impacted heating fuel, electric and natural gas prices nationwide.

Required Procedural Actions

Arkansas Code in 14-235-223 requires municipalities to:

1. Introduce the ordinance that fixes the rates or charges;
2. Publish a notice for a public hearing one time in a newspaper published in the City;

3. Notice is to be published at least 10 days before the public hearing; and,
4. Pass and implement the ordinance.

This section of the Arkansas Code provides that if the rate adjustment is substantially pro-rata notice is not required nor is a public hearing is required.

Budget Impact

The impact to the sewer revenue budget for this adjustment is approximately \$209,000 with the volume charges and estimated sewer service charge reduction (fixed fees) of approximately \$100,000 exclusive of the impact of the Elkins contract for a total of \$309,000.

City of Fayetteville, Arkansas

Postponement of Implementation of 2006 Wastewater Rate Adjustment
Wastewater Volume Revenue Impact

Based on 2005 Volumes - January to April

11/16/2005

	Total Volume	Volume in Gallons				Total
		Fayetteville Residential	Outside City Residential	Fayetteville - All Other	Outside City - All Other	
January	225,533,800	61,358,300	6,609,900	148,143,700	3,738,200	
February	231,032,800	60,791,700	6,069,600	156,465,500	3,816,600	
March	214,416,000	52,348,900	5,885,400	149,134,200	3,141,900	
April	244,791,000	61,498,800	6,369,400	167,701,200	3,784,000	
Total Volume	915,773,600	235,997,700	24,934,300	621,444,600	14,480,700	
Rate Postponement/1000 gallons		0.26	0.59	0.20	0.59	
Revenue Impact - Volume Charge Only		\$ 61,400	\$ 14,700	\$ 124,300	\$ 8,500	\$ 208,900

Sewer averaging may cause the total reduction to residential customers to be less because these volumes are based on actual water meter read volumes. Residential customers eligible for sewer averaging pay the lower of the actual volume or the sewer average volume. Sewer averages are calculated on water purchases for the winter months (December through March).

City of Fayetteville, Arkansas

Postponement of Implementation of 2006 Wastewater Rate Adjustment
Wastewater Service Charge Revenue Impact

	Fayetteville Residential	Outside City Residential	Fayetteville All Other	Outside City All Other	Total Monthly Revenue
Monthly Sewer Service Charges - Oct	\$ 91,700.00	\$ 19,500.00	\$ 164,000.00	\$ 1,800.00	\$ 277,000.00
9% Rate Increase	\$ 8,253.00	\$ 1,755.00	\$ 14,760.00	\$ 162.00	\$ 24,930.00
Revenue Impact - Service Charge Only					\$ 99,720.00

The monthly sewer service charge is the fee used by the Sewer Utility to fund portions of fixed expenses. This calculation is based on monthly service charges as of October 2005.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND § 51.137 OF THE CODE OF FAYETTEVILLE BY LOWERING THE SEWER RATE CHARGED FOR ELKINS, ARKANSAS AND POSTPONING THE SCHEDULED SYSTEM WIDE RATE INCREASE FOR FOUR MONTHS.

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 amends § 51.137 Monthly Sewer Rates (A) (1) by repealing Table E-2 and E-3 in their entirety and enacting a replacement Table E-2 and E-3 as shown below:

Table E-2
Monthly Sewer Quantity Charge Usage Rates Per 1,000 Gallons
After December 31, 2004

Residential*	\$ 2.84
Commercial/Industrial	2.22
Outside city limits**	6.57
Elkins** Jan 1 – Feb 28, 2005	5.71
Elkins** After Feb. 28, 2005	2.81
Elkins Volume Capacity Charge After Jan. 1, 2006	0.25

Table E-3
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
For Billings After April 30, 2006

Residential*	\$ 3.10
Commercial/Industrial*	2.42
Outside city limits**	7.16
Elkins**	2.81
Elkins Volume Capacity Charge	0.25

Section 2. That the City Council for the City of Fayetteville, Arkansas hereby further amends § 51.137 Monthly Sewer Rates by amending Table F-3 Monthly Sewer Service Charge so that its rate increase for monthly sewer charge will not take effect until April 30, 2006.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

By: _____

DAN COODY Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

The existing and proposed rates are shown below:

51.137 Monthly Sewer Rates

(A) *Monthly sewer rates.* All monthly sewer charges shall be calculated from the customer's monthly water usage. The following monthly rates are hereby fixed as rates to be charged for sewer services:

Table E-2
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
After December 31, 2004

Residential*	\$ 2.84
Commercial/Industrial*	2.22
Outside city limits**	6.57
Elkins** Jan 1 – Feb 1, 2005	5.71

Table E-2 (A)
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
Beginning March 1 to December 31, 2005

Residential*	\$ 2.84
Commercial/Industrial*	2.22
Outside city limits**	6.57
Elkins** March 1 to Dec. 31, 2005	2.81

Existing
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
Beginning December 31, 2005

Residential*	\$ 3.10
Commercial/Industrial*	2.42
Outside city limits**	7.16
Elkins**	6.22

Proposed
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
After December 31, 2005

Residential*	\$ 2.84
Commercial/Industrial*	2.22
Outside city limits**	6.57
Elkins**	2.81
Elkins Volume Capacity Charge	0.25

Proposed
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
After April 30, 2006

Residential*	\$ 3.10
Commercial/Industrial*	2.42
Outside city limits**	7.16
Elkins**	2.81
Elkins Volume Capacity Charge	0.25

(1) Monthly service charge:

Existing
Table F-3 Monthly Sewer Service Charge
After December 31, 2005

Meter Size	Inside City	Outside City†
5/8 inch	\$ 10.36	\$ 10.35
3/4 inch	11.98	14.10
1 inch	13.47	19.35
1½ inch	21.99	34.33
2 inch	31.44	49.32
3 inch	73.01	115.27
4 inch	120.26	190.21
6 inch	238.37	377.56
8 inch	356.48	564.90

Proposed
Table F-3 Monthly Sewer Service Charge
After December 31, 2005

Meter Size	Inside City	Outside City†
5/8 inch	\$ 9.50	\$ 9.50
3/4 inch	10.99	12.94
1 inch	12.36	17.75
1½ inch	17.27	31.50
2 inch	23.00	45.25
3 inch	50.77	105.75
4 inch	84.49	174.50
6 inch	163.64	346.38
8 inch	253.16	518.26

Proposed
Table F-3 Monthly Sewer Service Charge
After April 30, 2006

Meter Size	Inside City	Outside City†
5/8 inch	\$ 10.36	\$ 10.35
3/4 inch	11.98	14.10
1 inch	13.47	19.35
1½ inch	21.99	34.33
2 inch	31.44	49.32
3 inch	73.01	115.27
4 inch	120.26	190.21
6 inch	238.37	377.56
8 inch	356.48	564.90

14-235-223. Rates and charges for services - Lien.

(a)(1) The council of the municipality shall have power, and it shall be its duty, by ordinance to establish and maintain just and equitable rates or charges for the use of and the service rendered by the works, to be paid by each user of the sewerage system of the municipality.

(2) The council may change and readjust the rates or charges from time to time to such extent as will not render insecure the rights of the holders of revenue bonds or violate any sinking fund agreement, or other lawful agreement, with such bondholders.

(b) The rates or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements, and maintenance of the works and for the payment of the sums required in this subchapter to be paid into the sinking fund.

(c) Revenues collected pursuant to this section shall be deemed the revenues of the works.

(d)(1)(A) No rates or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served by them and others interested shall have opportunity to be heard concerning the proposed rates or charges.

(B) After introduction of the ordinance fixing the rates or charges, and before the ordinance is finally enacted, notice of the hearing, setting forth the proposed schedule of the rates or charges, shall be given by one (1) publication in a newspaper published in the municipality if there is such a newspaper, but otherwise in a newspaper having general circulation in the municipality, at least ten (10) days before the date fixed in the notice for the hearing, which may be adjourned from time to time.

(2) After the hearing the ordinance establishing rates or charges, either as originally introduced or as modified and amended, shall be passed and put into effect.

(e) A copy of the schedule of the rates and charges established shall be kept on file in the office of the sewer committee having charge of the operation of the works, and also in the office of the municipal clerk or recorder, and shall be open to inspection by all parties interested.

(f)(1) The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

(2)(A) Any change or readjustment of the rates or charges may be made in the same manner as the rates or charges were originally established as provided in this section.

(B) If the change or readjustment is made substantially pro rata as to all classes of service, no hearing or notice shall be required.

(g) The aggregate of the rates or charges shall always be sufficient for the expense of operation, repair, and maintenance and for the sinking fund payments.

(h) If any service rate or charge established shall not be paid within thirty (30) days after it is due, the amount of it, together with a penalty of ten percent (10%) and a reasonable attorney's fee, may be

recovered by the sewer committee in a chancery suit, filed in the chancery court of the county where the works, or the greater part of them, shall be located, in the name of the municipality or in the name of the trustee under the indenture securing the revenue bonds, or in the name of the bondholders, to such extent as their right to sue in their own name may be permitted under the trust indenture.

History. Acts 1933, No. 132, § 13; Pope's Dig., § 9989; Acts 1985, No. 290, § 1; A.S.A. 1947, § 19-4113.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C.2.
East Square
Page 1 of 36

6-Dec-05

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

C-PZD 05-1610: (East Square Development, 523): Submitted by Bob Kohler for property located at the northwest corner of Mountain Street and College Avenue. The property is zoned C-4, Downtown Commercial, and contains approximately 1.01 acres. The request is to approve a Commercial Planned Zoning District with a 16 story hotel, residential condominiums, meeting space, commercial space, and a parking garage.

\$0.00	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

☐


Department Director

11-17-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

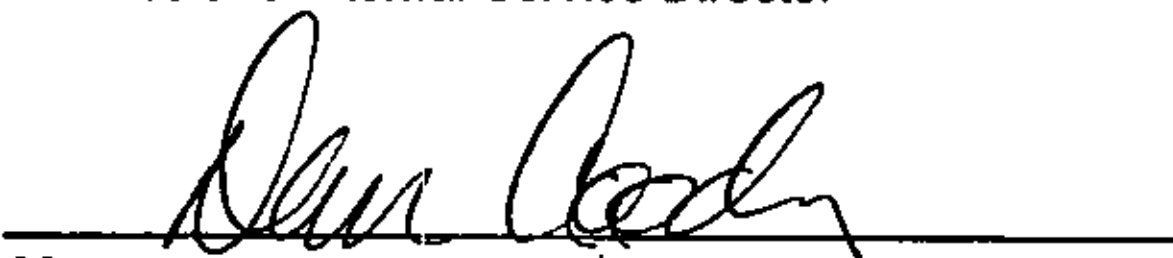
11-18-05
Date

Original Contract Number: n/a


Finance and Internal Service Director

11-18-05
Date

Received in City Clerk's Office



Mayor

11/21/05
Date

Received in Mayor's Office


Comments:

Left on First Reading 12/6/05

City Council Meeting of December 06, 2005
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: November 17, 2005

Subject: Rezoning and Ordinance Variance for East Square Development (C-PZD 05-1610)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Commercial Planned Zoning District (C-PZD) for East Square Development, submitted by Bob Kohler on behalf of One East Center, LLC. This action will establish a unique zoning district for a commercial development including a hotel, commercial and residential uses and a parking deck on a 1.01-acre tract located on College Avenue. Planning Staff also recommends approval by the City Council to vary the right-of-way dedication on North College Avenue from 55' to 30' and allow for construction of a parking garage, balconies and awnings, and a pedestrian walkway over Mountain Street right-of-way and a public alley, respectively.

BACKGROUND

The property consists of approximately 1.01 acres located within the Original Town Plat on the block between Center Street and Mountain Street, with additional frontage onto Hwy 71B (College Avenue). The Mountain Inn, parking deck, and other deteriorated structures on this property have been demolished and the property sits primarily vacant. The property is currently zoned C-4, Downtown.

The applicant requests approval of a C-PZD to establish specific zoning criteria and large scale development approval. Development will consist of a 16-story structure that will incorporate a hotel with 147 rooms, condominiums, retail/tenant space, conference rooms, a ballroom, and a restaurant and bar and a 7 ½ story parking garage with 350 parking stalls. There are several waivers from the Unified Development Code requirements requested for this project to be approved.

The applicant for this development also requests a lesser dedication of right-of-way for N. College Avenue, a Principal Arterial, from 55 feet to 30 feet. This will allow the construction of the hotel closer to the existing street to match the location of existing historic structures adjacent to N. College Avenue, and prevent undue hardship upon the developer with the redevelopment of this property. The applicant also requests the City Council to allow construction of a 7-story parking garage and balconies/awnings on the hotel over Mountain Street right-of-way and a pedestrian walkway over a public alley,

City Council Meeting of December 06, 2005
Agenda Item Number

both of which are in direct conflict with §166.18 of the Unified Development Code, which prohibits establishment of any new structure within the Master Street Plan right-of-way. The parking garage is proposed to form a colonnade over the public sidewalk, with retail at the first floor level and parking above. The bridge is proposed to be constructed from the third story of the parking deck to the Bank of America Condominiums.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of these requests on November 14, 2005. A Planned Zoning District requires City Council approval as it includes zoning (land use) and large scale development approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

Due to the limited area of development and the size and scope of this in-fill project, the applicant requests City Council consideration of granting several variances. These include a variance to allow construction of a parking deck over Mountain Street and a pedestrian bridge over an alley. Additionally, the applicant requests approval of lesser dedication of right-of-way for College Avenue, a Principal Arterial. The applicant has agreed to all street improvements recommended by the Planning Commission and within the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A COMMERCIAL
PLANNED ZONING DISTRICT TITLED C-PZD 05-1610,
EAST SQUARE DEVELOPMENT, LOCATED AT THE NORTH
WEST CORNER OF MOUNTAIN STREET AND COLLEGE AVENUE,
CONTAINING APPROXIMATELY 1.01 ACRES; AMENDING THE
OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE;
WAIVING ANY POSSIBLY CONFLICTING DEVELOPMENT
ORDINANCES; AND ADOPTING THE ASSOCIATED PLANNED ZONING
DISTRICT.

**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 C-4, Downtown Commercial, to C-PZD 05-1610
as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved development
standards as shown on the large scale development plans, all conditions of approval determined
appropriate and approved by the Planning Commission on November 14, 2005, and the City
Council.

Section 3: That the City Council hereby expressly waives any development ordinances that
might be in conflict with C-PZD 05-1610 including but not limited to §166.12 *Structures not allowed
over public utility easements* and §166.18 *Master Street Plan Setbacks*, and approves the
development proposal as presented herein.

Section 4: That this ordinance shall take effect and be in full force at such time as all of the
requirements of the development plan have been met.

Section 5: 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

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
C-PZD 05-1610

LEGAL DESCRIPTION - TRACT 5

ALL OF LOT ONE (1), LOT TWO (2), AND A PART OF LOT THREE (3), LOT SIXTEEN (16), AND 11 OF LOT SEVENTEEN (17), LOT EIGHTEEN (18), LOT NINETEEN (19), AND A PART OF THE 10-FOOT EAST-WEST ALLEY OF BLOCK TWENTY-EIGHT (28) ORIGINAL TOWN PLAT FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT NINETEEN (19), THENCE N 87°22'33" W - 151.00 FEET; THENCE N 02°31'28" E - 112.14 FEET; THENCE S 87°19'23" E - 45.20 FEET; THENCE N 02°31'28" E - 68.17 FEET; THENCE S 87°28'32" E - 5.80 FEET; THENCE N 02°31'28" E - 34.00 FEET TO THE NORTHWEST CORNER OF SAID LOT TWO (2); THENCE S 87°12'53" E - 100.00 FEET TO THE NORTHEAST CORNER OF SAID LOT ONE (1); THENCE S 02°31'29" W - 214.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.63 ACRES, MORE OR LESS.

LEGAL DESCRIPTION - TRACT 6

ALL OF LOT FOURTEEN (14), LOT FIFTEEN (15), AND A PART OF LOT SIXTEEN (16), AND A PART OF THE 10-FOOT EAST-WEST ALLEY OF BLOCK TWENTY-EIGHT (28) ORIGINAL TOWN PLAT FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT FOURTEEN (14), THENCE N 02°41'18" E - 112.28 FEET; THENCE S 87°19'23" E - 150.14 FEET; THENCE S 02°31'28" W - 112.14 FEET; THENCE N 87°22'33" W - 150.46 FEET TO THE POINT OF BEGINNING, CONTAINING 0.39 ACRES, MORE OR LESS.



PC Meeting of November 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 9, 2005 *Updated November 17, 2005*

C-PZD 05-1610: Planned Zoning District (EAST SQUARE DEVELOPMENT, 523):

Submitted by BOB KOHLER for property located at NW CORNER MOUNTAIN ST. AND COLLEGE AVE. The property is zoned C-4, DOWNTOWN COMMERCIAL and contains approximately 1.01 acres. The request is to approve a 16 story Commercial Planned Zoning District with a hotel, residential condominiums, meeting space, commercial space and a parking garage.

Property Owners: ONE EAST CENTER LLC

Planner: SUZANNE MORGAN

Findings:

Property Description: The property consists of a total of approximately 1.01 acres located within the Original Town Plat on the block between Center Street and Mountain Street, with additional frontage onto Hwy 71B (College Avenue). The Mountain Inn, parking deck, and other deteriorated structures on this property have been demolished and the property sits primarily vacant. The property is currently zoned C-4, Downtown.

Proposal: The applicant requests approval of a C-PZD to establish specific zoning criteria and large scale development approval. Development of a 16-story structure that will incorporate a hotel with 147 rooms, condominiums, retail/tenant space, conference rooms, a ballroom, and a restaurant and bar. A 7-1/2 story parking garage with 350 parking stalls is proposed. There are several waivers from the Unified Development Code requirements requested for this project to be approved.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Restaurants, Retail, Office	C-4, Downtown
South	Government/Federal Buildings	C-4, Downtown
East	Court House, Government Buildings	C-3, Central Commercial
West	Offices, Bank, Bank of Am. Condos (proposed)	C-4, Downtown

Process: The property on which this large scale development has been submitted consists of all and parts of several tracts of property. Several of the existing structures along Center Street will not be disturbed with the proposed development. The applicant requests approval for the establishment of zoning regulations on the entire tract of property and the development, proposed to be done in phases. They are as follows:

Phase I – 16-story Hotel Tower, 3-story building containing the ballroom, two structures on Center Street

Phase II – Retail/Tenant space and parking garage on Mountain Street

Permits for both Phases to be issued within one year of R-PZD approval.

The following bulk and area regulations are proposed by the applicant:

C-PZD 05-1610 East Square Development

(A) Proposed Uses.

Use Unit #	Type of Use
Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 29	Dance halls

(B) Density. Density = None (25 units are proposed in the development; however, the applicant requests to reserve the right to increase the number of residential units.)

(C) Bulk and area regulations. None.

(E) Setback requirements. Front: 0'; Side: 0'; Rear: 0'

(F) Height. Hotel Tower: 16 stories maximum
(stories 11 to 16 are proposed for condominium units)
Hotel w/ Ballroom: 3 stories
Parking Garage: 7-1/2 stories
Retail/Tenant: 1 story
2 Bldg.s on Center St: 3 stories and a basement

(G) *Building area.* 100%; The entire site is covered with buildings and impervious surface.

Parking Chart:

	Parking required	Parking Provided
Mountain Inn	214	113
East Square Development	369	350

Water & Sewer: Water and sewer lines are being relocated and extended to serve the development.

Utilities: Several alleys are requested to be abandoned, in which many of the existing utility lines are located. The applicant is coordinating with the utility companies which will serve this development.

Access: The parking deck will be accessed from Mountain Street *and Center Street via an existing alley.* The Downtown Master Plan recommends a modification of Mountain Street to allow for two-way traffic. At this time, no such proposal has been brought before the Street Committee or City Council for consideration, though it is anticipated in the future, likely before the subject project is constructed. Access from this parking deck is proposed to each of the retail spaces on the ground floor of the parking deck on either side of the entrance. Also, access from the parking deck will be available *from the third floor of the parking deck* to the Hotel Tower and a pedestrian bridge is proposed to the Bank of America Condominiums to the west. The applicant also proposes a drive-in on Mountain Street for drop-off access to the Hotel Tower.

Adjacent Master Street Plan Streets:

College Avenue (Principal Arterial, currently a 50' ROW, requires 110' ROW)
Mountain Street (MS-55, Main Street; currently a 55' ROW, requires 55' ROW)
Center Street (MS-55, Main Street; currently a 55' ROW, requires 55' ROW)

Commercial Design Standards: The applicant has submitted elevations of the proposed hotel, parking garage, ballroom and structures on Center Street. They incorporate a variety of exterior materials of brick, stucco, pre-cast concrete, steel, tile, slate, glass, ornamental iron, aluminum, pre-finished metal panels and fiber cement. All proposed structures are very visible to the public due to the height of the building or prominence on the surrounding streets. The parking garage, for example, will protrude further into the street than adjacent buildings. Design and architectural style of this structure is therefore as important in its affect of the downtown area as the hotel tower.

Tree Preservation: A Tree Protection Waiver has been submitted and signed by Landscape Administrator after an on-site visit to verify that no trees currently exist.

Parks: Park fees shall be charged for each multi-family unit proposed. The developer shall pay \$9,825 for 25 multi-family units prior to issuance of a building permit for the phase in which the units shall be constructed.

Public Comment: Staff has not received any objections to the requested C-PZD at this time.

Background: The Subdivision Committee forwarded this item to the Planning Commission on September 01, 2005. *The Planning Commission forwarded this item to the City Council at the regular meeting on November 14, 2005.*

Recommendation: Staff recommends forwarding C-PZD 05-1610 to the City Council with a recommendation for approval with the following conditions:

Conditions of Approval:

1. Planning Commission determination of improvements. *Staff recommends the following:*
 - ♦ *Construction of sidewalks as indicated on the plat along College Avenue and from College Avenue to the alley on Mountain Street and Center Street.*
 - ♦ *The applicant shall comply with the plantings shown on the proposed Landscape Plan, including planters and street tree plantings in structural soil along College Avenue, Mountain Street and Center Street west to the alley. Tree species shall be approved by the Landscape Administrator.*
 - ♦ *New curb and gutter on Mountain Street and Center Street from the alley to College Avenue and along College Avenue;*
 - ♦ *Storm drainage improvements on all street frontage as shown on the site plan and as determined necessary by the City Engineer with further investigation to be conducted at the time of construction;*
 - ♦ *Pavement overlay and restriping along Mountain Street and Center Street from the alley to College Avenue and along College Avenue, as well as the alley where determined to be needed by the City Engineer as part of the construction process; an overlay of the entire width of Center Street, Mountain Street, and the alley is recommended as opposed to improvement of only one-half the street width.*

The Planning Commission recommended in favor of the above improvements.

2. Planning Commission recommendation of a lesser dedication of right-of-way for College Avenue (Hwy 71B) from the required 55' from centerline to 30' from centerline. *Staff recommends approval of the requested lesser dedication. A Master Street Plan Amendment to modify the designation of College Avenue for a total 60' right-of-way (30' from centerline) from Rock St. to North St. has been forwarded by the Planning Commission to the City Council with a recommendation for approval and is currently being reviewed by the Street Committee. This project is in compliance with this original recommendation by the Planning Commission.*

The Planning Commission recommended in favor of lesser dedication of right-of-way for College Avenue.

3. Planning Commission recommendation of **granting** a ~~waiver~~ **variance** request to allow the construction of a pedestrian bridge over an existing alley (City right-of-way) that will connect the parking garage to Bank of America Condominiums **subject to City Council approval to allow construction over a City right-of-way.** *Staff recommends*

approval of the requested waiver to construct a structure over public right-of-way. The parking required for the condominium units will be provided in the parking deck as was approved by the Planning Commission and listed as a condition of approval for the Conditional Use Permit for Bank of America Condominiums.

The Planning Commission recommended in favor of the requested variance to allow construction over a City right-of-way.

4. Planning Commission determination of *granting* a ~~waiver~~ *variance* request to allow the construction of a parking deck and hotel entrance canopy over the existing right-of-way for Mountain Street as indicated on the proposed C-PZD site plan *and subject to City Council approval allowing the narrowing of Mountain Street to allow this construction over a City right-of-way.* The construction of this structure over the right-of-way will result in the removal of approximately 11 on-street parking spaces, and a maximum encroachment of 17' 3" into the right-of-way. The public sidewalk will be constructed under the proposed deck, which will essentially function as a covered, open walkway.

The Planning Commission recommended in favor of the requested variance to allow the construction over a City right-of-way.

5. Planning Commission determination of Commercial Design Standards and compatibility of materials and architectural features with the surrounding structures and historic downtown. *Staff finds that the proposed structures incorporate many elements within the architecture of the downtown and are compatible with the desirable features of adjacent structures. Staff and the Subdivision Committee expressed concerns with the design of the parking deck, especially because of its high visibility as it encroaches into the right-of-way and recommends particular elements on the southwest end cap be incorporated to create a better transition and view from the downtown square.*

The Planning Commission recommended in favor of compliance with Commercial Design Standards.

- ~~6. The two retail structures proposed on Center Street shall be reviewed for compliance with the Design Standards set forth by the applicant and approved by the City Council. The Planning Commission shall review the proposed elevations at the time of building permit for compliance and compatibility with surrounding developments and shall approve or deny them accordingly.~~
7. The applicant shall dedicate the required amount of right-of-way for College Avenue (Hwy 71B) as determined by the City Council by warranty deed prior to issuance of a building permit.
8. All exterior lighting shall meet the requirements of the Outdoor Lighting Ordinance. A cut sheet showing the lighting plan and details shall be submitted to the Planning Division for review and approval prior to issuance of a building permit.
9. The applicant shall install six bike racks per ordinance requirements.

10. A Certificate of Occupancy for any phase of the project may not be issued prior to completion and issuance of a Certificate of Occupancy for the Parking Deck and all required improvements for that phase.
11. All development shall meet applicable building codes for separation and other ordinances of the City of Fayetteville.
12. Allowed uses in this C-PZD shall be restricted to Use Units 1, 2, 3, 4, 5, 12, 13, 14, 15, 16, 17, 19, 24, 25, 26, and 29.
13. ~~The maximum number of dwelling units that may be permitted is 25.~~ *The applicant does not propose a maximum density to reserve the right to subdivide the condominium units in the future.*
14. Payment of Park fees in the amount of \$9,825 for 25 multi-family units shall be paid prior to issuance of a building permit for the phase in which the units will be located.
15. Signage shall be permitted in accordance with city ordinances for a property located in a C-4 zoning district. The parking structure shall be allowed signage in accordance with the C-4 zoning district requirements.
16. Planned Zoning District approval shall be valid for one calendar year, per city ordinance. The applicant has stated that it is the intent to obtain all permits for Phase I and Phase II within one year of City Council approval of the C-PZD.
17. ~~Prior to City Council consideration, the applicant shall modify the zoning information on the site plan to indicate the maximum number of condominium units proposed in the hotel tower, density and setback regulations.~~ *The applicant has complied with this condition.*

Standard Conditions of Approval:

18. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
19. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
20. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
21. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits

- b. Separate easement plat for this project.
- c. Project Disk with all final revisions
- d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: Required YES

☒ Approved ☐ Denied ☐ Tabled

Motion to approve: Clark

Meeting Date: November 14, 2005

Second: Vaught

Vote: 8-0-0

Comments: _____

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with C-PZD 04-1610

Sec. 166.06. Planned Zoning Districts (PZD).

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed development of the subject downtown site into a mixed-use, commercial/retail/hotel/condominium space achieves many of the goals identified in the City's adopted Downtown Master Plan, as well as many goals in the General Plan 2020. The surrounding commercial developments and residential neighborhoods will be greatly enhanced by the unique development, which provides revitalization of a prominent block on the corner of Center St., College Ave., and Mountain Street. Specific development features of the project, including the structure's height and prominence, walkable sidewalks with planters consistent with the downtown area, a parking deck and residential dwellings on the top floors of the structure, contribute to the health, safety, amenity and welfare of the community. The proposal creates residential units in the downtown area, a primary goal of the Downtown Master Plan.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required as a part of this development, with the exception of trash enclosures and utilities (wall and ground-mounted). All such utilities are proposed to be located within the interior of the parking deck. Landscaping is required, and has been presented with the Landscape Plan and includes the installation of planters and trees within the new sidewalk to provide shade for pedestrians and a streetscape. The addition of vegetation on this bare ground will be a benefit to the public and downtown.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: No new public or private streets are proposed with this project. A single vehicular entry point is proposed from Mountain Street to the proposed parking deck. There is an existing alley west of the proposed structures over which a pedestrian crossing is proposed. The applicant also requests the vacation of an alley which bisects the property and from which existing utilities are to be relocated. The hotel will have a drive-through drop-off area on Mountain Street. The Subdivision Committee raised concerns about the ability for cars going south from this drop-off and potential traffic conflicts should Mountain Street become two-way. As traffic on Mountain Street is slowed somewhat by the presence of a traffic light, slower speed of vehicles may allow for cars to merge onto Mountain Street. At this time, the Downtown Plan calls for Mountain Street to become two-way; however, this has not been considered by the Street Committee or City Council, which must approve any such street modification.

The applicant does request dedication of lesser right-of-way than required by the Master Street Plan on College Avenue. The Master Street Plan requires dedication of 55' right-of-way from centerline; the applicant requests dedication of 30' right-of-way from centerline. In addition, the applicant requests a waiver from the City Council to allow the construction of a parking deck over existing right-of-way for Mountain Street, which is a structure within the city right-of-way.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the

respective use areas.

FINDING: The ordinance allows any redevelopment within the C-4 zoning district to "credit," so to speak, the parking spaces and area of existing uses within the former structure towards the development. Therefore, the number of hotel rooms and area of retail space within the Mountain Inn may be deducted from the proposed bedrooms and retail area. Parking spaces are only required for the rooms, retail area, and other uses above and beyond what had existed. The parking deck provides 350 parking spaces, which is more than required for this additional development. It replaces the 101 spaces within the former parking deck, provides 12 spaces for the Bank of the America Condos and replaces the 11 on-street parking spaces removed with development, with an additional 214 spaces in excess of the previously existing parking deck.

Bike racks will be installed per ordinance requirements.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The greenspace required for a Planned Zoning District is 15% of the site. Consistent with the former development of the property and the downtown, this proposal has no greenspace proposed with the exception of street tree plantings and some planters along the sidewalks, which will increase the existing greenspace of the site.

- (6) *Sidewalks.* As required by §166.03.

FINDING: A new public sidewalk 7 to 14 feet in width is proposed along Center Street, Mountain Street and College Avenue.

- (7) *Street Lights.* As required by §166.03 & §176.

FINDING: Street lights are installed on those streets adjacent to the subject property. All new building lights shall be permitted in accordance with Chapter 176, the Outdoor Lighting Ordinance.

- (8) *Water.* As required by §166.03.

FINDING: Public water is being provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer is being provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards

of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: No additional private or public streets are proposed with the subject project. All grading and drainage criteria, as well as erosion control measures, shall be complied with as part of the construction review process.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: The residential portion of this project is located within the same structure as the commercial areas and will be constructed within the same phase. No Certificate of Occupancy may be issued and business conducted from any structure proposed until such time as the required parking for that use has been constructed.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: There is no tree canopy on the subject property.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Staff finds the architectural elevations for the Hotel Tower exceed the city's commercial design standards. The elevations submitted for the Parking Deck are primarily pre-finished metal panels, though the first two stories will be brick. This structure will be prominent on Mountain Street, as the applicant has requested a waiver to construct this building within the right-of-way. Staff finds that the proposed structures incorporate many elements within the architecture of the downtown and are compatible with the desirable features of adjacent structures. Staff and the Subdivision Committee expressed concerns with the design of the parking deck, especially because of its high visibility as it encroaches into the right-of-way and recommends particular elements on the southwest end cap be incorporated to create a better transition and view from the downtown square. The two retail structures proposed on Center Street shall be reviewed for compliance with the Design Standards set forth by the applicant and approved by the City Council. Staff shall review the elevations at the time of building permit for compliance and compatibility with surrounding developments.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no scenic views to be protected on the subject property. This property is located atop one of the many hills within Fayetteville, this being the most prominent as it defines the downtown area. The addition of a 16-story structure at this location will alter the line-of-site for this property and the view of the city from afar. The construction of such a tall structure is unique within the City of Fayetteville but not unprecedented, with the Hillcrest Tower and Radisson Hotel (15 floors) located within close proximity to the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
- (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.
 - (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 - (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

- (A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.
- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
 - (2) Compatibility. Providing for compatibility with the surrounding land uses.
 - (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
 - (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
 - (5) No negative impact. Does not have a negative effect upon the future development of the area;

- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The subject C-PZD utilizes a mixed-use concept, promoting the idea of shared retail, commercial (hotel) and residential (condominium) uses. The mixed-use component of the project, along with overall architectural and development principles utilized in the site planning that promote pedestrian access to the site and the downtown area, and revitalization of the downtown, create a unique and flexible project that embodies the spirit of the Downtown Master Plan. The uses proposed, both residential and commercial/retail, allow for a flexible use of the site, and achieve compatibility and harmony with surrounding land uses, which varies greatly, from government agencies, corporate businesses, offices, retail and restaurants, all integral to a thriving and balanced downtown. A positive impact on adjoining properties should be achieved, enhancing the health, safety and welfare of the surrounding community. The project provides a variety of uses, employment opportunities, downtown living space, and an innovative approach to mixed use yet harmonious development consistent with many of the guiding policies of the General Plan 2020, as well as the Downtown Master Plan for the City of Fayetteville.

The proposal is consistent with many of the guiding policies of the General Plan 2020 including:

Residential Areas:

9.8.e Utilize more intense development patterns downtown, where appropriate, and encourage mixed uses in new developments to promote better community design, maintain human scale, and enhance pedestrian activity.

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

Historic Downtown Commercial Areas:

9.11.c Encourage retail use of ground floor space and restrict office and residential uses to higher floors.

Neighborhood Commercial Areas:

9.12.d Provide commercial areas that are accessible for the convenience of individuals living in residential districts.

9.12.e Reduce the length and number of trips generated by residential development by enhancing the accessibility to these areas.

Mixed Use Areas:

9.14.a Allow mixing of uses and integration of design through the planning process.

Community Character:

9.19.i Promote higher density development and mixed use development within the City limits to provide for more efficient development, create traditional neighborhoods, and preserve open space.

Circulation:

9.20.j Establish facilities which accommodate safe and convenient travel for pedestrians and bicyclists.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to C-PZD 05-1610. The development standards and plan approved shall be adopted with the rezoning.

(D) C-PZD, Commercial Planned Zoning District

(1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

(a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the

proliferation of commercial uses along major thoroughfares and noncommercial areas.

- (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.
- (c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.
- (d) To encourage commercial development which is consistent with the city's General Plan.
- (e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: The project, as defined with proposed uses, meets many of the goals above, including concentrating a mixed-use development within an orderly and rational manner, providing for maximum pedestrian benefit, encouraging development which is consistent with the City's General Plan and recently adopted Downtown Master Plan.

(2) Permitted Uses.

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 6	Agricultural
Unit 7	Animal Husbandry
Unit 8	Single family dwellings
Unit 9	Two family dwellings
Unit 10	Three family dwellings
Unit 11	Manufactured home park
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement park
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing

Unit 23 ~~Heavy Industrial~~
Unit 24 Home occupations
Unit 25 Professional offices
Unit 26 Multi-family dwellings
Unit 27 ~~Wholesale bulk petroleum storage facilities with underground storage tanks~~
Unit 28 ~~Center for collecting recyclable materials~~
Unit 29 Dance Halls
Unit 30 ~~Extractive Uses~~
Unit 31 ~~Facilities emitting odors & facilities handling explosives~~
Unit 32 ~~Sexually oriented business~~
Unit 33 ~~Adult live entertainment club or bar~~
Unit 34 Liquor stores
Unit 35 ~~Outdoor music establishments~~
Unit 36 ~~Wireless communications facilities~~
Unit 37 ~~Manufactured homes~~

FINDING: The applicant has described uses in all of the above-referenced (those without the strike-through) Use Unit categories.

(3) Conditions.

- (a) In no instance shall the commercial or office use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.

FINDING: The applicant indicates compliance with this requirement, and with approval of the rezoning, this condition shall be placed upon the property in perpetuity, unless and until the property is rezoned.

- (b) Residential uses must be appropriate to the design of the project.

FINDING: The residential uses proposed have been designed with the commercial uses in mind, utilizing organizing principles to achieve maximum compatibility between the two uses.

- (c) Warehousing and light industrial uses shall have a gross area per use that does not exceed five thousand (5,000) square feet and at least twenty percent (20%) of the floor area used for retail sales.

FINDING: These uses are not permitted within the proposed development.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from C-4, Downtown Commercial, to C-PZD 05-1610, with the adoption of the associated large scale development plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as Historic Commercial. Rezoning this property to C-PZD 05-1610, with associated mixed use plan, is consistent with the land use plan and compatible with surrounding land uses.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning is consistent with previous use of this property and the surrounding uses within the properties zoned for Downtown Commercial, which this property is currently zoned. The mixed-use commercial and multi-family residential development exhibits many of the characteristics deemed desirable as guiding policies in the General Plan 2020, as well as the adopted Downtown Master Plan.

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

Finding: The proposed rezoning is justified, as a means of redeveloping a parcel of property in the downtown area in a manner that is more consistent with surrounding land use patterns. A mixed-use land use is desirable for the subject property, to achieve compatibility with both commercial and residential zoning and land use in the surrounding area.

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

Finding: Based on staff findings and the attached Fayetteville Police Department report and Fire Department projections, the proposed rezoning would not create or appreciably increase traffic danger and congestion in the area. This property was formerly developed for a similar type use at a smaller scale. At one time this property generated considerable traffic. The redevelopment of the property will increase the amount of traffic on surrounding streets, but most traffic will be generated from College Avenue, a Principal Arterial Street which has been designated to serve up to 20,600 vehicle trips per day.

Fire: The request for C-PZD 05-1610, East Square Development, is within the acceptable limits of service delivery impact for the Fire Department.

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 create a total of 25 new residential units. This increase in units would not undesirably increase the load on public services.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3472

TO: Suzanne Morgan, Associate Planner
FROM: Matt Mihalevich, Park Planner
DATE: September 7, 2005
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: September 12, 2005
Item: C-PZD 05-1610 East Square Development, 523
Park District: SW
Zoned: C-PZD (proposed)
Billing Name & Address: East Square Development
1 East Center, Suite 301

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	252 @ \$393 per unit = \$8,646 \$9,825.00
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- The Parks and Recreation Advisory Board recommended accepting money in lieu of land for 22 Multi Family Units on July 11, 2005.
- Fees are due prior to signing of the final plat.

***The applicant has modified the number of multi-family units from 22 to 25 since the Parks and Recreation Advisory Board considered this development proposal.



PC Meeting of November 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3471

To: Garver Engineers

From: Sarah K. Patterson (Landscape Administrator)

Date: September 7, 2005

Subject: Planning Commission Meeting

ITEM #: R-PZD 05-1610 East Square Development

TREE PRESERVATION PLAN

1. A Tree Protection Waiver has been submitted and signed by Landscape Administrator after an on-site visit to verify that no trees currently exist.

Conditions:

A note located on the Final Plans must indicate that no trees exist on site.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

C.2.
East Square
Page 30 of 36

Monday, August 15, 2005

Jeremy Pate
Director of Current Planning
125 W. Mountain Street
Fayetteville, AR 72702

Dear Mr. Pate,

This document is in response to the request for a determination of whether the proposed **R-PZD 05-1610: Planned Zoning District (East Square Development, 523)** submitted by Bob Kohler would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and congestion.

It is the opinion of the Fayetteville Police Department this PZD will have a negligible impact on both the population density and traffic congestion for that area.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Turberville", is written over the typed name.

Lieutenant Rob Turberville
Fayetteville Police Department

PLANNED ZONING DISTRICT REQUEST:

June 30, 2005

On behalf of:
EAST SQUARE DEVELOPMENT, LLC.
[Project formerly known as the Mountain Inn]

City of Fayetteville Planning Staff:

Attached herewith is the Application for a Planned Zoning District for the property that formerly contained the Mountain Inn, Redbird building, Niblock building, and the Juvenile Courts Building. Also included in the request are buildings that remain including 31 E. Center, and the buildings that house the former Café Santa Fe and McRoy McNair. The Bank of America building is included in order to create a utility easement on its east side for the required re-routing of existing utilities. These buildings comprise the block bounded by E. Mountain St., College Ave., E. Center St., and East Ave.

SCOPE/INTENT:

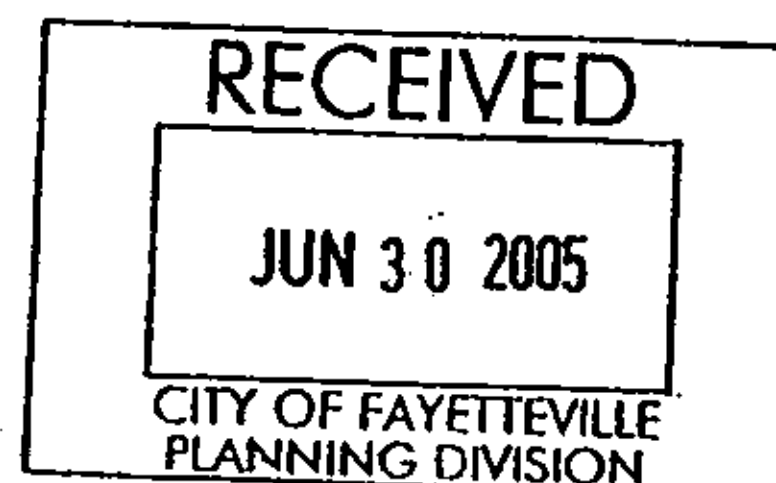
The scope of the planned development for the block is to construct a 16 story mixed use tower containing a hotel, residential condominiums, meeting space, and commercial space. In addition, a parking garage will be constructed as well as the refurbishment of buildings fronting E. Center St. Also included is the planned connector bridge from the proposed parking garage to the Bank of America building over the existing private alley that contains an existing utility easement. The intent of the proposal is to address several issues that require approvals that are typical with a high density urban development in the downtown commercial core. Among the approvals required are lot line adjustments, new utility easements, Master Street Plan amendment for right-of-way (College Ave.), grading and drainage, right-of-way encroachment of structure (Mountain St.), re-routing of existing utilities, installation of new utility lines, as well as architectural, landscape, and other physical features of the site.

OWNERSHIP:

The City of Fayetteville has current possession of the site and is in the process of demolishing the old Mountain Inn, Redbird building, Niblock building, and the Juvenile Courts Building. Upon completion of the demolition work (currently estimated date July 15, 2005) the properties revert to East Square Development, LLC as per the contract between the City of Fayetteville and East Square Development, LLC dated March 15, 2005.

Ownership of the parcels as referenced in the attached plat plan is as follows:

- LOT 1: 1 East Center, LLC (Bank of America)
- LOT 2: M&M Building, LLC (McRoy McNair)
- LOT 3: Café Santa Fe Building, LLC (Café Santa Fe)
- LOT 4: East Square Development, LLC (31 E. Center)
- LOT 5: East Square Development, LLC (Courts, Mountain Inn)
- LOT 6: East Square Development, LLC (Parking Deck)



REZONING:

No rezoning of parcels requested. Current zoning is C-4.

PROPERTY IMPACT:

The redevelopment of the site removes the blighted conditions that for years have degraded the area. Surrounding property values will be enhanced by the new \$23 million residential and commercial development that will attract more interest, activity, and business to the area. The new development will be consistent with the Downtown Master Plan initiatives outlined for properties in the downtown core. The buildings along E. Center St. will remain and will be updated to provide commercial retail on the street level and 2nd and 3rd story residential space as per the DMP. The new tower and parking garage will be constructed utilizing materials consistent with other buildings in the downtown core including masonry, glass, decorative metals, and concrete. The project will add a new icon to the downtown landscape that will exude quality and reactivate a depressed area.

AVAILABILITY OF WATER & SEWER:

The Engineering Division is working closely with the development team to serve the site. Six inch water lines are currently in E. Center St., and E. Mountain St. and an eight inch main is in N. College Ave. A new 8" sanitary sewer line is being proposed as a part of this application along E. Center St. turning south onto College Ave. and connecting to an existing manhole extending the existing 8" sewer line in N. College Ave. which will also serve the site.

REGARDING INTENT/PURPOSE OF PZD ORDINANCE:

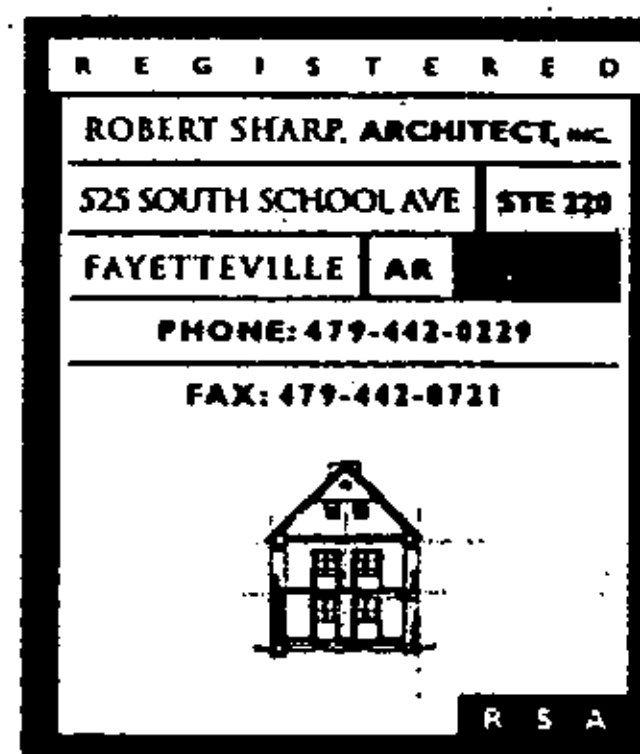
This development allows for all permitted uses in the PZD in a mixed use configuration. The ordinance encourages mixed use developments "containing any combination, including multiple combinations of commercial, office, and residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use". Because of the several approvals required for the project -- although not rezoning any of the parcels -- the PZD ordinance is a useful tool due to the extreme time constraints on the project and the requirement to begin construction as early in the year as possible.

A handwritten signature in black ink, appearing to be "B. J. Kelly", with a long horizontal line extending to the right.

July 14, 2005

Ms. Suzanne Morgan
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

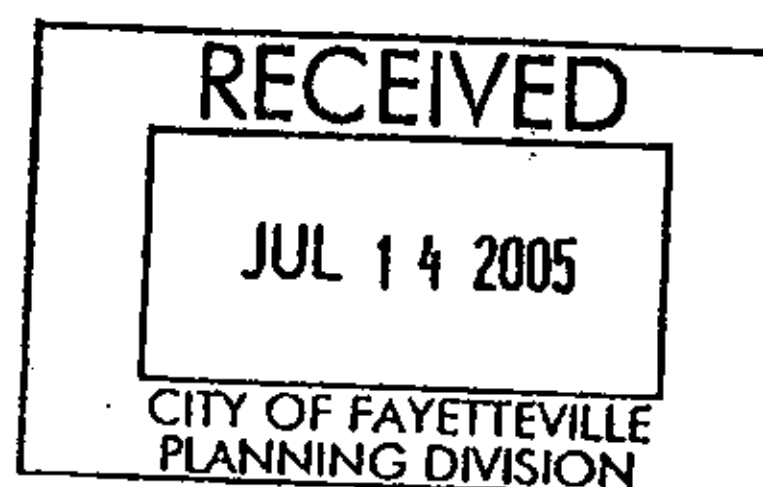
**RE: REQUEST WAIVERS AND APPROVALS
EAST SQUARE REDEVELOPMENT**



Dear Suzanne,

The purpose of this letter is to summarize the waivers and amendments necessary for construction of the East Square Redevelopment project. As you know, many of the design decisions were driven by the developer's desire that this project fulfill the goals of the recently completed Downtown Master Plan. We are asking for the following 4 waivers:

1. **Vacate an existing alley** that runs from east to west from College Avenue to an area to the east of the Bank of America building. This alley is being closed to allow construction of the hotel tower, the parking deck, and the meeting spaces. The utilities that are in this alley currently will be relocated. Over the years this alley has been built over in several places and access for utility repair would be extremely difficult. All the utility companies have participated in planning the relocation of existing utilities. We feel that vacating this alley is critical to the projects success and vastly improves utility access.
2. **Bridge over an existing alley** that runs north to south along the east side of the Bank of America building. We are proposing to provide parking for the Bank of America building in the new parking deck. We will be providing a covered, enclosed pedestrian walk between the parking deck and the existing building. The walk will be less than 20' wide and its structure will not bear on the alley. Due to the existence of fiber optic cables in this alley, no construction will be performed in this alley. We feel that this bridge will in no way impair the functioning of this alley.
3. **Amend Master Street Plan along College Avenue.** One of the consistent themes of the Downtown Master Plan was the desire to civilize College Avenue. Dover Kohl and Partners discussed the idea of "putting College Avenue on a diet" and turning into a walkable street rather than a sprawling automotive strip. To this end, we are proposing installing 14' wide sidewalks and street trees along College Avenue. We are also proposing that the east façade of the hotel be set back 9' from the *existing* right of way. The current College Avenue right of way is 50' feet, Dover Kohl and Hall Planning and Engineering recommends that College Avenue right of way



be 60'. The current Master Street Plan envisions College Avenue as a Principal Arterial being 110' wide. This is clearly unrealistic, as it would involve tearing down the historic Washington County Courthouse, the old jail, First Baptist Church and every other significant building between Sixth Street and Maple Avenue. We feel that the recommendations of the Downtown Master Plan should be honored. We ask that College Avenue Master Street Plan right of way be 60' (30' from centerline). We also request the right to extend balconies, awnings, canopies, and other building supported structures out into the College Avenue right of way above street level.

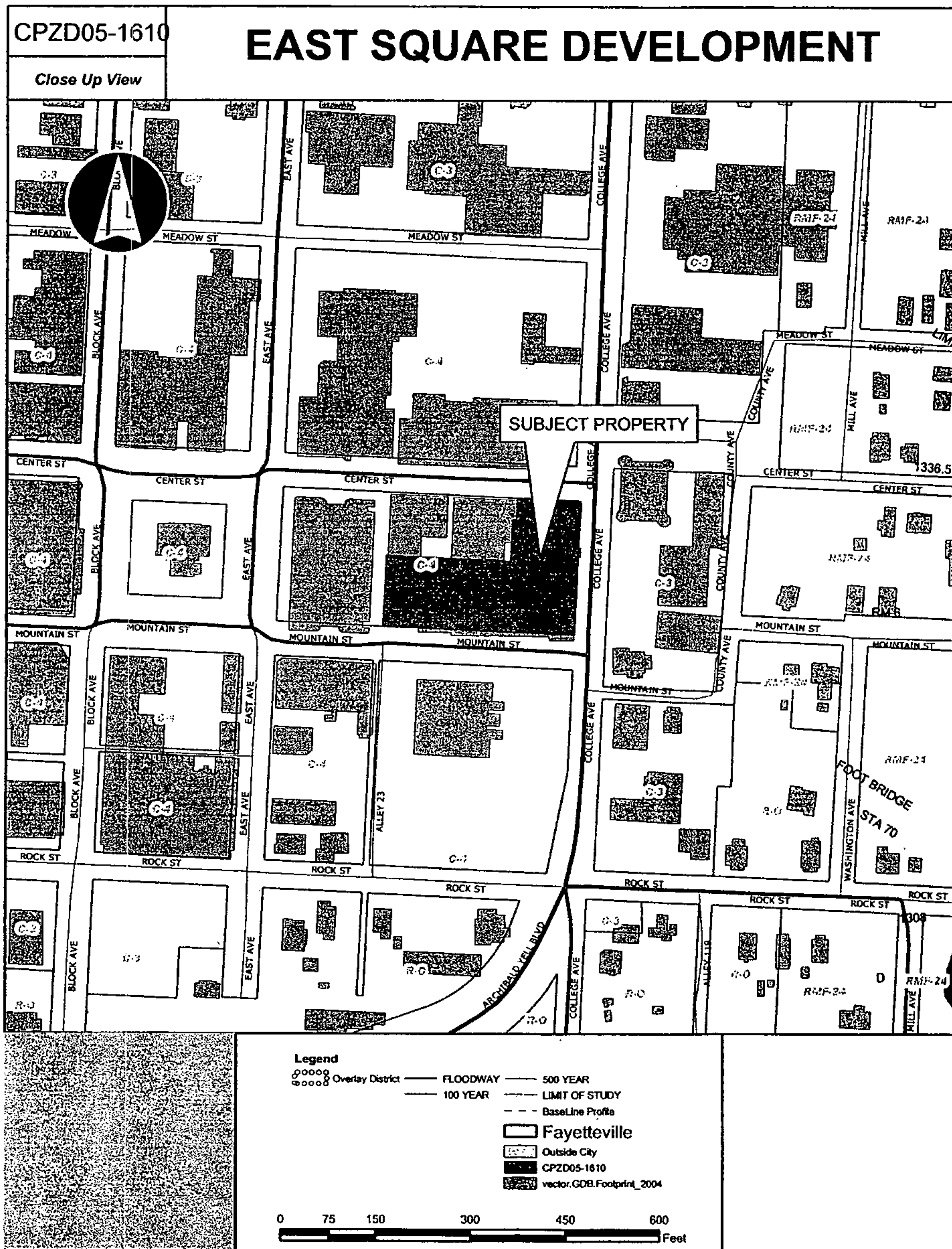
4. **Amend Master Street Plan along Mountain Street.** We are proposing a pedestrian colonnade along Mountain Street. This will be an open air covered sidewalk with retail show windows along the north side. A critical component of this pedestrian colonnade is that it provides a covered walk between the hotel and the Fayetteville Town Center, thus encouraging shared functions between the two facilities. The area above the colonnade will be a parking structure for 350 cars. The location of the parking structure was driven by the developer's desire to save historic buildings along Center Street. The geometry of the parking structure requires two 62' wide tiers for a minimum overall width of 124'. This puts a portion of the parking structure into the street right of way. We have provided a variety of design elements to screen the Mountain Street façade of the parking structure. We are proposing awnings, trellises, canopies, perforated metal screens, signage, railings, and cornices to give the parking structure an appropriate scale. According to the Downtown Master Plan, *"The primary goal of the Architectural Elements is authenticity. The elements encourage construction which is straightforward and functional, and which draws its ornament and variety from the traditional assembly of genuine materials."* Due to the functional nature of the parking structure, its design was inspired by the robust and vibrant qualities of industrial architecture. In addition, great care has been taken to provide a pleasant and vibrant pedestrian experience along Mountain Street. We request that the Master Street Plan along Mountain Street, along the north side of the street, to the south of the parking deck only, be narrowed to 14' from the centerline. We also request the right to extend balconies, awnings, canopies, and other building supported structures out into the Mountain Street right of way above street level.

Summary The four waivers or amendments described above would allow us to construct the East Square Redevelopment project in a way that is consistent with the goals of the Downtown Master Plan. Please contact me if you have any questions or comments on this matter.

Sincerely,



Robert Sharp, Architect



CPZD05-1610

EAST SQUARE DEVELOPMENT

One Mile View



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

12/20/2005

City Council Meeting Date

Susan Thomas

Submitted By

Public Information

Division

General Government

Department

Action Required:

A resolution dissolving the Fayetteville/Springdale Area Transit Authority.

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

Project Number

\$

-

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

11-29-05

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

12-1-05

Date

Finance and Internal Service Director

12-1-05

Date

Mayor

12/2/05

Date

Received in City Clerk's Office

ENTERED
11/30/05

Received in Mayor's Office

ENTERED
12/1/05

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Susan Thomas, Public Information & Policy Advisor

Date: November 29, 2005

Subject: Fayetteville/Springdale Area Transit Authority

RECOMMENDATION

That City Council resolve to dissolve the Fayetteville/Springdale Area Transit Authority.

BACKGROUND

The Fayetteville/Springdale Area Transit Authority was established in 1988 (Resolution 34-88 attached). The Authority has been defunct for some time now. The request to dissolve the organization was made by Mr. George Butler, Washington County Attorney (attached).

DISCUSSION

The Ozark Regional Transit Board voted unanimously to dissolve the Authority on November 30, 2005. In addition to that Board action, dissolution will require resolutions from the governing bodies of Fayetteville, Springdale, Greenland, and Washington County as well as a two-thirds vote of the Authority's Board.

BUDGET IMPACT

N/A

RESOLUTION NO. _____

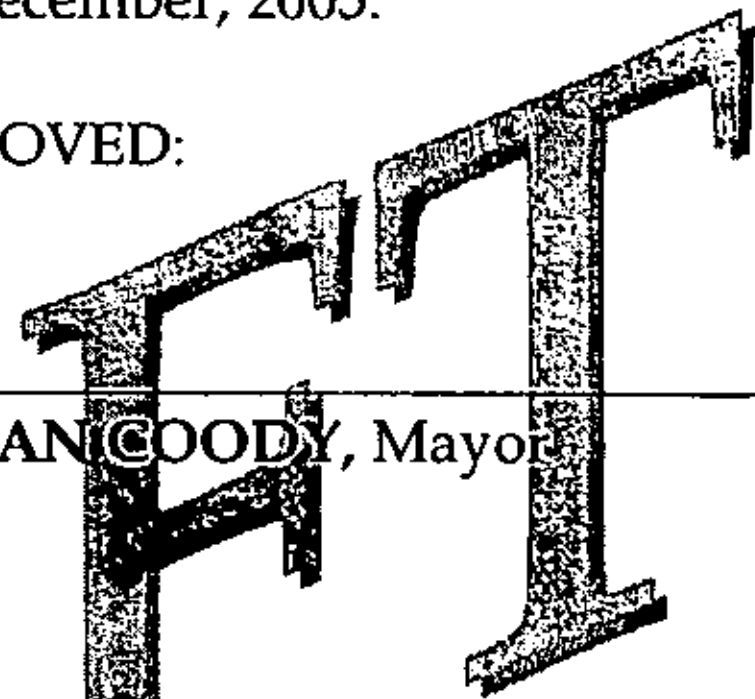
A RESOLUTION APPROVING THE DISSOLUTION OF THE
FAYETTEVILLE/SPRINGDALE AREA TRANSIT AUTHORITY.

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

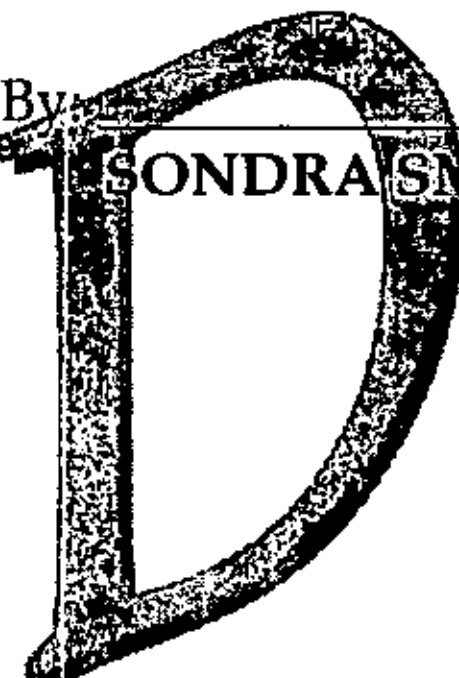
Section 1. That the City Council of the City of Fayetteville, Arkansas
hereby approves the dissolution of the Fayetteville/Springdale Area Transit
Authority.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk

DRAFT



GEORGE E. BUTLER JR.
County Attorney

280 North College, Suite 501
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

November 21, 2005

Washington County Courthouse
Jerry Hunton, County Judge
280 N. College Ave., Suite 500
Fayetteville, AR 72701

Northwest Arkansas Regional Planning Commission
Elaine Walker
1311 Clayton Street
Springdale, AR 72762

City of Springdale
Jerre M. Van Hoose, Mayor
201 N. Spring Street
Springdale, AR 72764

Arkansas State Highway and Transportation
Department
Jim Gilbert
P.O. Box 2261
Little Rock, AR 72203

✓ City of Fayetteville
Dan Coody, Mayor
113 W. Mountain
Fayetteville, AR 72701

Ozark Regional Transit
Phil Pumphrey
2423 E. Robinson
P.O. Box 785
Springdale, AR 72765-0785

City of Greenland
William Yoes, Mayor
P.O. Box 67
Greenland, AR 72737

University of Arkansas
Transit and Parking Department
David Martinson
155 Razorback Road
Fayetteville, AR 72701

RE: Fayetteville/ Springdale Area Transit Authority

Ladies and Gentlemen:

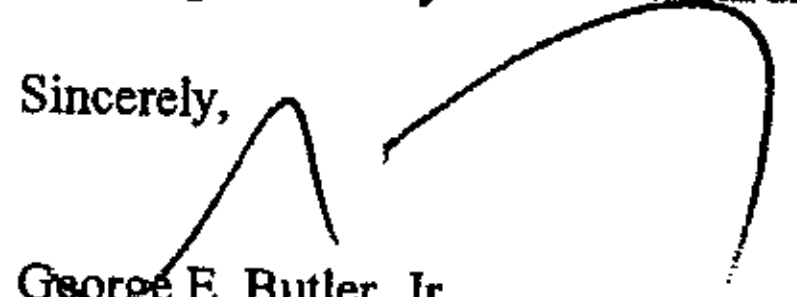
I have been reminded that the Old Fayetteville/ Springdale Area Transit Authority has never been dissolved. As you all know, it became defunct many years ago and the University of Arkansas no longer receives its funding through the old authority.

I do not believe the Old Authority has any assets. Unless anyone thinks otherwise, I suggest that the Old Authority be dissolved if for any reason just to clean up the records.

Please let me know your position in this regard as soon as possible.

The dissolution will require resolutions of the governing bodies of Fayetteville, Springdale, Greenland, and Washington County and a two-thirds (2/3) vote of the Board.

Sincerely,


George E. Butler, Jr.
Washington County Attorney

GEB/ iv

RESOLUTION 34-88

MICROFILMED

A RESOLUTION SUPPORTING THE DEVELOPMENT OF A
FAYETTEVILLE/SPRINGDALE AREA TRANSIT AUTHOR-
ITY.

WHEREAS, the Fayetteville Board of Directors encourages the development of public transportation systems using available state and federal funds to better serve the needs of the Fayetteville/Springdale urban areas; and

WHEREAS, the University of Arkansas' desire to expand the University's transit system to better serve the transportation needs of students, faculty, and staff in areas of Fayetteville which are not adjacent to the campus; and

WHEREAS, the possibility exists that the University transit system may be expanded to serve persons not associated with the University; and

WHEREAS, the establishment of an area transit authority will be beneficial to the community.

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

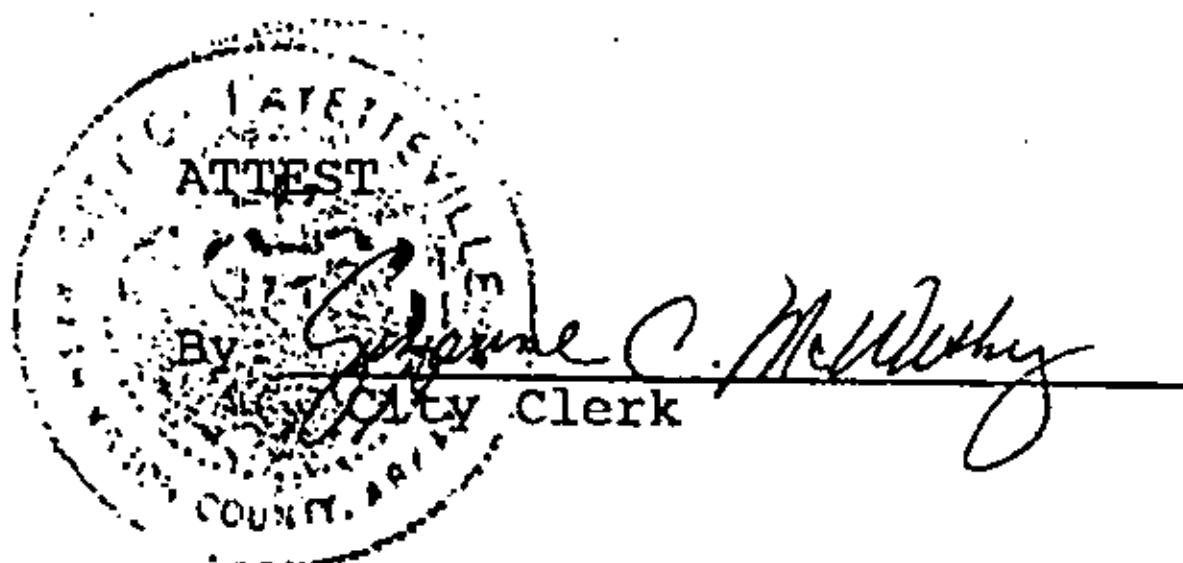
\$1. That the Board of Directors hereby supports the growth and development of public transportation through the provision of mass transit services in those areas where the need exists.

\$2. That the Board of Directors hereby expresses the desire of the City of Fayetteville to be an active and formal participant in the development and support of the Fayetteville/Springdale Area Transit Authority ("ATA").

PASSED AND APPROVED this 29th day of April,
1988.

APPROVED

By: Maileyn Johnson
Mayor



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

12/20/2005
City Council Meeting Date

Steve Cattaneo SAC
Submitted By

Building Safety
Division

Operations
Department

Action Required:

Modify the following for the City code of Ordinances:
159.01 Fees/Schedule (B) Fee schedule. (11) Building Permits. (a) General Fees. (iii) Exemptions from permit fees. 2. The Mayor may exempt all or part of the applicable permit fees for building that can be proven to be more than 50 years old that are judged by the Building Official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration or relocation, or moving of buildings within the fire district. This exemption shall apply only to owner occupied single family dwellings that does not create a change of use or occupancy.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

11-28-05
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

[Signature]
City Attorney

11/28/05
Date

Received in City Clerk's Office
ENTERED
11/28/05

[Signature]
Finance and Internal Service Director

11-29-05
Date

Received in Mayor's Office
ENTERED
11/28/05

[Signature]
Mayor

11/30/05
Date

Comments: Staff desires to limit the use of this exemption to owner occupied single family homes that are not being used or changed into commercial properties. The intent of this exemption was to encourage citizens to remodel or renovate older homes by removing the permit fee burden. Citizens may request that fees be waived for hardship under other provisions of the City Code.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

12/20/2005
City Council Meeting Date

Steve Cattaneo *See*
Submitted By

Building Safety
Division

Operations
Department

Action Required:

Delete the following for the City code of Ordinances:
159.01 Fees/Schedule (B) Fee schedule. (11) Building Permits. (a) General Fees. (iii) Exemptions from permit fees.
~~3. Demolition Fees. Single family residences shall be exempt from demolition fees~~

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director
11-28-05
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

City Attorney _____ Date

Finance and Internal Service Director _____ Date

Mayor _____ Date

Received in City Clerk's Office

ENTERED
11/28/05
90

Received in Mayor's Office

Comments: Staff desires to track the number and square footage of Single Family demolitions and verify that they have met the ADEQ asbestos abatement requirements when applicable. Citizens can still request that fees be waived for hardship or if the structure is over 50 years old under other provisions of the City Code.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 159: FEES, UNIFIED
DEVELOPMENT CODE, CODE OF FAYETTEVILLE LIMITING
CERTAIN BUILDING FEE EXEMPTIONS.

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

Section 1. That §159.01 (B) (11) (a) (iii) a. 3., City of Fayetteville Code of Ordinances is hereby repealed.

Section 2. That §159.01 (B) (11) (a) (iii) a. 2., City of Fayetteville Code of Ordinances is hereby repealed, and the following is inserted in its stead:

2. The Mayor may exempt all or part of the applicable permit fees for buildings that can be proven to be more than 50 years old. This exemption shall apply only to owner-occupied, single-family dwellings where there is to be no change of use or occupancy.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT



The City of Fayetteville, Arkansas

BUILDING SAFETY DIVISION

CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council
THRU: Gary Dumas, Operations Director
FROM: Steve Cattaneo, Building Safety Director
DATE: September 19, 2005
RE: Demolition of Single Family Residences

RECOMMENDATION

For City Council to approve an Ordinance removing 159.01 Fees/Schedule (B) Fee schedule.

(11) Building permits. (a) General fees. (iii) Exemptions from permit fees.

~~3. Demolition fees. Single family residences shall be exempt from demolition fees.~~

BACKGROUND

Building Safety desires to

- Track the number and the square footage of Single Family Dwelling units that are demolished.
- Protect the citizens from exposure to possible harmful products and to verify that the applicant has met the ADEQ asbestos abatement requirements when applicable.
- Assure that City utilities have been properly disconnected and sealed.

DISCUSSION

Staff has researched the history of this exemption and cannot find any record of a Single Family Dwelling (SFD) demolition permit ever being issued. Apparently, this exemption is a carry over from many years ago. The intent was probably to encourage citizens to remove buildings that were beyond repair but recently, as in-fill development takes place, SFDs are being demolished for commercial purposes. The Arkansas Department of

Environmental Quality (ADEQ) requirements for demolition of most SFDs are the same as for commercial buildings in that an asbestos survey must be performed and a "Notice of Intent" filed with their office. The "Notice of Intent" details the inspection, findings and abatement (if necessary) of hazardous materials. The only SFD demolition that is exempt from ADEQ rules is for the homeowner who is removing or replacing a structure for his own personal use. Building Safety wants to do all it can to assure the public is being protected from asbestos exposure during demolitions. A copy of the "Notice of Intent" is presently required before a demolition permit is issued.

Citizens may request that fees be waived for hardship cases [159.01 (A) (1)].

BUDGET IMPACT

Annual revenues will be minimal (\$500 to \$1000). We do not have an accurate count for comparison but expect between 10 and 20 permits per year. The cost for a demolition permit is \$50.

This item was reviewed by the Ordinance Committee during October via e-mail and was recommended to be presented to the Council.



The City of Fayetteville, Arkansas

BUILDING SAFETY DIVISION

CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council

THRU: Gary Dumas, Operations Director

FROM: Steve Cattaneo, Building Safety Director

DATE: October 19, 2005

RE: Permit fee exemption for buildings over 50 years old

RECOMMENDATION

For City Council to approve an Ordinance modifying the following paragraph:

159.01 Fees/Schedule (B) Fee schedule. (11) Building permits. (a) General fees.
(iii) Exemptions from permit fees.

2. The Mayor may exempt all or part of the applicable permit fees for buildings that can be proven to be more than 50 years old ~~that are judged by the Building Official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration or relocation, or moving of buildings within the fire district.~~ This exemption shall apply only to owner occupied single family dwellings that does not create a change of use or occupancy.

BACKGROUND

Building Safety desires to limit the use of this exemption to owner occupied single family homes that are not being used for commercial purposes or changed to be used for commercial purposes.

DISCUSSION

The intent of this exemption was to encourage citizens to remodel or renovate older homes by removing the permit fee burden. In practice, we have experienced this exception being used by entrepreneurs who purchase older buildings and convert them

into either commercial or rental properties. While we do not discourage this action, we do not believe the cost of the permit is an impediment to these projects. More commonly, these projects require additional services by our division to see the project to completion.

Citizens may always request that fees be waived for hardship cases [159.01 (A) (1)].

BUDGET IMPACT

Annual revenues will vary depending on number and the scope of work. For comparison, during 2004 we waived \$6483 of permit fees that would have been collected under this proposed change.

This item was reviewed by the Ordinance Committee during October via e-mail and was recommended to be presented to the Council.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

Matt Casey

Submitted By

Engineering

Division

Operations

Department

Action Required:

Approval of a bid waiver and a cost share in the amount of \$798,963.44 with Reserve, LLC for improvements to Ruppel Road and Persimmon Street.

\$798,963.44

Cost of this request

4470.9470.5809.00

02116

Project Number

\$ 559,143.00

Category/Project Budget

\$ 337,632.06

\$ 221,510.94

Remaining Balance

Street ROW / Intersection /
Cost Sharing

Program Category / Project Name

Street Improvements

Program / Project Category Name

Sales Tax

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒


Department Director

12-2-05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

12/5/05
Date

Received in City Clerk's Office



12/2/05

Received in Mayor's Office




Finance and Internal Service Director

12/5/05
Date


Mayor

12/5/05
Date

Comments:

City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations *GD*

From: Ron Petrie, City Engineer *RBP*

Date: December 1, 2005

Subject: Proposed Street Cost Share in the amount of \$798,963.44 with Reserve, LLC for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development.

RECOMMENDATION

Staff recommends approval of a bid waiver and a cost share with Reserve, LLC for the widening of approximately 1200 LF of Ruppel Road to a four lane boulevard, approximately 1100 LF of Persimmon Street to a three lane collector and approximately 2100 LF of Persimmon Street to a two lane local street.

BACKGROUND

At the August 3, 2004 meeting of the City of Fayetteville City Council, the annexation of the property for the Mountain Ranch development was heard (ANX 04-1083 Marinoni). During this hearing, the council members discussed the need for a connection of Persimmon Street to Shiloh Drive. It was agreed at that time that this extension would be made with the proposed development. The City Council unanimously passed the requested annexation.

Since that time Planning Commission has approved the preliminary plat of the Mountain Ranch subdivision. The developer and City staff have worked together to plan the improvements necessary for Ruppel Road and Persimmon Street adjacent to this development. The improvements include upsizing the required two lane street section along Ruppel Road to a four lane boulevard section. The additional width will add capacity for the construction of the new school that is under construction adjacent to this portion of roadway. The improvements to Persimmon include constructing a three lane section the extent of the City property that is occupied by the Boys and Girls Club. From the City property east to the existing portion of Persimmon by Shiloh, a two lane local street section is proposed until development occurs on the north side of this roadway. As development occurs, the street can be widened to the full three lane section.

At the October 25, 2005 meeting of the City Council Street Committee, the street improvements and the cost share with the developer were discussed. The street committee agreed unanimously to forward the cost share to the full City Council.

DISCUSSION

Construction estimates have been provided to the City for these improvements by Crafton, Tull & Associates, the engineer of record, as follows:

RUPPLE ROAD COST SHARE

Developer's Share	\$568,610.00
City's Share	<u>\$307,876.50</u>
Total	<u>\$896,486.50</u>

PERSIMMON STREET COST SHARE

Developer's Share	\$512,867.56
City's Share	<u>\$491,086.94</u>
Total	<u>\$1,028,954.50</u>

BUDGET IMPACT

Project #02116 (Street ROW / Intersection / Cost Sharing) will be charged the \$798,963.44 necessary for this cost share. A budget adjustment will need to be approved to compensate for a shortfall of \$577,453. This shortfall will be temporarily funded from the Sales Tax Capital Improvement Fund balance until next year's CIP is approved. At that time, the 2006 Street ROW / Intersection / Cost Sharing capital project will be reduced by \$577,453.

The final costs to the City will be based upon actual costs as documented by Reserve, LLC subject to review by the City and may, or may not exceed the submitted estimate. However, the City's share will not exceed the estimate without additional authorization.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE AGREEMENT WITH RESERVE, LLC IN AN AMOUNT NOT TO EXCEED \$798,963.44 FOR THE WIDENING OF RUPPLE ROAD AND PERSIMMON STREET ADJACENT TO THE MOUNTAIN RANCH DEVELOPMENT; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$577,453.00.

WHEREAS, the City Council Street Committee voted to forward to the City Council the recommendation for a cost share agreement to widen approximately 1,200 linear feet of Rurple Road to a four-lane boulevard, approximately 1,100 linear feet of Persimmon Street to a three-lane collector, and approximately 2,100 linear feet of Persimmon Street to a two-lane local street;

WHEREAS, entering into a cost-share agreement with Reserve, LLC and utilizing their engineer and contractor will avoid the added cost and unnecessary duplication of effort which would arise from the formal competitive bidding process.

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 to approve a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of approximately 1,200 linear feet of Rurple Road to a four-lane boulevard, approximately 1,100 linear feet of Persimmon Street to a three-lane collector, and approximately 2,100 linear feet of Persimmon Street to a two-lane local street.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$577,453.00.

PASSED AND APPROVED this 20th day of December 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

**City of Fayetteville, Arkansas
Budget Adjustment Form**

D.4.
Reserve LLC - Cost Share Agreement
Page 5 of 20

Budget Year 2005	Department: Sales Tax Capital Improvements Division: Program:	Date Requested 12/20/2005	Adjustment Number
-------------------------	---	----------------------------------	-------------------

Project or Item Added/Increased:
\$577,453 is requested in the Street Improvements account of the Street ROW/Intersection/Cost Sharing capital project.

Project or Item Deleted/Reduced:
None. \$577,453 is proposed from the Use of Fund Balance in the Sales Tax Capital Improvements Fund.

Justification of this Increase:
Funding is needed for a street cost share with Reserve, LLC for the widening of Ruppel Road and Persimmon Street.

Justification of this Decrease:
Sufficient funding remains to comply with City policies.

The Street ROW/Intersection/Cost Sharing capital project will be reduced by this amount in 2006.

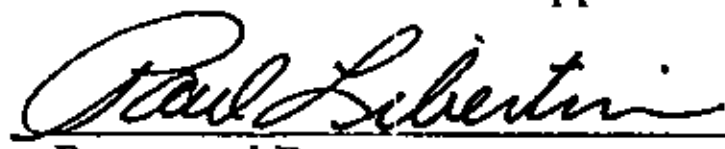
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	577,453	02116	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	4470	0947	4999	99	577,453		

Approval Signatures

 12/2/05
Requested By Date

Budget Manager _____ Date _____

 12-2-05
Department Director Date

 12-5-05
Finance & Internal Services Director Date

Mayor _____ Date _____

Budget Office Use Only

Type: A B C D E

Date of Approval _____
Initial _____ Date _____

Posted to General Ledger _____
Initial _____ Date _____

Posted to Project Accounting _____
Initial _____ Date _____

Entered in Category Log _____
Initial _____ Date _____

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this December 1, 2005, by and between the City of Fayetteville, Arkansas and the Fayetteville School District, Witnesseth:

WHEREAS, Fayetteville Public School District is constructing a new school at the southwest corner of the intersection of Persimmon Street and Ruppel Road.; and

WHEREAS, The school district will be extending an 8" main through the project site to provide water service and fire protection to the development; and

WHEREAS, it will benefit the City of Fayetteville to upgrade this 8" water main extension to a 12" main. This upgrade will continue the creation of a 12" water main grid in this area in accordance with the water distribution master plan.

NOW, THEREFORE, the City of Fayetteville and the Fayetteville Public School District agree as follows:

1. Upon the City Council and/or the Mayor approving the Water Main Cost-Share, the City of Fayetteville agrees to:
 - A. Pay for 100% of the actual documented construction costs for the upsizing to a 12" water main along Ruppel Road.
 - B. Pay a maximum-not-to-exceed cost of \$52,195.00 for the afore mentioned water main construction as was provided by the Fayetteville Public School District and made a part of this agreement.
 - C. Reconsider the costs if the future and actual construction prices exceed the maximum-not-to-exceed amount that was furnished by the Fayetteville Public School District. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.
 - D. Make all efforts to provide payment to the Fayetteville Public School District within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. Fayetteville Public School District agrees to:
 - A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable water main installation.
 - B. Provide a copy of the invoice(s) from the Contractor and a completed lien

waiver executed by the Contractor upon acceptance of the water main installation.

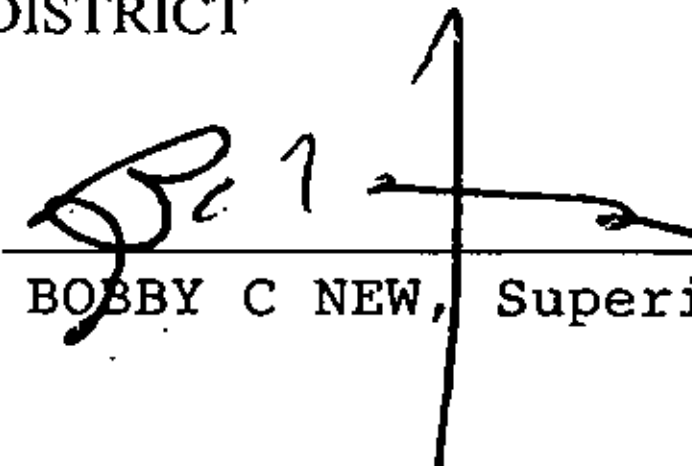
- C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and/or the Mayor.
3. It is further understood that the contract for construction is between the Fayetteville Public School District and their Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$52,195.00 for the water main upgrade.

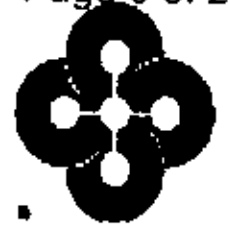
**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

FAYETTEVILLE PUBLIC SCHOOL
DISTRICT

By:  _____
BOBBY C NEW, Superintendent



Crafton, Tull & Associates, Inc.
P.O. Box 10189, Russellville, AR 72812-0189
(479) 968-1885 / Fax: (479) 968-2981
www.craftontull.com

MOUNTAIN RANCH SUBDIVISION STREET IMPROVEMENTS **OPINION OF PROBABLE COST**

December 1, 2005 (Includes NWX bid prices and Revised Asphalt Prices)

RUPPLE ROAD (As Designed)

ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT COST	RESERVE L.L.C UNITS	RESERVE L.L.C COST	CITY UNITS	CITY COSTS	TOTAL COST
1	Clearing and Grubbing	1	LS	\$26,000.00	0.77	20,000.00	0.23	6,000.00	\$26,000.00
2	Street Grading-Haul in 2' Select Fill	5650	CY	\$8.50	2,174.00	18,479.00	3,476.00	29,546.00	\$48,025.00
3	Unclassified Excavation	1	LS	\$105,000.00	0.47	49,200.00	0.53	55,800.00	\$105,000.00
4	Undercut	5000	CY	\$16.80	3,000.00	50,400.00	2,000.00	33,600.00	\$84,000.00
5	Street Section (2" Surf. 4" Binder & 6" Base)	6959	SY	\$25.00	3,260.00	81,500.00	3,699.00	92,475.00	\$173,975.00
6	2' Curb & Gutter	2450	LF	\$9.25	2,450.00	22,662.50	0.00	0.00	\$22,662.50
7	Median Curb	1950	LF	\$9.25	0.00	0.00	1,950.00	18,037.50	\$18,037.50
8	6' Wide Concrete Sidewalk	1670	SY	\$36.70	1,630.00	59,821.00	40.00	1,468.00	\$61,289.00
9	Curb Inlet	8	EA	\$2,680.00	8.00	21,440.00	0.00	0.00	\$21,440.00
10	18" RCP	65	LF	\$49.50	65.00	3,217.50	0.00	0.00	\$3,217.50
11	24" RCP	214	LF	\$60.00	214.00	12,840.00	0.00	0.00	\$12,840.00
12	30" RCP	136	LF	\$75.00	136.00	10,200.00	0.00	0.00	\$10,200.00
13	36" RCP	533	LF	\$100.00	533.00	53,300.00	0.00	0.00	\$53,300.00
14	Quadruple 10' X 5' RCP	110	LF	\$2,150.00	77.00	165,550.00	33.00	70,950.00	\$236,500.00
15	Engineering	1	LS	\$20,000.00	0.63	12,685.30	0.37	7,314.70	\$20,000.00
CONSTRUCTION TOTALS						\$568,610.00		\$307,876.50	\$896,486.50
FAYETTEVILLE PUBLIC SCHOOL SHARE:						\$284,305.00			

PERSIMMON (As Designed)

ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT COST	RESERVE L.L.C UNITS	RESERVE L.L.C COST	CITY UNITS	CITY COSTS	TOTAL COST
1	Clearing and Grubbing	1	LS	\$39,000.00	0.49	\$19,064.22	0.51	\$19,935.78	\$39,000.00
2	Street Grading-(Haul in 2' Select Fill)	8800	CY	\$8.50	4,301.67	\$36,564.20	4,498.33	\$38,235.80	\$74,800.00
3	Unclassified Excavation	1	LS	\$185,000.00	0.49	\$90,432.84	0.51	\$94,567.16	\$185,000.00
4	Undercut (3')	8860	CY	\$16.80	4,331.00	\$72,760.80	4,529.00	\$76,087.20	\$148,848.00
5	Street Section (2" Surf., 3" Binder & 6" Base)	8860	SY	\$23.00	4,331.00	\$99,613.00	4,529.00	\$104,167.00	\$203,780.00
6	2' Curb & Gutter	4450	LF	\$9.25	3,250.00	\$30,062.50	1,200.00	\$11,100.00	\$41,162.50
7	6' Wide Concrete Sidewalk	2840	SY	\$36.70	2,150.00	\$78,905.00	690.00	\$25,323.00	\$104,228.00
8	Curb Inlet	2	EA	\$3,800.00	1.00	\$3,800.00	1.00	\$3,800.00	\$7,600.00
9	18" RCP	128	LF	\$49.50	70.00	\$3,465.00	58.00	\$2,871.00	\$6,336.00
10	Quadruple 10' X 5' RCP	84	LF	\$2,300.00	34.00	\$78,200.00	50.00	\$115,000.00	\$193,200.00
11	Engineering	1	LS	\$25,000.00	0.47	\$11,834.62	0.53	\$13,165.38	\$25,000.00
CONSTRUCTION TOTALS						\$512,867.56		\$491,086.94	\$1,028,954.50

The Ordinance was left on the Second Reading.

ANX 04-1083 (Marinoni): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the extensions of Ruppel Road and Persimmon Street containing approximately 78.84 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

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.

Alderman Jordan asked Dawn Warrick what the situation was with Persimmon Street.

Dawn Warrick said that as properties develop along that master street plan corridor, the development will be required to install the improvements that are equal to the impact of their development. A standard improvement is a minimum of a half street improvement adjacent to the project, however if there is no additional development, there may need to be more than a half street improvement in order to provide adequate driving surface to connect the streets.

Alderman Jordan: Is there plans to go back to the bypass with Persimmon?

Dawn Warrick: Yes sir. The Master Street Plan calls for Persimmon to connect Double Springs Road at the far western extent of the City and Shiloh Drive which is the outer road along I-540.

Alderman Jordan: Is that going to be done with this development?

Dawn Warrick: The portion of this development that adjoins it will be developed as this property is built out. The portion of Persimmon that adjoins it will be constructed.

They continued to discuss the locations of the adjoining property.

Alderman Jordan said that he wanted to make sure that we get Persimmon Road built back to the bypass because that is important.

Dawn Warrick stated that that is the goal of the staff as well.

Alderman Thiel: We can require that they do the improvements on their side of the subdivision but you did mention both sides have to be improved and I would like to ask the City Attorney if that is going to be an issue. If this does progress on down to Shiloh and if the developments are on one side is the City going to have to basically cost share and do the other side to make these improvements.

Mr. Williams: It depends upon the rational nexus and the impact whether or not we can require a full road to be built by this developer even if they only owned one side of it. As long as it's within the rough proportionality of the impact of their development they are going to have much more of an impact and therefore it could potentially justify them building both sides of the street. If they only own one side they might still be required to do that constitutionally.

Alderman Thiel: This Parcel that we're looking at right now, we're pretty much being assured that we will get both sides of Persimmon built.

Dawn Warrick: I don't know that there is anything that I can assure you except that when we see a development the improvements that are required of that development will be roughly proportionate to the impact of that development on the adjacent streets.

Alderman Thiel: From looking at this there is not much frontage compared to the Greenwood/Sloan project.

Dawn Warrick: This is a narrow 80 acre strip however as I mentioned this developer does have control of approximately 400 acres that extends to the east of the subject property that is under consideration for annexation right now and they do propose to develop all of that over time and they understand that our priority is development of the property on the north end which would include development of their share of Persimmon Street or all of it if that is determined to be their share as well as the extension of Ruppel Road which would adjoin the property to the west.

Alderman Marr expressed his concerns about the width of the roads and he questioned why we were not cost sharing to make them wider now so that we can handle the traffic that will be there in the future. He asked what the process was because when these things come through he is hearing roads that are not necessarily addressing that issue.

Mr. Williams: There will be further discussions after this meeting before this comes up for a final vote concerning that kind of development and I think you are absolutely correct that this is the best time to do this kind of planning and construction so you don't interrupt traffic once they are using the road. I think there is going to be some work in the next couple of weeks that hopefully will answer some of the issues and questions that you have presented here.

Bob Estes, representing the applicants: With regard to the questions concerning Ruppel and Persimmon currently the site only has access to Ruppel Road at the northwest corner of the property. At the time of development Ruppel Road and Persimmon will be constructed by the developer and will be finalized before any building permits are requested. Commissioner Marr referred to some material that you have provided previously, this material shows three points of ingress and egress to the property that is before you for your consideration. Two of those points are on Persimmon and one is on Ruppel. If there is a request for any building permits that Persimmon and Ruppel will be improved and they will be improved to the Master Street Plan standards.

Alderman Jordan: So the bottom line here is that Persimmon is going to go all the way back to the bypass?

Bob Estes: That is correct.

Alderman Lucas: When?

Bob Estes: It will be built and finaled to the City before there is a request for a Building Permit so before you see any roof tops you will see Persimmon and Ruppel from the intersection of Ruppel and Persimmon East.

Alderman Jordan: I can work with that.

Alderman Lucas: When you say the road is going to be completed to the bypass, is it going to be done next to this 80 acres and then whatever you bring next or are you going to put Persimmon on through when you first start building it?

Bob Estes: Your applicants own the property from the bypass to Ruppel and it is bordered on the north by Persimmon. Persimmon will be improved and will be finaled to the City before there is a request for a Building Permit.

Alderman Marr asked staff what width a master street plan collector standard is.

Tim Conklin said 36 feet back curb to back curb.

Alderman Marr asked what an arterial is?

Tim Conklin: Minor arterial is going to be a 4 lane street; 48 feet wide principal arterial has a boulevard median.

Mayor Coody: 36 Feet is essentially number of three lanes; is that right?

Tim Conklin: I was not able to attend the Street Committee last week but I do believe on the agenda we did have on there turn lanes at major intersections is that correct, where we talked about bringing forward a cost share to work with the developments as they come through and put left turn lanes at the major intersections. That would be Ruppel Road and Broyles.

Bob Estes: Your Planning Commission will see an R-PZD on this property and that would be an appropriate time to discuss and consider some of the issues that we are talking about this evening.

Alderman Jordan said all I want is the road built to the bypass before we ever build any houses and you said you were going to do that so I don't have any problems.

Alderman Jordan 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 4598 as Recorded in the Office of the City Clerk.

RZN 04-1084 (Marinoni): An ordinance rezoning that property described in rezoning petition RZN 04-1084 as submitted by Bob Estes on behalf of Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the future extensions of Ruppel Road and Persimmon Street containing approximately 78.84 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

Alderman Jordan 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 Thiel: Whenever Mr. Estes was up here he mentioned this coming through as a PZD, you meant the other parcel because the rezoning is being considered here so this would not come through as a PZD.

Bob Estes: It will come through as an R-PZD. What is happening here and the reason for this rezoning request as follows is that annexations are automatically zoned R-A. The applicant is requesting RSF-4 rezoning. The reason that I do that and the reason I bring that to you in this manner is because the 2002 Annexation Policy Guideline for annexations requires that you consider density and you consider land use and land planning. The only way that you can consider that issue is that you consider the issue of rezoning because that is density, land use, and land planning. Your applicant is asking that you give this a rezoning classification of RSF-4. You will then see an R-PZD for this property.

He confirmed that the City Council will see this in the future. He also stated that it is more probable than not that the density will be less than RSF-4.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Jordan 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 4599 as Recorded in the Office of the City Clerk.

Alderman Ferrell said he understands the concerns of the Committee, but this has been through the Board of Adjustment, a neighborhood meeting and the Planning Commission already. He asked Mr. Sharp how time-sensitive this project is.

Rob Sharp said they have the drawings done and have a tenant. They would like to apply for a building permit next week. His concern is that College Avenue is such a hot-button item, this issue could still be alive six months from now and by then the opportunity for this project could be lost. Waiting a couple of weeks wouldn't be a problem but six to eight weeks would.

Ron Petrie asked Mr. Sharp if there is a reason why the request is for 30 feet of right-of-way as opposed to 35 feet.

Rob Sharp said an amendment to that affect would be fine with his client. He would rather have 35 feet now than 30 feet six weeks from now if that is the issue. He mentioned that, if there is no objection from the Committee, they might be able to pursue the building permit with the canopy left off, with the understanding that they can come back once the design for College Avenue is firmed up since the building permit process also takes time.

Alderman Ferrell made a motion that the issue be sent to the full Council for discussion without recommendation from the Street Committee. Alderman Marr seconded the motion and it passed unanimously.

✱ **4. Discussion of a proposed cost share with the Fayetteville School Systems and Reserve, LLC (Terminella & Associates) to widen Ruppel Road to a four lane boulevard and to widen Persimmon Street to a Collector Street.**

Ron Petrie said this is a proposed street cost share with both Terminella (Reserve LLC) and the Fayetteville School system for two different roads. He discussed the Ruppel Road portion of the proposal, identifying which portion of the road would be paid for by each of the three participants (Reserve LLC, Fayetteville Schools and the City). The City of Fayetteville's portion would be a little over \$277,000. He then discussed the cost share division for the Persimmon Street portion of the proposal. The City's portion of the cost for this project would be \$534,375. The total for both portions (Ruppel and Persimmon) is \$812,220 for the City's portion. The school's portion would be \$308,915 and Reserve, LLC's portion would be \$805,000.

Gary Dumas commented that these costs are estimates. If the Street Committee approves this item, we will need to look even more closely at how the costs are allocated. The information presented at this time includes unit quantities and costs figured in bulk. As we look at more detail, some of the costs may be adjusted downward.

Alderman Marr said when this development was before the Council, he understood the developer was going to build the collector road.

Tom Terminella of Terminella & Associates said that at the Aug. 4, 2004 Council meeting Mr. Estes indicated that they would "construct" the road once it was understood what improvements needed to go in. In most cities, they construct roads that adjoin the boundaries of their project and cost share with the municipalities. In no part of the discussion was it indicated that they would provide all the right-of-way, engineer, construct and pay for the entire improvement as

shown on the Master Street Plan. At a meeting a few weeks ago, his group, Alderman Jordan and staff met to listen to the tape of the meeting to make sure what was said at that meeting since people seemed be operating on different assumptions. He said that his company will construct the improvement and would respectfully ask for the City to cost share as is a common practice in every municipality in which they work.

Alderman Jordan said he does have the tape of the meeting where this was discussed if any of the Committee members would like to view it.

Ron Petrie said there are two separate issues. One is what was perceived to be promised at the meeting and the second is the staff recommendation. The staff recommendation is not based on the perceived promise, but is based on a purely rational nexus approach of who should pay for what. In response to a question from **Alderman Ferrell** he said the money for the City's portion of the cost share would come from for the City's street cost-share fund for next year if that fund is approved in the CIP budget.

Alderman Lucas said it was her understanding that the road would be built by Mr. Terminella. However, we have to have the road because of the school and the Boys & Girls Club. She has learned something from this situation and will be more careful of choices of words in the future.

Alderman Marr said he doesn't think we can have a school there and not build the road as specified. But regardless of semantics, he feels like it was presented one way and we are ending up with something different.

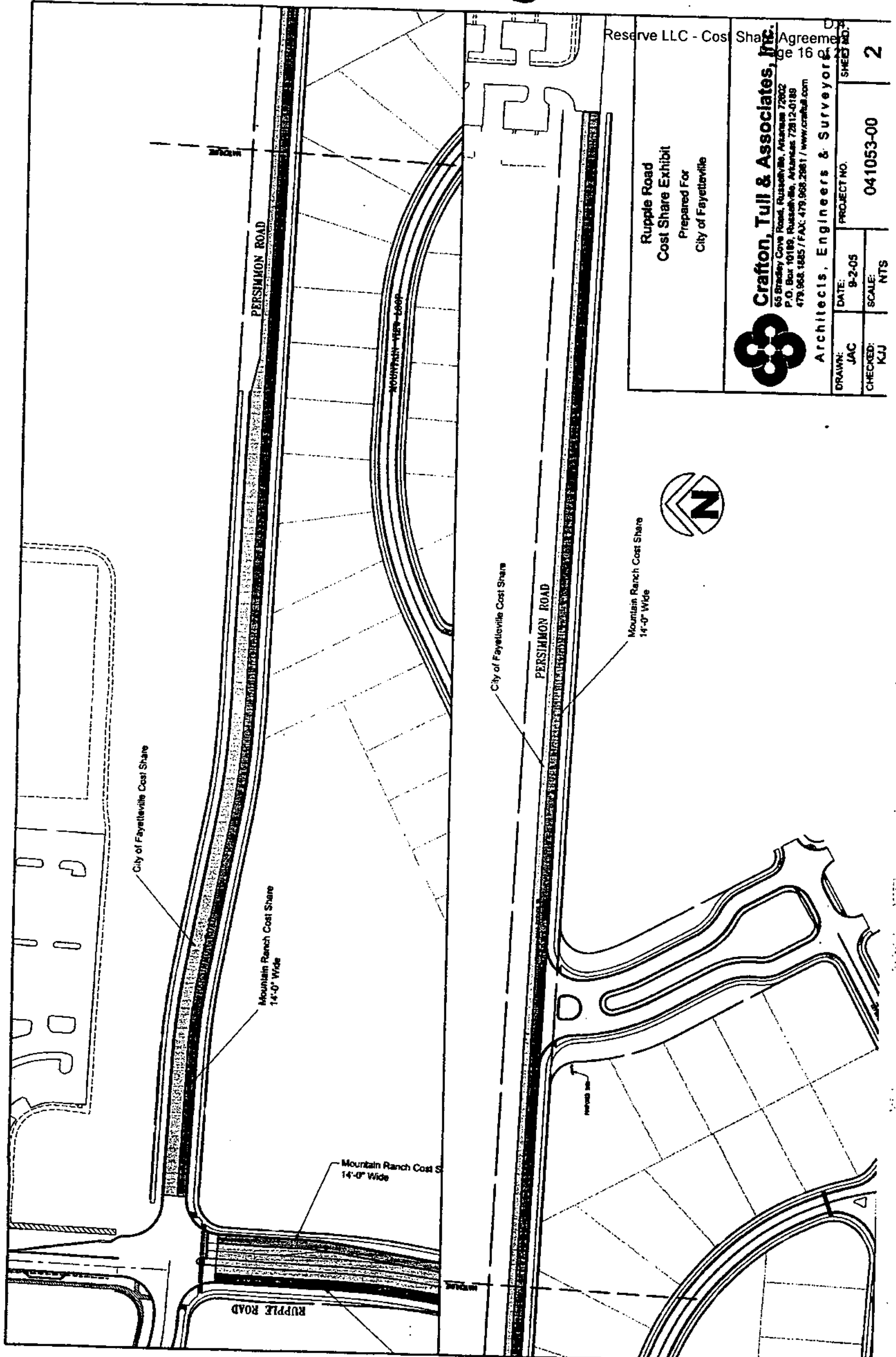
Tom Terminella said he is constructing and cost sharing a half a dozen improvements with seven different cities right now. He made certain assumptions based on his experience in this area. He said he would have clarified immediately if anyone had said anything about paying for and constructing the improvement. He doesn't want words put in his mouth or it to be thought that he said one thing and meant another. All the words were spoken carefully that night but nobody nailed it down. He is now suffering the consequences of that. He does not want his integrity or character to be questioned. He is sorry for any misconceptions, but he always assumed it would be a cost share. He hopes that it will be spoken more clearly in the future.

Tim Conklin, in response to a question from Alderman Ferrell said it was his assumption from the meeting that the developer was paying for the street. With regard to the size of the development, length of street and the fact that it is a collector street, City policy has been to cost share the center turn lane. So this does follow our policy.

— **Alderman Ferrell moved to accept staff's recommendation to participate in a cost share and move the item forward to Council. Alderman Reynolds seconded the motion. The motion passed unanimously.**

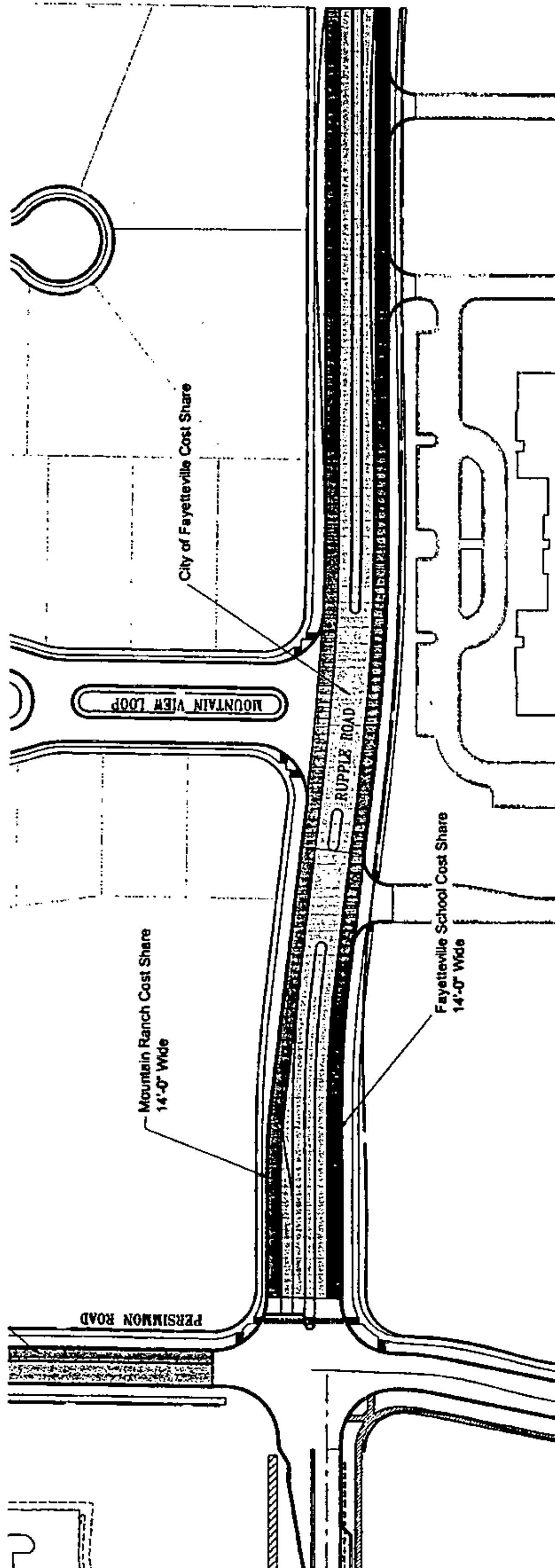
5. Presentation from McClelland Engineers of a progress report for the Kings Drive Reconstruction Study.

Ron Petrie said he thought it was appropriate to update the Committee on the progress of this item.



Ruppel Road Cost Share Exhibit Prepared For City of Fayetteville		Reserve LLC - Cost Share Agreement Page 16 of 22	
Crafton, Tull & Associates, Inc. 65 Bradley Cove Road, Russellville, Arkansas 72802 P.O. Box 10189, Russellville, Arkansas 72812-0189 479.968.1885 / FAX: 479.968.2881 / www.crafton.com		Architects, Engineers & Surveyors	
DRAWN: JAC	DATE: 9-2-05	PROJECT NO. 041053-00	SHEET NO. 2
CHECKED: KJJ	SCALE: NTS		





Reserve LLC - Cost Share Agreement
Page 17

Ruppel Road
Cost Share Exhibit
Prepared For
City of Fayetteville



Crafton, Tull & Associates, Inc.
66 Bradley Cove Road, Russellville, Arkansas 72802
P.O. Box 10189, Russellville, Arkansas 72812-0189
479.968.1885 / FAX: 479.968.2981 / www.crafton.com

Architects, Engineers & Surveyors

DRAWN: JAC	DATE: 9-2-05	PROJECT NO. 041053-00	SHEET NO. 1
CHECKED: KJJ	SCALE: NTS		

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this December 1, 2005, by and between the City of Fayetteville, Arkansas and the Fayetteville School District, Witnesseth:

WHEREAS, Fayetteville Public School District is constructing a new school at the southwest corner of the intersection of Persimmon Street and Ruppel Road.; and

WHEREAS, The school district will be extending an 8" main through the project site to provide water service and fire protection to the development; and

WHEREAS, it will benefit the City of Fayetteville to upgrade this 8" water main extension to a 12" main. This upgrade will continue the creation of a 12" water main grid in this area in accordance with the water distribution master plan.

NOW, THEREFORE, the City of Fayetteville and the Fayetteville Public School District agree as follows:

1. Upon the City Council and/or the Mayor approving the Water Main Cost-Share, the City of Fayetteville agrees to:
 - A. Pay for 100% of the actual documented construction costs for the upsizing to a 12" water main along Ruppel Road.
 - B. Pay a maximum-not-to-exceed cost of \$52,195.00 for the afore mentioned water main construction as was provided by the Fayetteville Public School District and made a part of this agreement.
 - C. Reconsider the costs if the future and actual construction prices exceed the maximum-not-to-exceed amount that was furnished by the Fayetteville Public School District. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.
 - D. Make all efforts to provide payment to the Fayetteville Public School District within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. Fayetteville Public School District agrees to:
 - A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable water main installation.
 - B. Provide a copy of the invoice(s) from the Contractor and a completed lien

waiver executed by the Contractor upon acceptance of the water main installation.

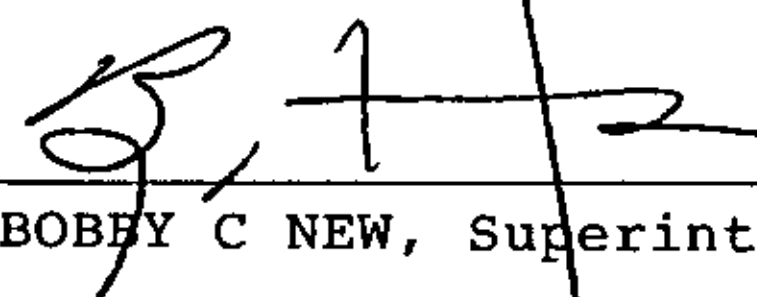
- C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and/or the Mayor.
3. It is further understood that the contract for construction is between the Fayetteville Public School District and their Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$52,195.00 for the water main upgrade.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

FAYETTEVILLE PUBLIC SCHOOL
DISTRICT

By:  _____
BOBBY C NEW, Superintendent

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

20-Dec-05
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Resolution approving Amendment Number 13 with Operations Management International, Inc. for operation, maintenance and management of wastewater treatment facilities for calendar year 2006.

\$4,674,829.66

Cost of this request

5400.5100.5328.00

Account Number

02133.0302

Project Number

\$ 5,196,723.00

Category/Project Budget

\$ -

Funds Used to Date

\$ 5,196,723.00

Remaining Balance

Water/Wastewater

Program Category / Project Name

Wastewater Treatment

Program / Project Category Name

Water and Sewer

Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☐

[Signature]
Department Director

30 Nov 05
Date

Previous Ordinance or Resolution #

Original Contract Date:

1-Sep-94

Original Contract Number:

[Signature]
City Attorney

12/1/05

[Signature]
Finance and Internal Service Director

12/1/05
Date

Received in City Clerk's Office

ENTERED
12/1/05

[Signature]
Mayor

12/2/05
Date

Received in Mayor's Office

ENTERED
12/1/05

Comments:

Fayetteville

City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: David Jurgens, Water/Wastewater Director 

Date: November 29, 2005

Subject: Resolution approving Amendment Number 13 with Operations Management International, Inc. for operation, maintenance and management of wastewater treatment facilities for calendar year 2006.

RECOMMENDATION

Fayetteville City Administration recommends approval of Amendment No. 13 to the Agreement between the City and Operations Management, International, Inc. (OMI), for Operations, Maintenance, and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant." This contract amendment totalling \$4,674,829.66 provides services for 2006 and is included in the proposed Fiscal Year 2006 Budget.

BACKGROUND

The City of Fayetteville's first private operating contract commenced in 1987 with this year marking 19 years of privatized services from Operations Management International, Inc. (OMI). In May of 2003, Fayetteville City Council approved Amendment No. 9 extending this agreement through December 31, 2008.

The scope of services provided by OMI to the City of Fayetteville include: (1) operate and maintain the Noland Wastewater Treatment Plant; (2) operate and maintain 40 wastewater pumping stations; (3) administer the City's NPDES discharge permit; (4) manage the City's sludge disposal program; (5) implement the City's industrial pretreatment program; (6) support the SCADA (supervisory control and data acquisition system) network that monitors water/wastewater facilities; (7) pursue operation economies, efficiencies, and permit compliance; and (8) actively participate in the design and construction of the Wastewater System Improvement Project providing technical, operational, and maintenance input.

To encourage operational economy and innovation, an incentive provision is incorporated within the contract whereby budget underruns are distributed 87.5% to the City and 12.5% to OMI.

DISCUSSION

The operating expenses for fiscal year 2006 contain a slight increase from 2005 due to significantly higher fuel and chemical costs, a 2.6% labor increase, a 3% customer base increase, addition of four sewer lift stations, a 5% increase in hydraulic loadings, and a 10% increase in organic loadings and the resultant sludge hauling. The annual increase in contract value is 5%.

BUDGET IMPACT

The full value of \$4,674,829.66 of Contract Amendment No. 13 with Operations Management International is included in the proposed budget for Fiscal Year 2006. The approval of Contract Amendment No. 13 is consistent with the City's financial management plan. The authorization of Amendment No. 13 will be conditioned upon the approval of the 2006 budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NO. 13
TO THE CONTRACT WITH OPERATIONS
MANAGEMENT INTERNATIONAL (OMI) IN THE
AMOUNT OF \$4,674,829.66 FOR THE OPERATION
AND MANAGEMENT OF FAYETTEVILLE
WASTEWATER TREATMENT FACILITIES FOR 2006.

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. 13 to the contract with Operations
Management International (OMI) in the amount of \$4,674,829.66 for the
operation and management of Fayetteville Wastewater Treatment facilities for
2006. A copy of Amendment No. 13, marked Exhibit "A" is attached hereto, and
made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas
hereby authorizes the Mayor to sign Amendment No. 13 to the contract with
OMI, contingent upon final approval of the FY2006 Budget.

PASSED and APPROVED this 20th day of December, 2005

APPROVED:

By:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

AMENDMENT NO. 13
TO
AGREEMENT FOR OPERATIONS, MAINTENANCE AND MANAGEMENT SERVICES
FOR THE CITY OF FAYETTEVILLE, ARKANSAS WASTEWATER TREATMENT PLANT

THIS AMENDMENT NO. 13 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, 2006, 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.

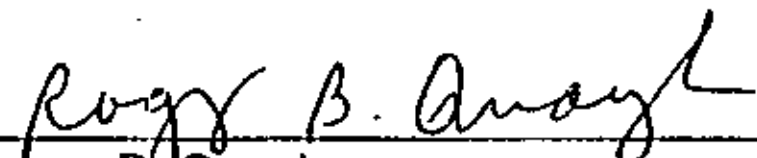
NOW THEREFORE, the City and OMI agree to amend the Agreement as follows:

1. Article 4.1 is hereby deleted in its entirety and replaced with the following Article 4.1:
 - 4.1 For services rendered during calendar year 2006 the City of Fayetteville shall pay to OMI the actual cost of services performed plus an annualized management fee of Eighty Six Thousand Eight Hundred Forty One Dollars and Thirty Five Cents (\$86,841.35). Said fee and estimated cost (base fee) shall be paid in twelve (12) equal monthly installments. The management fee for subsequent years will be determined proportional to the increase in estimated cost.
2. 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 2006 shall be Four Million Six Hundred Seventy Four Thousand Eight Hundred Twenty Nine Dollars and Eighty One Cents (\$4,674,829.81). 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. Upon each contract year renegotiation, OMI shall continue to invoice City of Fayetteville at the previous amount until the new contract year price is agreed upon. Upon written notice agreement between the parties as to the new contract year base fee, OMI shall issue an invoice retroactively adjusting the previous base fee amount. 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.
3. Appendices B, E, and J are hereby deleted in their entirety and replaced with the attached Appendices B, E, and J.
4. Article 4.8 is hereby deleted in its entirety and replaced with the following Article 4.8:
 - 4.8 OMI agrees to incur up to One Hundred Four Thousand Eight Hundred Fifty Five Dollars (\$104,855) per year in lift station odor control direct expenses, including costs for necessary chemicals, pumps, tanks, related equipment and such outside services as needed. These expenses will not include labor and benefits for OMI personnel. OMI will rebate to the City of Fayetteville the entire amount that actual lift station odor control expenses are less than \$104,855 in any year of this Agreement.

This Amendment No. 13 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: 11/22/2005

CITY OF FAYETTEVILLE

Dan Coody
Mayor
Date: _____

APPROVED AS TO FORM:

Kit Williams
City Attorney
Date: _____

Appendix B

LOCATION OF PROJECT

B.1 OMI agrees to provide the services necessary for the management, operation and maintenance of the following:

- a) All equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Wastewater Treatment Plant located at:

1400 North Fox Hunter Road
Fayetteville, Arkansas

- b) All equipment, grounds, and facilities now existing within the present property boundaries of pump stations described as follows:

WW1	978 E. Zion Road
WW2	4938 Mission Blvd. (Timbercrest)
WW3	Crystal Springs/Salem Road
WW4	691 W. Poplar
WW5	3896 N. Gregg
WW6	3021 N. Old Wire Road
WW7	2034 N. County Road 877
WW8	729 W. North Street
WW9	1336 N. Porter
WW10	716 Futrall Drive
WW11	4412 W. 6 th Street
WW12	398 N. Double Springs Road
WW13	878 S. Stonebridge Road
WW14	1820 S. Armstrong
WW15	203 E. 29 th Circle
WW16	3917 S. McCollum Road
WW18	202 N. Sandy (Greenland)
WW19	988 S. Mallywagnon Road
WW 20	3212 N. Highway 112
WW21	1687 S. Happy Hollow Road
WW22	630 N. Double Springs Road
WW23	Masters Addition (Country Club - 2)
WW24	4071 South McCollum (Airport East)
WW25	Willow West (Farmington)
WW26	74 S. Kestrel (Sequoyah Preserve)
WW27	1031 River Meadows Drive (Stonebridge Meadow)
WW28	1603 Plantation Avenue (Heritage Village)
WW29	Greenland (Todd Bohannon)
WW30	2324 Ruppel Road
WW31	2318 Internet (Research Park)
WW32	478 N. Durango Place (Silverthorne)
WW33	4644 N. Crossover Road (Copper Creek)
WW34	7572 S. School (Airport South)
WW35	3083 W. 6 th Street (Lowe's)
WW36	1642 N. Willowbrook Dr. (Skyler Place)
WW37	3848 W. Edgewater Dr. (Clabber Creek)
WW38	3710 E. Zion Road (Copper Creek II)
WW39	2392 N. Kenswick Avenue (Crofton Manner)
WW40	1811 S. Cherry Hills Dr. (Stone Bridge Meadow II)

d) The potable water SCADA system at the following locations:

W1	215 W. 24 th Street	Pump Station
W2	844 N. Crossover Road	Pump Station
W4	1016 E. Ash Street	Pump Station
W5	707 E. Rogers Drive	Pump Station
W6	456 E. Baxter Lane	Ground Storage Tank
W7	707 E. Rogers Drive	Ground Storage Tank
W8	113 N. Sang	Elevated Storage Tank
W9	1170 E. South Skyline	Elevated Storage Tank
W10	1044 E. Township Road	Elevated Storage Tank
W11	Mt. Kessler	Elevated Storage Tank
W12	Highway 45 Valve Station	Pressure-reducing Valve
W13	Fire Tower Avenue (Goshen)	Ground Storage Tank
W14	Fire Tower Avenue (Goshen)	Pump Station
W15	Co. Road # 55 (Round Mountain)	Ground Storage Tank
W16	Co. Road # 4343 (Benson Mountain)	Ground Storage Tank
W17	Gulley Road Tank	Elevated Storage Tank
W18	Gulley Road Station	Pump Station
	2435 S. Industrial Dr.	Water & Sewer Ops Center
	12141 Ed Edwards Road	Mt. Robinson Tower Site

Appendix E

VEHICLE AND MOBILE EQUIPMENT DESCRIPTION

Unit #	Unit Description	Year
1092	Ford Explorer	2002
2009	Ford Ranger 4 X 4	1997
239	Ford F150 Flare Side	
266	GMC V-Jimmy	1990
284	Ford Ranger 4 X 4	1992
310	Ford F-350 3-Way Dump	1990
320	Ford F-350 Crew Cab	1999
324	Ford F-350 w/crane	1999
339	Ford F-350 4 X 4	2002
325	Ford F-350 4 X 4	2001
539	Ford CM224 Mower	1994
550	Ford 5640 Tractor w/Loader	1995
551	Ford 3930 Tractor	1995
556	Ford/New Holland 8160 Tractor w/Loader	1997
562	New Holland 8160 Tractor	1999
563	New Holland Tractor	1999
564	New Holland Tractor w/Loader	1999
566	Ford LS55 Lawn Tractor	1999
570	New Holland 95 hp Tractor	2000
644	New Holland Backhoe/Loader	2000
701	Ford 8000 Dump	1983
712	Ford 8000 (Gooseneck)	1983
734	Freight Liner	1987
76	Caterpillar Articulated Tanker	1988
77	Caterpillar Articulated Tanker	1988
806	Case 1150G Bulldozer	1995
82	Sykes 6" Pump/Trailer	1995
900	Generator	1987
9002	New Holland 648 Round Baler	1999
9003	New Holland 1411 Mower	1999
9004	John Deere 348-C Square Baler	1999
9017	New Holland 1411 Mower	2000
9031	E-Z Go Workhorse	2001
9034	Yale Forklift	2001
9037	E-Z Go Workhorse	2002
910	16 Ft. Trailer N/C	1987
927	24' Parker Gooseneck Trailer	1991
959	Bush Hog 2620 Cutter	1995
966	18 Ft. Trailer	1996
969	Lo-Boy Trailer	1996
	New Holland Square Baler	2005
988	Hesston Wheel Rake	1998
989	M & W Wheel Rake	1998
990	New Holland 1412 Mower	2005
991	Polaris 500 4 X 4	1998
992	Polaris 500 4 X 4	1998
9021	Volvo Penta 400 RD - Portable Diesel Power Generator at LS #8	2001
9025	Volvo Penta 400 RD - Portable Diesel Power	2001

Unit #	Unit Description	Year
	Generator at LS #9	
	Hesston Rake	2005
	Portable Generator	2005

Appendix J

COST DETAIL

The annualized estimated costs for calendar year 2006 are as follows:

	Current 2005	Proposed 2006
Direct Labor & Benefits	\$ 1,671,071.00	\$ 1,714,624.83
Labor Markup	\$ 501,321.00	\$ 514,387.45
Electricity	\$ 588,480.00	\$ 576,000.00
Electrical Markup	\$ -	\$ -
Other Direct Costs	\$ 1,306,961.12	\$ 1,434,090.16
Other Direct Costs Markup	\$ 130,696.12	\$ 143,409.02
Subtotal	\$ 4,198,592.00	\$ 4,382,511.46
Fixed Fee	\$ 81,697.86	\$ 86,841.35
Lift Station Odor Control	\$ 69,362.00	\$ 104,855.00
Capital Item Amortization	\$ 100,622.00	\$ 100,622.00
Power Generator Project		
Equipment Costs	\$ 762,645.00	\$ -
Construction Management	\$ 114,396.75	\$ -
Total Est. O&M Budget	\$ 5,327,252.89	\$ 4,674,829.81
Total Est. Annualized Budget	\$ 5,327,252.89	\$ 4,674,829.81
Net Annualized Difference		\$ (652,423.08)

The following are some of the major reasons for cost circumstances:

1. The Power Generator Project was successfully completed in 2005.
2. Continued increase in the efficient use of technological automation and job-sharing within the OMI network.
3. Continued upward pressure on the cost of labor, fuel, chemicals and vehicle expenses. Fuel costs in particular have had an enormous impact on the cost of sludge hauling and disposal, but an even greater impact on the potential cost of electricity.
4. 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.
5. Continued population growth causing a related increase in treatment costs, sludge production and ultimate sludge disposal costs.
6. Additional costs for maintenance of 40+ sewage lift stations during the next year.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

D.6.
Environmental Consulting Operations, Inc. Contract
Page 1 of 35

20-Dec-05
City Council Meeting Date

David Jurgens

Submitted By

Water/Wastewater

Division

Water/Wastewater

Department

Action Required:

Approval of an amendment to the Engineering contract with Environmental Consulting Operations, Inc., in the amount of \$579,343.00, for construction and post-construction phase services for the entire WSIP relating to regulatory and environmental issues including Corps of Engineers, wetlands, and storm water permits, and approve a contingency of \$20,000.00. Funds are available in fiscal year 2005 WSIP budget.

\$599,343.00

Cost of this request

4480-9480-5315.00

Account Number

02133.0001

Project Number

\$ 113,011,587.00

Category/Project Budget

\$ 85,742,915.94

Funds Used to Date

\$ 27,268,671.06

Remaining Balance

Wastewater System Imp Project

Program Category / Project Name

Water and Wastewater

Program / Project Category Name

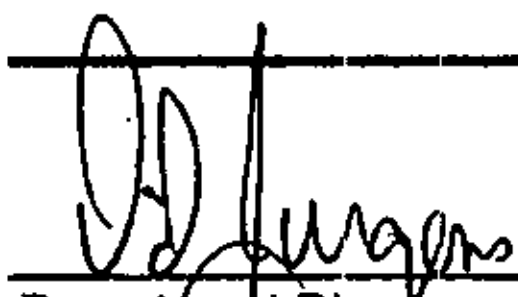
Water/Sewer

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

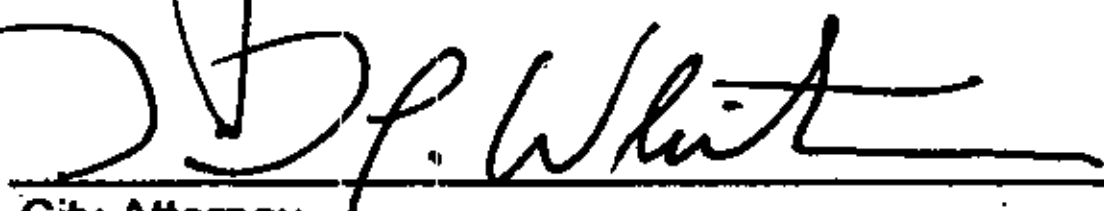

Department Director

30 Nov 05
Date

Previous Ordinance or Resolution # 4515

Original Contract Date: 9/16/2003

Original Contract Number:


City Attorney

12/1/05
Date


Finance and Internal Service Director

12-1-05
Date

Received in City Clerk's Office

ENTERED
12/1/05
CD


Mayor

12/2/05
Date

Received in Mayor's Office

ENTERED
12/1/05
PFB

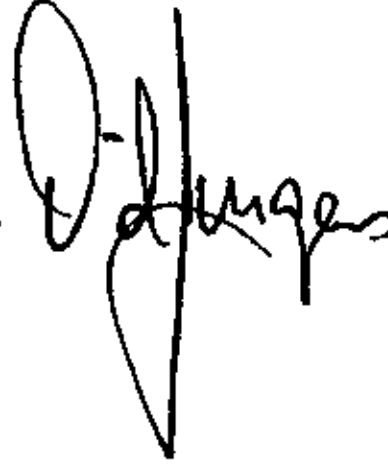
Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: Fayetteville Sewer Committee
David Jurgens, Water & Wastewater Director



Date: November 30, 2005

Subject: Approval of an amendment to the Engineering contract with Environmental Consulting Operations, Inc., in the amount of \$579,343.00, for Construction and Post-Construction Phase Services for the entire WSIP relating to regulatory and environmental issues including Corps of Engineers, wetlands, and storm water permits, and approve a contingency of \$20,000.00. Funds are available in Fiscal Year 2005 WSIP budget.

RECOMMENDATION

Fayetteville City Administration recommends approval of an amendment to the Engineering contract with ECO, Inc., in the amount of \$579,343.00, for Construction and Post-Construction Phase Services for the entire WSIP relating to regulatory and environmental issues including Corps of Engineers, wetlands, and storm water permits, and approval a contingency of \$20,000.00.

BACKGROUND

ECO, Inc. has developed the wetlands and storm water protection best management plans for all aspects of the WSIP, and is the best qualified firm to ensure full compliance with the related regulations and permits. A previous version of this amendment was pulled from the July 19, 2005, agenda, in the amount of \$598,329.00. The contract was renegotiated, and the scope of work updated to match the number and scope of projects. Scope details were worked out with City staff, ECO, McGoodwin, Williams, and Yates, and the RJN Group to ensure complete environmental oversight without duplicated effort.

DISCUSSION

The West Side Wastewater Treatment Plant and the pipe lines going thereto pass through a number of wetlands areas and involve numerous stream crossings. The best method to protect both the environment and the City is to have the consistent high quality environmental oversight that ECO will provide. They will meet at the preconstruction conference with all contractors, and will perform monthly compliance inspections for all contracts. ECO developed the environmental portion of each set of construction specifications. As these have been approved by all state and federal agencies, ECO can provide this service more cost effectively and with better consistency than any other consultant or group of consultants.

BUDGET IMPACT

Funds are approved in the Fiscal Year 2005 budget. This contract is being funded by sales tax bond proceeds.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE ENGINEERING CONTRACT WITH ENVIRONMENTAL CONSULTING OPERATIONS, INC. IN THE AMOUNT OF \$579,343.00 FOR CONSTRUCTION AND POST-CONSTRUCTION PHASE SERVICES FOR THE ENTIRE WASTEWATER SYSTEM IMPROVEMENT PROJECT (WSIP); AND APPROVING A CONTINGENCY OF \$20,000.00.

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 awards a construction contract with Environmental Consulting Operations, Inc. in the amount of \$579,343.00 for construction and post-construction phase services for the entire Wastewater System Improvement Project (WSIP). A copy of the amendment marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a contingency of \$20,000.00.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

City Of Fayetteville
(Not a Purchase Order)

Requestion No.: _____ Date: **11/26/2005**
P.O Number: _____ Expected Delivery Date: _____

Vendor Number: **11986** Vendor Name: **Environmental Consulting Operations, Inc.** Mail Yes: ☒ No: ☒
Address: **1313 Highway 229-6A** Fayetteville Taxable Yes: ☒ No: ☒
City: **AR** State: **AR** Zip Code: **72015** Ship to code: **72015** Division Head Approval: **[Signature]** No: ☒ Yes: ☒
Requester: **David Jurgens** Requester's Employee #: **490** Extension: **350** Quotes Attached Yes: ☒ No: ☒

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Construction and Post-Construction Phase	1	EA	579,349.00	\$582,636.60	4480-9480-5316.00	02133-0001		
2	Environmental Consulting Services for WSIP				\$0.00				
3	(Contract Amendment 2)				\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
	Shipping/Handling		Lot		\$0.00				

**CHANGE ORDER TO EXISTING
PURCHASE ORDER # 03-4053**

Subtotal: **\$582,636.60**
Tax: **\$0.00**
Total: **\$582,636.60**

Approvals: _____
Mayor: _____ Department Director: **[Signature]**
Finance & Internal Services Director: _____ Budget Manager: **[Signature]**
Dispatch Manager: _____ Utilities Manager: _____
Purchasing Manager: _____
IT Manager: _____
Other: _____

**AMENDMENT NO. 2
TO
AGREEMENT FOR - ENVIRONMENTAL CONSULTING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
ENVIRONMENTAL CONSULTING OPERATIONS, INCORPORATED
BENTON, ARKANSAS**

WHEREAS, On September 16, 2003 the City of Fayetteville, Arkansas (**FAYETTEVILLE**) and Environmental Consulting Operations, Inc. of Benton, Arkansas (**ECO**) entered into an agreement for environmental consulting services in connection with the Wastewater System Improvement Project (**Project**). Scope of services being provided includes environmental consultant services related to various environmental permits, best management practices for construction and wetland mitigation activities, and

WHEREAS, **ECO** has proceeded with these services in accordance with the scope set forth in the agreement, and

WHEREAS, Amendment No. 1 to the agreement included environmental consultant services in connection with **INTERCEPTOR SEWER REALIGNMENT-SPRINGWOODS SUBDIVISION**; and

WHEREAS, **FAYETTEVILLE** requests the scope of **ECO**'s services be amended to include "**CONSTRUCTION/POST CONSTRUCTION PHASE ENVIRONMENTAL CONSULTING SERVICES**"; and

WHEREAS, **ECO** agrees to provide amended scope of services on an hourly rate basis with a not-to-exceed additional cost of **Five Hundred Seventy-Nine Thousand Three Hundred and Forty-Nine U.S. Dollars (US \$579,349)**.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, **FAYETTEVILLE** and **ECO**, the parties hereto, stipulate and agree that the Agreement for Environmental Consulting Services dated September 16, 2003, is hereby amended in the following particulars:

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of **FAYETTEVILLE** and agreement of **ECO**.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of **ECO**.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF ECO

2.1 General

2.1.1 Perform environmental consulting services in connection with the Project as hereinafter stated, which shall include normal environmental consulting services incidental thereto.

2.1.1.1 The Scope of Services to be furnished by **ECO** during the Construction Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.2 The Scope of Services to be furnished by **ECO** during the Post-Construction Phase, if any, will be finalized and contained in an amendment to this Agreement prior to commencement of the Post-Construction Phase.

2.1.1.3 The preliminary Scope of Services to be furnished by **ECO** for Resident Services During Construction, if any, will be finalized and contained in an amendment to this Agreement prior to commencement of the Construction Phase.

2.1.2 The environmental consulting services to which this Agreement applies are a part of the Wastewater System Improvement Project. **ECO** shall coordinate their activities and services primarily with **FAYETTEVILLE** Water and Wastewater Director and all other parties that **FAYETTEVILLE** may contract with for program management or professional design services as a part of the Wastewater System Improvement Project.

2.2 Construction Phase

2.2.1 Conduct periodic visual on-site observations of construction activities to evaluate implementation of Best Management Practices (BMPs) and regulatory compliance status of activities conducted by Contractors and develop written reports to document observations and provide recommendations to applicable Design Professionals and **FAYETTEVILLE**, and assist Design Professionals in the preparation of other related documents pertaining to environmental regulatory issues, as described in Appendix A of this Agreement.

2.2.1.1 Text documents shall be provided to **FAYETTEVILLE** in Microsoft® Word, Microsoft Excel, and Adobe PDF version 2004 software.

- 2.2.1.2 When requested by **FAYETTEVILLE's** Water and Wastewater Director, prepare for and attend up to two City Council meetings to provide periodic updates on the progress of the environmental regulatory program.
- 2.2.2 Prepare technical criteria and written descriptions to address environmental regulatory compliance status or requests for information by governmental authorities having jurisdiction to review or approve the environmental regulatory permitting of the Project. Assist **FAYETTEVILLE** in consultations with appropriate authorities.
- 2.2.3 Furnish Design Professionals with applicable environmental regulatory documents, specific to their scopes of work.
- 2.2.3.1 Fully disclose all subcontract agreements including the name and address of the subconsultant, the scope of services to be provided and the value of the subcontract agreement.
- 2.2.4 Render monthly compliance evaluation reports to **FAYETTEVILLE** and confirm status of compliance with environmental regulatory compliance schedule.
- 2.2.5 Provide to the **FAYETTEVILLE** in a format mutually acceptable to the **FAYETTEVILLE** and **ECO** such schedules, reports, project summaries, and other data as may be required, for posting by others on a project web site to allow the public to monitor and review the activities, materials, and financial status of the project. Refresh the data supplied to the **FAYETTEVILLE** no more frequently than monthly.
- 2.2.6 Arrange for applicable environmental regulatory permit requirements to be sent to project Design Professionals who will be performing Construction Phase services and preparing notices to be sent to Contractors.
- 2.2.7 **FAYETTEVILLE** shall organize, convene and conduct Pre-Bid Conferences. **ECO** shall not be required to attend the Pre-Bid Conferences. As needs arise for further explanations of the environmental regulatory requirements or as questions are posed from prospective bidders, **FAYETTEVILLE** will communicate such issues to directly to **ECO**. **ECO** shall consider the questions received and provide the necessary clarifications and changes to **FAYETTEVILLE** for dissemination to concerned parties.

2.2.8 **FAYETTEVILLE** and applicable Design Professional shall organize, convene and conduct Pre-Construction Conferences. **ECO** shall not be required to attend the Pre-Construction Conferences. **ECO** shall consider the questions received from successful bidders, after Pre-Construction Conferences and provide the necessary clarifications and answers to **FAYETTEVILLE** for dissemination to concerned parties.

2.2.9 See Appendix A for additional services or clarification of services to be provided by **ECO**.

2.3 Post-Construction Phase

2.3.1 The scope of Post-Construction Phase Services, if any, will be negotiated prior to commencement of the Post-Construction Phase.

2.4 Resident Services During Construction

2.4.1 The scope of Resident Services During Construction, if any, will be negotiated prior to commencement of the Construction Phase.

SECTION 3 - ADDITIONAL SERVICES OF ECO

3.1 General

If authorized in writing by the **FAYETTEVILLE** Mayor and the City Council and agreed to in writing by **ECO**, **ECO** shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Furnishing renderings or Project documents concerning construction costs for **FAYETTEVILLE's** use.

3.1.2 Miscellaneous Studies

Investigations, studies, or surveys for wetland mitigation on real property other than the West Side Wastewater Treatment facility property currently owned by **FAYETTEVILLE**.

3.1.3 Preparing to serve or serving as a witness for **FAYETTEVILLE** in any litigation or other proceeding involving the Project.

3.1.4 Extra Services

3.1.4.1 Services not specifically defined heretofore that may be authorized by
FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond **ECO's** control, **ECO** shall notify **FAYETTEVILLE** and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If **FAYETTEVILLE** deems that such services described in 3.2 are not required, **FAYETTEVILLE** shall give prompt written notice to **ECO**. If **FAYETTEVILLE** indicates in writing that all or parts of such Contingent Additional Services are not required, **ECO** shall have no obligation to provide those services.

3.2.2 Making revisions in Drawings, Specifications, or other documents when such revisions are:

3.2.2.1 Required because of inconsistent approvals or instructions previously given by **FAYETTEVILLE**, including revisions to drawings, specifications, or other documents made necessary by adjustments in **FAYETTEVILLE's** program or Project Budget.

3.2.2.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

SECTION 4 - RESPONSIBILITIES OF FAYETTEVILLE

FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of **ECO**:

4.1 Provide full information as to **FAYETTEVILLE's** requirements for the Project.

4.2 Assist **ECO** by placing at **ECO's** disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

4.3 Guarantee access to and make all provisions for **ECO** to enter upon public and private property as required for **ECO** to perform his services under this Agreement.

4.4 Examine all studies, reports, sketches, cost opinions, construction reports, drawings, proposals, and other documents presented by **ECO** and render in writing decisions pertaining thereto.

- 4.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 4.6 Designate in writing a person to act as **FAYETTEVILLE**'s representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define **FAYETTEVILLE**'s policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 4.7 Give prompt written notice to **ECO** whenever **FAYETTEVILLE** observes or otherwise becomes aware of any defect in the Project.
- 4.8 Furnish approvals, correspondence, Notices of Violation, and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees.
- 4.9 Pay for placement of legal notices and advertisements in newspapers or other publications required by program requirements of the Wastewater System Improvement Project.
- 4.10 Furnish, or direct **ECO** to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.11 If **FAYETTEVILLE**'s standard bidding requirements, Agreement forms and General Conditions are to be used, **FAYETTEVILLE** shall provide copies of such documents for **ECO**'s use in coordinating the Contract Drawings and Specifications.
- 4.12 **FAYETTEVILLE** and/or its representative will review all documents and provide written comments to **ECO** in a timely manner.

SECTION 5 - PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by **FAYETTEVILLE** authorizing services hereunder.
- 5.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. **ECO** will proceed with providing the authorized services immediately upon receipt of written authorization

from **FAYETTEVILLE**. The scope of services described in Appendix A are not anticipated to extend beyond February 2009. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

SECTION 6 - PAYMENTS TO ECO

6.1 Compensation

6.1.1 Construction Phase Services

For the Scope of Services during the Construction Phase described herein, **FAYETTEVILLE** shall pay **ECO** the sum of the following:

- 6.1.1.1** For time expended by personnel, payment at the hourly rates indicated in the attached "Schedule of Hourly Professional Service Billing Rates". Such rates include overhead and profit. The schedule is effective January 1, 2005, and will be revised annually.
- 6.1.1.2** For outside expenses incurred by **ECO**, such as authorized travel and subsistence, including airfare, food, lodging, automobile rental, commercial services, courier deliveries, and incidental expenses, the cost to **ECO**.
- 6.1.1.3** The total payment for the Basic Scope of Services described in Appendix A is a lump sum, "not to exceed" amount of Five Hundred Seventy-Nine Thousand Three Hundred and Forty-Nine U.S. Dollars (US \$579,349). The total payment is based on expending no more than 4,452 person-hours.
- 6.1.1.4** Subject to the City Council approval, adjustment of the not-to-exceed amount may be made should **ECO** establish and **FAYETTEVILLE** agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if **FAYETTEVILLE** decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall not be allowed without formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost, fees, or delivery schedule.

6.2 Statements

6.2.1 Monthly statements for each calendar month shall be submitted to **FAYETTEVILLE** or such parties as **FAYETTEVILLE** may designate for Construction Phase services consistent with **ECO**'s normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by **ECO** and approved by **FAYETTEVILLE**. Final payment for Construction Phase services shall be made upon **FAYETTEVILLE**'s approval and acceptance with the satisfactory completion of the Construction Phase for the Project.

6.2.2 Statements and updated environmental regulatory compliance status report for each calendar month will be submitted in electronic format simultaneously to **FAYETTEVILLE**, followed by signed original document to **FAYETTEVILLE**. Statements will be based on **ECO**'s estimated percent of services completed at the end of the preceding month, and justified.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of **ECO**'s statement is disputed by **FAYETTEVILLE**, the undisputed portion shall be paid by **FAYETTEVILLE** by the due date. **FAYETTEVILLE** shall advise **ECO** in writing of the basis for any disputed portion of any statement. **FAYETTEVILLE** will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

6.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, **ECO** shall execute and deliver to **FAYETTEVILLE** a release of all claims against **FAYETTEVILLE** arising under or by virtue of this Agreement, except claims which are specifically exempted by **ECO** to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of **FAYETTEVILLE**'s claims against **ECO** or his sureties under this Agreement or applicable performance and payment bonds, if any.

6.4.1 Post-Construction Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions prior to commencement of Post-Construction Phase Services.

6.4.2 Resident Services During Construction

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions prior to commencement of Resident Services During Construction.

6.4.2 Additional Services

For authorized Additional environmental consulting services under Section 3, "Additional Services", compensation to **ECO** shall be negotiated at the time Additional Services are authorized.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 During the course of performance of these services, **ECO** will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

ECO will provide to **FAYETTEVILLE** certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

7.1.2 Construction Contractors shall be required to provide (or **FAYETTEVILLE** may provide) Owner's Protective Liability Insurance naming **FAYETTEVILLE** as a Named Insured and **ECO** as additional insured, or, to endorse **FAYETTEVILLE**, and **ECO** as additional

insureds on construction Contractor's liability insurance policies covering claims for personal injuries and property damage. Construction Contractors shall be required to provide certificates evidencing such insurance to **FAYETTEVILLE**, and **ECO**. All contract insurance carriers shall be required to list **FAYETTEVILLE**, and **ECO** as certificate holders, furnishing copies of the contractor's insurance certificate to each party

- 7.1.3 **FAYETTEVILLE** and **ECO** waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of **ECO**'s services. All construction Contractors shall be required to provide waivers of subrogation in favor of **FAYETTEVILLE** and **ECO** for damage or liability covered by any construction Contractor's policy of insurance.
- 7.1.4 Neither the professional activities of **ECO**, nor the presence of **ECO** or **ECO**'s employees and subconsultants at a construction site, shall relieve the Contractors and any other entity of their obligation, duties, and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by the regulatory agencies. **ECO** and **ECO**'s personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their scope of work or any health or safety precautions. **FAYETTEVILLE** agrees that the construction contractors are solely responsible for jobsite safety, and warrants that this intent shall be made evident in **FAYETTEVILLE**'S agreement with all contractors. **FAYETTEVILLE** also agrees that **FAYETTEVILLE**, **ECO** and **ECO**'s subconsultants shall be indemnified and shall be made additional insureds under the construction contractor's general liability insurance policy.
- 7.1.5 **ECO** will not possess broad responsibilities in relation to construction activities, including both contractual and de facto authority over the work of the trade contractors; and, will not be directly and substantially engaged in activities that were integrally connected with safety issues, notwithstanding contract language expressly disclaiming safety responsibility.
- 7.1.6 **FAYETTEVILLE** agrees that **ECO** will not be responsible for any damages caused by surface excavations or subsurface penetrations for surface and underground improvements performed by others.

- 7.1.7 It is acknowledged by **FAYETTEVILLE** that **ECO**'s scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event that **ECO** or any other party encounters asbestos or hazardous or toxic materials at the jobsite, or should it become known in any way that such materials may be present at the jobsite or any adjacent areas that may effect the performance of **ECO**'s services, **ECO** may, at **ECO**'s option and without liability for consequential or any other damages, suspend performance of services on the project until **FAYETTEVILLE** retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the asbestos or hazardous or toxic materials, and warrant that the jobsite is in full compliance with applicable laws and regulations.
- 7.1.8 **FAYETTEVILLE**, and **ECO** waive all rights against each other and their officers, directors, agents, or employees for property damage covered by property insurance during and after the completion of **ECO**'s services. All construction Contractors shall be required to provide waivers of subrogation in favor of **FAYETTEVILLE** and **ECO** for damage or liability covered by any construction Contractor's policy of insurance. In addition, a provision similar to this shall be incorporated into all Construction Subcontracts entered into by construction Contractors and subcontractors with waivers of subrogation in favor of **FAYETTEVILLE** and **ECO** for damage or liability covered by any construction Contractor's or subcontractor's policy of insurance.
- 7.2 Professional Responsibility
- 7.2.1 **ECO** will exercise reasonable skill, care, and diligence in the performance of **ECO**'s services and will carry out its responsibilities in accordance with customarily accepted environmental consulting services ordinarily exercised by members of the same profession currently practicing under similar circumstances. **FAYETTEVILLE** will promptly report to **ECO** any defects or suspected defects in **ECO**'s services of which **FAYETTEVILLE** becomes aware, so that **ECO** can take measures to minimize the consequences of such a defect. **FAYETTEVILLE** and **ECO** further agree to impose a similar notification requirement on all construction contractors in the Bid Documents and shall require all subcontracts at any level to contain a like requirement. **FAYETTEVILLE** retains all remedies to recover for its damages caused by any negligence of **ECO**.
- 7.2.2 In addition **ECO** will be responsible to **FAYETTEVILLE** for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by **ECO**'s

Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

- 7.2.3 **ECO** has no control of any regulatory control authority's subjectiveness in regulatory interpretations, the dynamics of environmental regulations, nor the retroactiveness thereof. Additionally, **ECO** has no control over any Contractor's implementation of BMPs or compliance status and is therefore not responsible for maintaining compliance with terms and conditions of any environmental regulatory permit. Observations and recommendations made by **ECO** in no way guarantees or warranties compliance with environmental regulatory requirements.
- 7.2.4 **ECO** shall visit the project site at appropriate intervals during construction to become generally familiar with the progress and quality of the Contractors' work to determine if the work is proceeding in general conformance with the applicable sections of the Bid Documents pertaining to environmental regulatory requirements. **FAYETTEVILLE** has not retained **ECO** to make detailed inspections or to provide exhaustive or continuous project review and observation services. **ECO** does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any Contractor, subcontractor, supplier, or any other entity furnishing materials or performing any work on the project
- 7.2.5 If **ECO** for any reason does not complete the scope of services contemplated by this Agreement, **ECO** cannot be responsible for the accuracy, completeness, or workability of the any Bid Documents or Construction Phase documents prepared by **ECO**, if used, changed, or completed by another party. Accordingly, **FAYETTEVILLE** agrees to the fullest extent permitted by law, to indemnify and hold **ECO** harmless from any claim, liability, or cost (including reasonable attorney's fees and defense costs) for injury or loss arising or allegedly arising from such use, completion or any unauthorized changes made by any party to any document prepared by **ECO**.

7.3 Changes

FAYETTEVILLE shall have the right to make changes within the general scope of **ECO**'s services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of **FAYETTEVILLE** and the President of **ECO**.

7.4 Termination

7.4.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

7.4.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.4.1.2 An opportunity for consultation with the terminating party prior to termination.

7.4.2 This Agreement may be terminated in whole or in part in writing by **FAYETTEVILLE** for its convenience, provided that **ECO** is given:

7.4.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.4.2.2 An opportunity for consultation with the terminating party prior to termination.

7.4.3 If termination for default is effected by **FAYETTEVILLE**, an equitable adjustment in the price provided for in this Agreement shall be made, but

7.4.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

7.4.3.2 Any payment due to **ECO** at the time of termination may be adjusted to cover any additional costs to **FAYETTEVILLE** because of **ECO**'s default.

7.4.4 If termination for default is effected by **ECO**, or if termination for convenience is effected by **FAYETTEVILLE**, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to **ECO** for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by **ECO** relating to commitments which had become firm prior to the termination.

7.4.5 Upon receipt of a termination action under Paragraphs 7.4.1 or 7.4.2 above, **ECO** shall:

7.4.5.1 Promptly discontinue all affected work (unless the Notice directs otherwise),

- 7.4.5.2 Deliver or otherwise make available to **FAYETTEVILLE** all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by **ECO** in performing this Agreement, whether completed or in process.
- 7.4.6 Upon termination under Paragraphs 7.4.1 or 7.4.2 above **FAYETTEVILLE** may take over the work and may award another party an agreement to complete the work under this Agreement.
- 7.4.7 If, after termination for failure of **ECO** to fulfill contractual obligations, it is determined that **ECO** had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of **FAYETTEVILLE**. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.4.4 of this clause.

7.5 Delays

In the event the services of **ECO** are suspended or delayed by **FAYETTEVILLE** or by other events beyond **ECO's** reasonable control, **ECO** shall be entitled to additional compensation and time for reasonable costs incurred by **ECO** in temporarily closing down or delaying the Project.

7.6 Rights and Benefits

ECO's services will be performed solely for the benefit of **FAYETTEVILLE** and not for the benefit of any other persons or entities.

7.7 Dispute Resolution

- 7.7.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between **FAYETTEVILLE** and **ECO** which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of **FAYETTEVILLE** or **ECO** in the performance of this Agreement, and disputes concerning payment.
- 7.7.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.7.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of

proper jurisdiction, until the procedures in Paragraphs 7.7.3 and 7.7.4 have been complied with.

7.7.3 Notice of Dispute

7.7.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

7.7.3.2 For disputes arising within one year after the making of final payment, **FAYETTEVILLE** shall give **ECO** written Notice at the address listed in Paragraph 7.12 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

7.7.4 Negotiation: Within seven days of receipt of the Notice, **FAYETTEVILLE** and **ECO** shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of **ECO** and the Mayor of **FAYETTEVILLE** or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

7.8 **FAYETTEVILLE** represents that it has sufficient funds or the means of obtaining funds to remit payment to **ECO** for services rendered by **ECO**.

7.9 Publications

Recognizing the importance of professional development on the part of **ECO**'s employees and the importance of **ECO**'s public relations, **ECO** may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to **ECO**'s services for the Project. Such publications will be provided to **FAYETTEVILLE** in draft form for **FAYETTEVILLE**'s advance review.

FAYETTEVILLE shall review such drafts promptly and provide **FAYETTEVILLE**'s comments to **ECO**. **FAYETTEVILLE** may require deletion of proprietary data or confidential information from such publications, but otherwise **FAYETTEVILLE** will not unreasonably withhold approval. The cost of **ECO**'s activities pertaining to any such publication shall be for **ECO**'s account.

7.10 Indemnification

7.10.1 **FAYETTEVILLE** agrees that it will require all construction Contractors to indemnify, defend, and hold harmless **FAYETTEVILLE** and **ECO** from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

7.11 Ownership of Documents

All documents provided by **FAYETTEVILLE** including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of **FAYETTEVILLE**. **ECO** may retain reproduced copies of drawings and copies of other documents.

Documents, drawings, and specifications prepared by **ECO** as part of the Services shall become the property of **FAYETTEVILLE** when **ECO** has been compensated for all Services rendered, provided, however, that **ECO** shall have the unrestricted right to their use. **ECO** shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of **ECO**.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. **ECO** makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

7.12 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

FAYETTEVILLE's address:

113 West Mountain
Fayetteville, Arkansas 72701

ECO's address:

1313 Highway 229-5A
Benton, Arkansas 72015

7.13 Successor and Assigns

FAYETTEVILLE and **ECO** each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither **FAYETTEVILLE** nor **ECO** shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.14 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

7.15 Entire Agreement

This Agreement represents the entire Agreement between **ECO** and **FAYETTEVILLE** relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event **FAYETTEVILLE** issues to **ECO** a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by **ECO**, shall be considered as a document for **FAYETTEVILLE's** internal management of its operations.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of **ECO**:

8.1.1 **FAYETTEVILLE's** review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve **ECO** of

responsibility for the technical adequacy of the work. **FAYETTEVILLE**'s review, approval or acceptance of, or payment for, any of the services shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

8.1.2 **ECO** shall be and shall remain liable, in accordance with applicable law, for all damages to **FAYETTEVILLE** caused by **ECO**'s negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to **FAYETTEVILLE** or **FAYETTEVILLE**-furnished data.

8.1.3 **ECO**'s obligations under this clause are in addition to **ECO**'s other express or implied assurances under this Agreement or State law and in no way diminish any other rights that **FAYETTEVILLE** may have against **ECO** for faulty materials, equipment, or work.

8.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between **FAYETTEVILLE** and **ECO** arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

8.3.1 **ECO** shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. **ECO** shall also maintain the financial information and data used by **ECO** in the preparation of support of the cost submission required for any negotiated agreement or change order and send to **FAYETTEVILLE** a copy of the cost summary submitted. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, **FAYETTEVILLE**, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. **ECO** will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy

arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

8.3.3 This right of access clause (with respect to financial records) applies to:

8.3.3.1 Negotiated prime agreements:

8.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

8.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

8.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of **ECO**;

8.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

ECO warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by **ECO** for the purpose of securing business. For breach or violation of this warranty, **FAYETTEVILLE** shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.5 Gratuities

8.5.1 If **FAYETTEVILLE** finds after a notice and hearing that **ECO** or any of **ECO**'s agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of **FAYETTEVILLE**, the State or EPA in an attempt to

secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, **FAYETTEVILLE** may, by written notice to **ECO** terminate this Agreement. **FAYETTEVILLE** may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which **FAYETTEVILLE** bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

- 8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, **FAYETTEVILLE** may pursue the same remedies against **ECO** as it could pursue in the event of a breach of the Agreement by **ECO**. As a penalty, in addition to any other damages to which it may be entitled by law, **FAYETTEVILLE** may pursue exemplary damages in an amount (as determined by **FAYETTEVILLE**) which shall be not less than three nor more than ten times the costs **ECO** incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the **FAYETTEVILLE**, **ECO** will provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7 Debarment And Suspension

I certify that to the best of my knowledge and belief that the company that I represent and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

**DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE**

COMPANY NAME: Environmental Consulting Operations, Inc. (ECO)

SIGNATURE: Bruce Shackelford DATE: 11/21/05

PRINTED NAME: Bruce Shackelford TITLE: President

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and ECO, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

ENVIRONMENTAL CONSULTING OPERATIONS, INC.

By: Bruce Shackelford

Title: Bruce Shackelford, President

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

END OF AGREEMENT FOR ENVIRONMENTAL CONSULTING SERVICES

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENVIRONMENTAL CONSULTING SERVICES**

APPENDIX A – SCOPE OF SERVICES FOR CONSTRUCTION PHASE

I. GENERAL

This is **Appendix A**, consisting of **9** pages, referred to in and part of the **Agreement For Professional Environmental Consulting Services** between **CITY OF FAYETTEVILLE, ARKANSAS (FAYETTEVILLE)** and **ENVIRONMENTAL CONSULTING OPERATIONS, INC. (ECO)**

dated _____.

Initial:

CITY OF FAYETTEVILLE
ECO



The following contains detailed Scope of Services tasks for the Construction Phase:

Generally, the project will include the construction of **FAYETTEVILLE's** Westside sewer collection system improvements; Eastside sewer collection system improvements; Paul Noland Treatment Plant rehabilitation; and Westside Wastewater Treatment Facility, wetland mitigation site, and Broyles Road improvements. **ECO's** Scope of Services will be to observe implementation of the Environmental Regulatory Program during the Construction Phase.

PART A - PROJECT ADMINISTRATION AND MANAGEMENT, AND TRAINING

1. Basic Scope of Services

a) Project Administration

- i) Perform project initiation activities
- ii) Perform general administration and project management activities.
- iii) Perform **ECO's** internal project control including budgeting, scheduling, and quality control activities.
 - Provide environmental regulatory updates to **FAYETTEVILLE** for project website
 - Provide project environmental regulatory information to **FAYETTEVILLE** and Design Professionals
 - Review Contractor submittals associated with environmental compliance
 - Review Contractor Change Orders and Contract changes associated with wetland mitigation.
- ii) Meet with Arkansas Department of Environmental Quality (ADEQ) and US Army Corps of Engineers (Corps) if violations are identified.
- iv) Meet with individual Design Professionals for information exchange, goal setting, setting timelines, and reviewing plans/drawings.

b) Training

The ADEQ general storm water permit requires inspections to be performed by qualified personnel, and defines "**qualified personnel**" as a person knowledgeable in the principles and practice of erosion and sediment controls and who possesses the skills to assess conditions at the site that could impact storm water quality and the effectiveness of the Best Management Practices (BMPs) selected to control the quality of storm water discharges.

- i) ECO will provide storm water pollution prevention training to Contractor and Design Professional's resident site representatives to assist them in gaining knowledge about contract-specific BMP implementation, proper recordkeeping requirements, and contract environmental specifications developed by ECO and to enhance implementation of a standardized Project Environmental Program.

PART B - REGULATORY COMPLIANCE DURING CONSTRUCTION PHASE

a) Site Observations

ECO will conduct monthly site compliance observations. During the evaluations, ECO will identify activities that exhibit potential violations of environmental permits. These services shall include evaluations of erosion control structure implementation and maintenance, maintenance of required recordkeeping, and proper materials storage and disposal. ECO's site visitation services will include evaluations for compliance with the ADEQ general storm water permit for construction activity (ARR150541), Section 404 individual permit for west side construction activities, Nationwide Section 404 permit for east side construction activities, and compliance with Part 112 of Title 40 of the Code of Federal Regulations for oil storage requirements on construction sites. After each site visit, ECO will develop a brief report of findings to discuss the areas where corrective actions are needed. Whenever practicable, the monthly site compliance observations will be performed concurrently with Wetland Mitigation Site Observations, marking wetlands in the field, and Construction Site Coordination Meetings.

b) Construction Site Coordination Meetings

- i) Due to the importance of communicating regulatory requirements early in the project, ECO will meet with the Design Professionals and selected Contractors after ECO completes monthly site compliance observations to provide clarification of contract-specific environmental regulatory requirements, discuss Section 02270 environmental specifications in Bid Documents and required contractor environmental submittals, and answer questions Contractors may have. This will serve to prevent misunderstandings and avoid noncompliance with environmental permit requirements. This will include preparation of handout materials and recordkeeping documents required by environmental permits, and review of Contractor environmental submittals.

c) Field Marking Of Wetland Areas Designated For Temporary Disturbance And Restoration.

- i) ECO will assist applicable Design Professionals and Contractors in identifying locations of wetland areas designated for temporary disturbance and restoration.

- ii) ECO will mark wetland areas in the field to facilitate easy observation in the field by Contractors and Design Professionals. Applicable wetland areas include:
 - Contract WL-1: Old Wire to Gregg
 - Contract WL-2: North to Poplar to Van Asche
 - Contract WL-3: Porter to Hamestring
 - Contract WL-4: Gregg to Hamestring
 - Contract WL-5: Hamestring to WWTP
 - Contract EL-1&2: Line 7
 - Contract EL-3: Line 4

d) Storm Water Pollution Prevention Plan for Construction Activity Revisions

Currently, ADEQ is revising language to the storm water construction general permit (ARR150000) that will affect the **FAYETTEVILLE's** Wastewater Improvements Project. ECO participates on the Storm Water Permit Task Force that is currently working with ADEQ to review the forthcoming permit revisions. The revised permit is anticipated to become effective in early 2006.

- i) Upon the issuance of the "modified" general storm water permit, ECO will revise the Master Comprehensive Best Management Practices Plan, and the Addendum Comprehensive Best Management Plans for all project construction contracts, as required by the permit.

e) Storm Water Construction Permit Notice Of Termination

When all storm water discharges associated with construction activities that are authorized by the general permit have ceased, and final stabilization of disturbed areas has been achieved, a notification letter may be submitted by the **FAYETTEVILLE** to ADEQ on a contract-specific basis. **FAYETTEVILLE** will be required to certify that disturbed soils have been finally stabilized, that temporary erosion and sediment control measures have been removed, and that all storm water discharges associated with construction activities from the identified contract authorized by the general permit have been eliminated.

- i) Prior to the certification and submittal of the notification letter, ECO will field verify that these tasks have been achieved, upon request. Should final stabilization not be achieved, when ECO is requested to perform the field verification, ECO will develop a brief report of findings to discuss corrective actions needed. If final stabilization has successfully been achieved, ECO will develop a letter of termination of authorization under the general storm water permit for construction activity for each construction contract. Upon achieving final stabilization for all construction contracts, ECO will prepare an official Notice of Termination (NOT) for submittal to ADEQ to completely terminate permit ARR150541.

f) 404 Permit Termination

Standard language contained in Nationwide 404 permit No. 12 for the Eastside collection system includes *"Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody."* and *"In wetlands, the top 6" to 12" of the trench should normally be backfilled with topsoil from the trench"*. Consequently, when the eastside collection system contracts are completed, **FAYETTEVILLE** must certify that they have complied with the terms and conditions of the permit. Similarly, the individual Section 404 Permit No. 14207 states, *"After installation of sewerline crossings, you shall restore stream channels and wetland surfaces to original contours. In wetlands, ruts or similar features from equipment must be repaired to create a level surface to improve revegetation of the wetland area"*.

To document that stream and wetland crossings have been restored, as near as possible, to "pre-construction conditions", post-construction evaluations of wetlands and stream crossings shall be conducted to verify that required restoration was completed, as prescribed.

- i) ECO will conduct post-construction observations at 20 wetland and 52 stream crossings at the east side and west side construction sites to observe wetland restoration and streambank stabilization. This can be done concurrently with site visits that are associated with evaluating storm water permit final stabilization requirements, where applicable.

PART C – WETLAND MITIGATION SITE

1) Purpose

Successful wetland mitigation is a multi-disciplined endeavor, requiring the expertise of both engineers and environmental professionals. During the construction period at the Wetland Mitigation Site, ECO will provide construction phase services to observe the establishment of wetland hydrology, seedbed preparation and planting/seeding activities for wetland plant species. As described within the Section 02921 specifications developed by ECO, Contractor shall select plant species from a candidate species list, and Contractor shall be allowed to select from various options of seedbed preparation. ECO will review plant species and seedbed preparation options selected by Contractor, will discuss proper implementation of planting activities with Contractor and Resident Engineer, provide periodic oversight of implementation of Section 02921 Wetland Mitigation Site Development Specifications, and provide guidance to Contractor and Resident Engineer in achieving mitigation goals for compliance with FAYETTEVILLE'S Section 404 permit No. 14207 requirements.

2) Basic Scope of Services

Services to be provided by ECO in relation to the Wetland Mitigation Site during the Construction Phase, shall be limited to:

a) Site Visits/Observations

- i) Subsequent to commencement of construction, ECO will make site visits during the following stages of completion:

- Berm construction @ 30%, 60%, 90% completion
- Herbicide application(s) and prescribed burn activities
- Upland/wet meadow planting zone seedbed preparation @ 30%, 60%, 90% completion
- Marsh planting zone site preparation and layout @ 30%, 60%, 90% completion
- Forested wetland bedding preparation and layout @ 30%, 60%, 90% completion
- Site seeding and tree planting activities @ 30%, 60%, 90% completion
- Wetland Mitigation Site 100% completion

- ii) During these site visits, ECO will evaluate plant/seed storage and handling practices utilized by Contractor. A report of findings, observations, and recommendations will be developed and submitted to the Design Professional Resident Engineer and FAYETTEVILLE.

b) Success Criteria & Performance Standards

As required by the Little Rock District Corps Wetland Mitigation Policy, success criteria and performance standards shall be included within the Wetland Mitigation Plan.

Performance standards are measurable attributes of restored or created wetlands that, when measured over an appropriate period, can be used to judge whether project goals have been achieved. Performance standards are also referred to as "success criteria, "success standards" and other names.

- i) **ECO** will provide services for development and implementation of methodology for evaluating success in achieving performance standards. Mitigation performance standards have been developed by **ECO** to be staged over time so that different success criteria can be met as the project evolves and matures. Some of the success criteria involve specific scores on various wetland assessment scales, as compared to the baseline wetland information generated during the preconstruction assessment. Other criteria are qualitative and do not ensure success in quantifiable terms. The following practicably measurable quantitative and/or qualitative characteristics (as contained within the Final Wetland Compensatory Mitigation Plan developed by **ECO**) will be among the performance standards measured to ascertain the degree of compensatory mitigation success:

Hydrology Performance Standards

- **Hydrology Standard 1: The mitigation site hydroperiod is restored**
- **Hydrology Standard 2: Area and depth of wetland hydrological zones**
- **Hydrology Standard 3: Corps wetland hydrology criteria**
- **Hydrology Standard 4: Provides sediment retention**

Soils Performance Standards

- **Soil Standard 1: Soils parameters will be used to provide supportive evidence of success but will not carry minimum requirements**
- **Soil Standard 2: Soil chemical and physical parameters**

Vegetation Performance Standards

- **Vegetation Standard 1: Vegetation survival and density**
- **Vegetation Standard 2: Vegetation species diversity and composition**
- **Vegetation Standard 3: Meet current federal delineation manual for hydrophytic vegetation**

General Standard

- **Assessment of Wetland Function and Value using Charleston Method adopted by the Little Rock District Corps of Engineers**

- ii) Specific performance standards will be applied to Contractor's work during the construction phase to evaluate acquisition of appropriate equipment and materials and success of hydrological modifications, seedbed preparation, and establishment of targeted vegetation, as described within 02921 specifications in Bid Documents. **ECO's** performance standard methodology will serve a three-fold purpose: 1) The methodology will be utilized during construction to evaluate Contractor's conformance with 02921 specifications; 2) The methodology will be utilized to develop the Wetland Monitoring Plan, as required by the project Section 404 permit; and 3) The methodology will be utilized to develop the first year monitoring report for submittal to the Corps of Engineers.

c) Wetland Mitigation Monitoring Plan

The Section 404 permit issued to FAYETTEVILLE requires annual monitoring and reporting. A total of five annual reports on the status of the mitigation level of success shall be submitted to the Corps of Engineers. The first report is due on December 31st after the first full growing season following completion of the mitigation work, and subsequent reports shall be submitted on or before December 31st of each year thereafter. These reports shall include inventories of all plant species, along with their estimated relative frequency and percent cover, and photographs showing all representative areas of the mitigation site. Additionally, the reports are to include the results of applying the performance standards.

i) For the purpose of developing a standardized approach to monitoring, ECO will develop a Wetland Mitigation Monitoring Plan to include procedures for measuring achievement of performance standards described above. The Plan can subsequently be the primary tool used to conduct the annual monitoring reports utilizing the following criteria:

- **Soil evaluations for characteristics of redoxymorphic conditions**
- **Soil chemical and physical parameters**
- **Hydrological instrument and surface water observations of degree of inundation/saturation**
- **Plant community status with regard to community dominants; survival rate of planted species; and ratio of planted species versus volunteer species**
- **Assessment of wetland function (Charleston Method) for the mitigation site**
- **Comparison of mitigation site functional characteristics to reference wetland**
- **Capability of the mitigation wetland to store or detain precipitation introduced into the system**
- **Capacity of the wetland to store water below the wetland surface**
- **Growth or biomass accumulation and decomposition that indicates elements are converted between organic and inorganic forms**
- **Microtopographic relief sediment scour and deposition**
- **Redistribution of detritus**
- **Localized sediment deposition**
- **Structural roughness**
- **Presence of debris jams and wrack; debris blockages in active channels and in side channels; accumulations in microtopographic depressions; accumulations in vegetation**
- **Vegetative community (density, basal area, vertical stratification, cover and species composition) typical of reference site with evidence of nutrient uptake and release (plant growth, litter production, decomposition rate, etc.)**
- **Surface films or layers of recently deposited sediments**
- **Maintenance of wetland and upland hydrological zones**
- **Nutrient transformations and processing**
- **Maintain characteristic detrital biomass**
- **Habitat maintenance of spatial structure to support animal populations and guilds by providing heterogenous habitats**
- **Nutrient cycling processes that convert elements from one form to another; primarily recycling processes**
- **Meeting federal criteria for wetland soils, hydrology and vegetation**
- **Photographic documentation from permanent photo stations**
- **Corrective actions**

d) Wetland Mitigation Operations and Maintenance Manual

The goal of the wetland vegetation management is to have the presence of desirable species for a significant portion of the growing season in most years that are usually dominated by perennial plants. The primary avenue to achieve this is proper control of hydrology. The wetland mitigation cells will be constructed with weir structures for control of water levels. The wetlands need periods of drawdown for life cycle completion of wetland plant species. Therefore, the wetland cells have been designed to store water when needed, and to release water as necessary, in order to maintain the required level of soil inundation and/or saturation. The wetland mitigation contract design calls for installation of hydrological parameter investigation instruments in order to monitor the surface soil hydrological regime within each wetland cell for the purpose of tracking groundwater and soil moisture levels.

i) ECO will develop a Wetland Mitigation Operations and Maintenance Manual to include procedures for the following:

- **Generation of a database of hydrological parameter investigation instruments to evaluate cause and effect relationships between operations of flow control structures and plant community diversity, site hydrology, and soil characterization.**
- **Generation of a database of surface water inundation and rainfall**
- **Seasonal operation of discharge events at weir structures**
- **Seasonal water storage within wetland cells**
- **Seasonal vegetation management to control plant community succession**

PART D – FIRST-YEAR WETLAND MITIGATION MONITORING REPORT

a) The Section 404 permit issued to **FAYETTEVILLE** requires annual monitoring and reporting. A total of five annual reports on the status of the mitigation level of success shall be submitted to the Corps of Engineers. The first report is due on December 31st after the first growing season following completion of the mitigation work, and subsequent reports shall be submitted on or before December 31st of each year thereafter. ECO will utilize wetland mitigation performance standards to complete the first-year wetland mitigation monitoring report for submittal to the Corps of Engineers.

II - SERVICES AND ITEMS NOT INCLUDED

a) ECO is not responsible for the following services:

- Aerial photographs/design drawings
- Completing calculations/models for constructed hydrologic budget for constructed wetland
- Flood plain maps for areas within flood plains where construction activities will occur
- Wetland monitoring subsequent to first-year report.
- Monthly Progress Meetings

b) **Contingent Additional Services**

i) If Contingent Additional Services are required due to circumstances beyond ECO's control, ECO shall notify **FAYETTEVILLE** and request approval to conduct specific Contingent Additional Services. **FAYETTEVILLE** retains the options of executing a formal contract amendment approved by the Mayor and the City Council, or approval in writing for Contingent Additional Services to be performed on an hourly rate and expenses basis, charged according to ECO's standard fee schedule. In either case, ECO

will provide a cost estimate to **FAYETTEVILLE** and detail the scope of services, prior to commencing such services. If **FAYETTEVILLE** deems that such services are not required, **FAYETTEVILLE** shall give prompt notice to **ECO**, and **ECO** shall have no obligation to provide those services.

- ii) The scope of services contained herein is based upon the current environmental regulatory requirements at the time of the development of the scope of services, and upon communications with regulatory personnel. **ECO** has no control of any regulatory control authority's subjectiveness in regulatory interpretations, the dynamics of environmental regulations, nor the retroactiveness thereof. Should environmental regulatory requirements specific to the project significantly change, or if interpretations of and/or applications of current environmental regulations significantly change, it may become necessary to amend **ECO's** scope of services.
- i) Should the locations or alignments of structures, such as effluent line, outfall, pump stations and sewer line alignments, to be changed which necessitate further aquatic resource assessments, such as stream crossing surveys and/or wetland delineations, and significant modifications to documents developed by **ECO** it may become necessary to amend the scope of services provided by **ECO**.

CITY OF FAYETTEVILLE FEES FOR ENVIRONMENTAL CONSULTING SERVICES

The charges for labor below are based upon the typical fees for **ECO's** personnel, and the projected level of effort necessary to complete the tasks described in Appendix A.

The total payment for the basic Scope of Services described in Appendix A is to be a "not to exceed" lump sum amount of Five Hundred Seventy-Nine Thousand Three Hundred and Forty-Nine U.S. Dollars (US \$579,349). The total payment is based on expending no more than 4,452 person-hours.

Subject to the City Council approval, adjustment of the estimated sum amount may be made should **ECO** establish and **FAYETTEVILLE** agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if **FAYETTEVILLE** decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall not be allowed without formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost, fees, or delivery schedule.

If Additional Services beyond the estimated sum amount are required due to circumstances beyond **ECO's** control, **ECO** shall notify **FAYETTEVILLE** and request approval to conduct specific Contingent Additional Services. **FAYETTEVILLE** retains the options of executing a formal contract amendment approved by the Mayor and the City Council, or approval in writing for Contingent Additional Services to be performed on a time and expenses basis, charged according to **ECO's** standard fee schedule. In either case, **ECO** will provide a budget figure to **FAYETTEVILLE** and detail the scope of services, prior to commencing such services. If the **FAYETTEVILLE** deems that such services are not required **FAYETTEVILLE** shall give prompt notice to **ECO**, and **ECO** shall have no obligation to provide those services.

For time expended by **ECO** personnel, payment at hourly rates indicated in the attached "Schedule of Hourly Professional Service Billing Rates". Such rates include overhead and profit. The schedule is effective January 1, 2005, and will be revised annually.

Labor	Hourly Billing Rate
Project Director (Principal)	\$ 102.75
Assoc. Sr. Environmental Scientist	\$ 95.00
Sr. Environmental Scientist	\$ 93.00
Environmental Scientist	\$ 68.25
Field Ecologist	\$ 66.75

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENVIRONMENTAL CONSULTING SERVICES
APPENDIX A – FEES FOR CONSTRUCTION PHASE**

Part A - Project Administration And Management, and Training	
Total Labor – 328 hours	\$32,369
Total Expenses	\$13,901
Total Fees	\$46,270
Part B – Storm Water & 404 Permit Regulatory Compliance During Construction Phase/Coordination,	
Total Labor – 2,254 hours	\$243,749
Total Expenses	\$56,154
Total Fees	\$299,903
Part C - Wetland Mitigation Site Visitations, Performance Standards, Monitoring Plan, O&M Manual	
Total Labor – 1,650 hours	186,450
Total Expenses	\$19,078
Total Fees	\$205,528
Part D – First-Year Wetland Mitigation Monitoring	
Total Labor – 220 hours	\$24,860
Total Expenses	\$2,788
Total Fees	\$27,648
Construction Phase (Appendix A) Total	
Total Labor – 4,452 hours *	\$487,428
Total Expenses **	\$91,921
Total Fees ***	\$579,349

* Labor is projected to be rated based upon the contract spanning from 2005 through early 2009. Monthly Site Compliance Evaluations are pro-rated over projected hourly fees for 2006, 2007, 2008, and 2009.

**Expenses include meals, mileage, lodging, & copying costs

*** Total cost estimate is generally based upon ECO, Inc. making monthly trips to Fayetteville to spend three to six days each month, plus labor for document preparation. When practicable, services provided for each trip will be a combination of 1) Attending monthly Construction Site Coordination Meetings, 2) Providing training for Design Professionals and Contractors, 3) Conducting site compliance evaluations for all contracts with current construction activities, 5) Marking wetlands for observations by Design Professionals and Contractors, and 6) Providing construction services associated with mitigation activities. This approach will save an estimated Sixty-Seven Thousand Five Hundred US Dollars (US\$67,500), as compared to making individual trips to conduct the six aforementioned tasks separately.

Upon request by FAYETTEVILLE or Design Professionals, ECO will essentially be "on call" and will make additional unscheduled site visits to address regulatory compliance issues.

END OF APPENDIX A

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

20-Dec-05

City Council Meeting Date

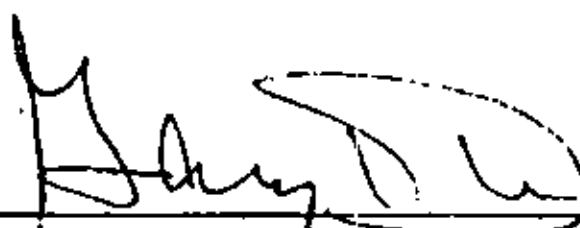
Jeremy Pate ^{JP} Submitted By Current Planning Division Operations Department

Action Required:

Approval of an ordinance repealing Ordinance No. 4506 and amending Ordinance No. 4442, extending the time frame in which all conditions of the original vacation ordinance (VA 02-12-00, 13-00, Ord. No. 4442) may be met vacating a drainage easement located at St. Charles and Watson Street.

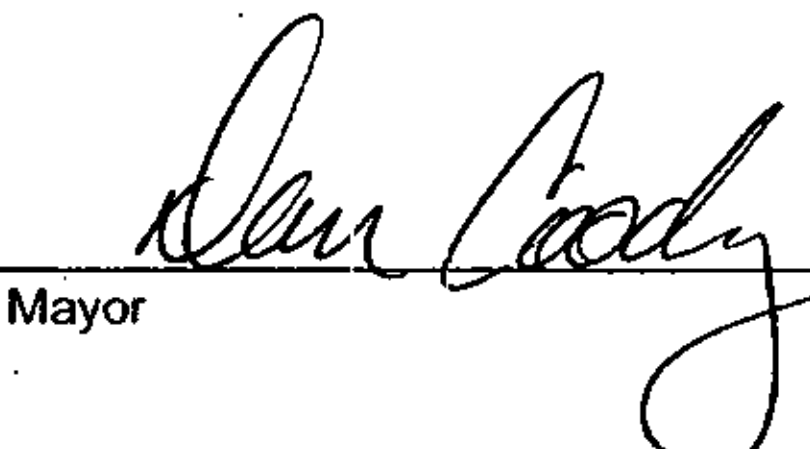
\$0.00 Cost of this request	n/a Category/Project Budget	n/a Program Category / Project Name
n/a Account Number	n/a Funds Used to Date	n/a Program / Project Category Name
n/a Project Number	n/a Remaining Balance	n/a Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐


Department Director 12-2-05 Date

OK Now
~~Too late, the~~ *OK* 12-5-05
~~vacation ordinance is already in effect~~

City Attorney Date


Mayor 12/5/05 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office


Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: November 29, 2005

Subject: Approval of an ordinance vacating a drainage easement (ADM 05-1848)

RECOMMENDATION

Planning Staff recommends approval of an ordinance granting the vacation of a drainage easement on the subject property.

BACKGROUND

The City Council on December 03, 2002 granted approval for the vacation of the subject drainage easement submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street, **VAC 02-12 & 13.00: (Houses Development)**, with **Ordinance No. 4442**. The subject property contains two portions of an existing drainage easement. The request was to vacate that easement with the intent of developing the site under its current zoning designation of C-3, Central Commercial. The developer plans to process a project proposal in which the drainage will be relocated and new easements established. New easements and drainage improvements are conditions of approval for the requested vacation.

A specific condition of approval for the ordinance to be effective is that an existing storm sewer be relocated, inspected and accepted by the City Engineer. The original expiration date for completing this relocation was placed at December 01, 2003. Subsequently, the applicant returned to the City Council with a request to extend the time frame in which the storm sewer was to be relocated, which was moved to December 01, 2005 by **Ordinance No. 4506**, amending a section of the original ordinance. The December 01, 2005 date has since passed, thus the vacation approval is null and void. At this time, the applicant's representative submits correspondence indicating that construction plans are being prepared and an anticipated start date for construction is the first of March, 2006. However, this did not meet the ordinance criteria for all work to be completed and accepted by December 01, 2005.

The request is to reinstate the approval of the vacation, by requesting a new ordinance to be approved by the City Council, under the same terms of the original approval. The new date of expiration for all conditions to be met is recommended to be December 01, 2006.

DISCUSSION

See attached correspondence and staff reports.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING ADM 05-1848 FOR PROPERTY LOCATED AT THE SOUTHWEST CORNER OF ST. CHARLES AVENUE AND WATSON STREET, VACATING A UTILITY EASEMENT AS INDICATED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described drainage easements are not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County once the requirements of Section 3 have been satisfied.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby determines that this vacation shall not be effective until and unless the relocated storm sewer is installed and accepted by the City Engineer. If the relocated storm sewer is not completed by the applicant and accepted by the City Engineer by December 01, 2006, this vacation shall be null and void.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

By _____
Dan Coody, Mayor

ATTEST:

By _____
Sondra Smith, City Clerk

EXHIBIT "A"

Easement Description #1:

A fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7 ½) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the northeast corner of lot 8, in Watson's Subdivision of lot numbered 14, block 8, County Court Addition to the City of Fayetteville, Arkansas; thence south 27 degrees 33'22" west 38.08 feet; thence south 74 degrees 44'20" west 158.18 feet.

Easement Description #2:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7 ½) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHWEST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33'22" West 38.08 feet; thence South 74 degrees 44' 20" West 158.18 feet.

Milholland Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

November 22, 2005

Project No. E-787

FAYETTEVILLE

125 West Mountain Street

Fayetteville, Arkansas 72701

ATTN: Jeremy Pate, Planning Division

RE: Amend Ordinance No. 4442 for VA 02-12.00 & 13.00

Greg House - relocation of storm sewer

Dear Jeremy:

This correspondence is request for a time extension of the reference project.

MCO has been retained by Mr. House to prepare construction plans for approval and thereafter construction implementation. It is our goal to have construction plans ready for City Engineering Staff review by mid January and construction started by the first of March.

Your support and approval of this request is greatly appreciated.

Should you have any questions or need of additional information, please advise. Thank you for your assistance.

Sincerely,

Milholland Company



Thomas M. Jefcoat, RLA
Senior Projects Manager

cc: Greg House

ORDINANCE NO. 4506

AN ORDINANCE AMENDING ORDINANCE NO. 4442 TO
EXTEND THE PERIOD OF TIME WITHIN WHICH THE
DEVELOPER MUST RELOCATE THE STORM SEWER.

**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 amends Ordinance No. 4442 to change the required completion date of
the storm sewer relocation from December 1, 2003 to December 1, 2005.

PASSED and APPROVED this 19th day of August, 2003.

APPROVED:

By:

Dan Coody
DAN COODY, Mayor

ATTEST:

By:

Sondra Smith
SONDRA SMITH, City Clerk



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: August 19, 2003

FROM:

<u>Dawn Warrick</u>	<u>Planning</u>	<u>CP&E</u>
Name	Division	Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

To amend approved ordinance No. 4442 for VA 02-12.00 & 13.00 as submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The drainage easement was vacated by the City Council on December 3, 2002 subject to a relocation of the storm sewer being completed by the applicant and accepted by the City Engineer by December 1, 2003. The applicant is requesting to extend that date to December 1, 2005.

STAFF RECOMMENDATION:

Approval subject to all improvements being completed by December 1, 2005.

[Signature] 8/1/03
Division Head Date

Received in Mayor's Office

8/4/03
Date PA

[Signature] 8/4/03
City Attorney Date

Department Director Date

[Signature] 8-4-03
Finance & Internal Services Dir. Date

[Signature] 8-4-03
Chief Administrative Officer Date

[Signature] 8/5/03
Mayor Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No



ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 4442 TO
EXTEND THE PERIOD OF TIME WITHIN WHICH THE
DEVELOPER MUST RELOCATE THE STORM SEWER.

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 amends Ordinance No. 4442 to change the required completion date of
the storm sewer relocation from December 1, 2003 to December 1, 2005.

PASSED and APPROVED this 19th day of August, 2003.

APPROVED:

By: LEAN COOD Mayor

ATTEST:

By: SONDRA SMITH City Clerk

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Aug. 19, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Dawn Warrick, AICP, Senior Planner
THRU: Hugh Earnest, Urban Development Director
DATE: July 31, 2003

VAC 02-12&13.00: (Houses Development, pp 484) was submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The request is to repeal and replace Ordinance No. 4442 and to vacate a drainage easement subject to Section 3 reading as follows: "That the City Council of the City of Fayetteville, Arkansas hereby determines that this vacation shall not be effective until and unless the relocated storm sewer is installed and accepted by the City Engineer. If the relocated storm sewer is not completed by the applicant and accepted by the City Engineer by December 1, 2005 this vacation shall be null and void." See the attached maps and legal descriptions for the exact locations of the requested easement vacations.

Background:

The subject property, located at the southwest corner of St. Charles Ave. and Watson St., contains two portions of an existing drainage easement. This request is to vacate that easement with the intention of developing the site under its current zoning designation of C-3, Central Commercial. The developer plans to process a project proposal in which the drainage will be relocated and new easements established. New easements and drainage improvements are conditions of approval for this requested vacation.

Current Status:

On December 3, 2002 the City Council voted to approve the requested vacation subject to a relocation of the storm sewer being completed by the applicant and accepted by the City Engineer by December 1, 2003. The applicant is now requesting to extend the completion date of the relocation of the storm sewer to December 1, 2005 due to project scheduling.

Recommendation:

Approval of the proposed ordinance amendment.

ORDINANCE NO. 4442

AN ORDINANCE APPROVING VA 02-12.00 and 13.00 TO VACATE AND ABANDON A SECTION OF DRAINAGE EASEMENTS LOCATED AT THE SOUTHWEST CORNER OF WATSON AND ST. CHARLES AVENUE, CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON THE ATTACHED MAP AND LEGAL DESCRIPTION

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described drainage easements are not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described utility easement:

See Exhibit "A" attached hereto and made a part hereof.

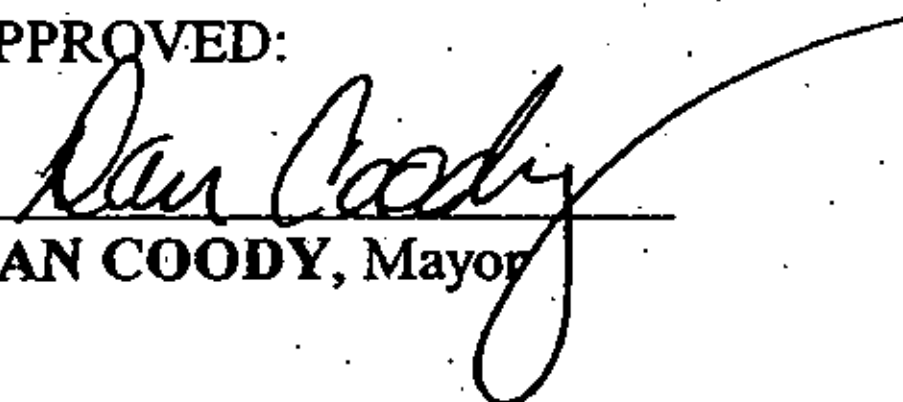
Section 2. That a copy of this Ordinance duly certified by the City Clerk shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County once the requirements of Section 3 have been satisfied.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby determines that this vacation shall not be effective until and unless the relocated storm sewer is installed and accepted by the City Engineer. If the relocated storm sewer is not completed by the applicant and accepted by the City Engineer by December 1, 2003, this vacation shall be null and void.

PASSED and APPROVED this the 3rd day of December, 2002.

APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:

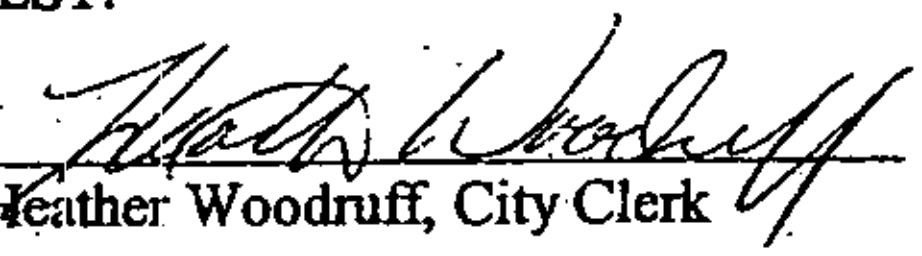

Heather Woodruff, City Clerk

EXHIBIT "A"

Easement Description #1:

A fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7 ½) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the northeast corner of lot 8, in Watson's Subdivision of lot numbered 14, block 8, County Court Addition to the City of Fayetteville, Arkansas; thence south 27 degrees 33'22" west 38.08 feet; thence south 74 degrees 44'20" west 158.18 feet.

Easement Description #2:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7 ½) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHWEST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33'22" West 38.08 feet; thence South 74 degrees 44' 20" West 158.18 feet.

Planning Commission
October 28, 2002
Page 4

VAC 02-12.00 & 13.00 (1021 & 1022): Vacation (Houses Development, pp 484) was submitted by Mandy Bunch of EB Landworks, Inc. on behalf of Greg House of Houses Development Co. for property located at the southwest corner of Watson Street and St. Charles Avenue. The property is zoned C-3, Central Commercial and contains approximately 0.12 acres. The request is to vacate two utility easements.

Aviles: Thanks Renee. We are going to go ahead and hear the consent items separately. The first item on the consent agenda is VAC 02-12.00 and 13.00, which is a Vacation for Houses Development. Is there any member of the public that would wish to remove this from our consent agenda or the Planning Commission?

Shackelford: Madam Chair, I will recuse from this vote but I have no problem with it.

Aviles: Ok, thanks Commissioner. Renee, would you call the roll please on item one?

Roll Call: Upon completion of roll call the first consent item was approved by a vote of 7-0-1 with Commissioner Shackelford recusing.

Aviles: Thanks Renee. That item is approved.

PC Meeting of October 28, 2002

FAYETTEVILLE

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

Easement Vacation

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner, A.I.C.P.
FROM: Sara Edwards, Associate Planner
Matt Casey P.E. Staff Engineer
DATE: October 24, 2002

Project: VAC 02-12,13.00: (Houses Development, pp 484) was submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement. See the attached maps and legal descriptions for the exact locations of the requested easement vacation.

No objections from the adjacent property owners have been submitted to the City.

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

Ozarks Electric - NA
Southwestern Electric Power Company - NA
Arkansas Western Gas - NA
SW Bell - NA
Cox Communications - NA

City of Fayetteville:
Water/Sewer - NA
Street Department - NA
Solid Waste - NA
Engineering - No objections.

Recommendation: Approval of the proposed easement vacation 02-12,13.00.

Conditions of Approval:

1. Installation of new storm sewer to route the storm water around this site and the dedication of required associated easements. Vacation of the drainage easement will not be complete until the relocated storm sewer is installed and accepted by the City of Fayetteville.

PETITION TO VACATE DRAINAGE EASEMENTS LOCATED IN LOTS EIGHT (8), NINE (9), AND TEN (10) IN BLOCK NUMBERED ONE (1) IN WATSON'S SUBDIVISION OF LOT FOURTEEN (14), BLOCK EIGHT (8) OF THE COUNTY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AND PART OF LOT THIRTEEN (13), OF BLOCK EIGHT (8) OF THE COUNTY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

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

We, the undersigned, being all owners of the real estate abutting the Drainage Easements hereinafter sought to be abandoned and vacated, lying in Lots Eight (8), Nine (9), and Ten (10) in Block Numbered One (1) in Watson's Subdivision of Lot Fourteen (14), Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, and Part of Lot Thirteen (13), of Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate drainage easements which are described as follows:

Easement Description #1:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHEAST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

Easement Description #2:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHWEST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

That the abutting real estate affected by said abandonment of the Drainage Easements are Lots 13 & 14 of Block 9 of the County Court Addition to the City of Fayetteville, Arkansas used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the above described easements.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to the dedication of appropriate easements and infrastructure to convey drainage through their property as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to the dedication of appropriate easements and infrastructure to convey drainage through their property as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law, and as to that particular land the owner be free from the easements of the public for the use of said drainage easements.

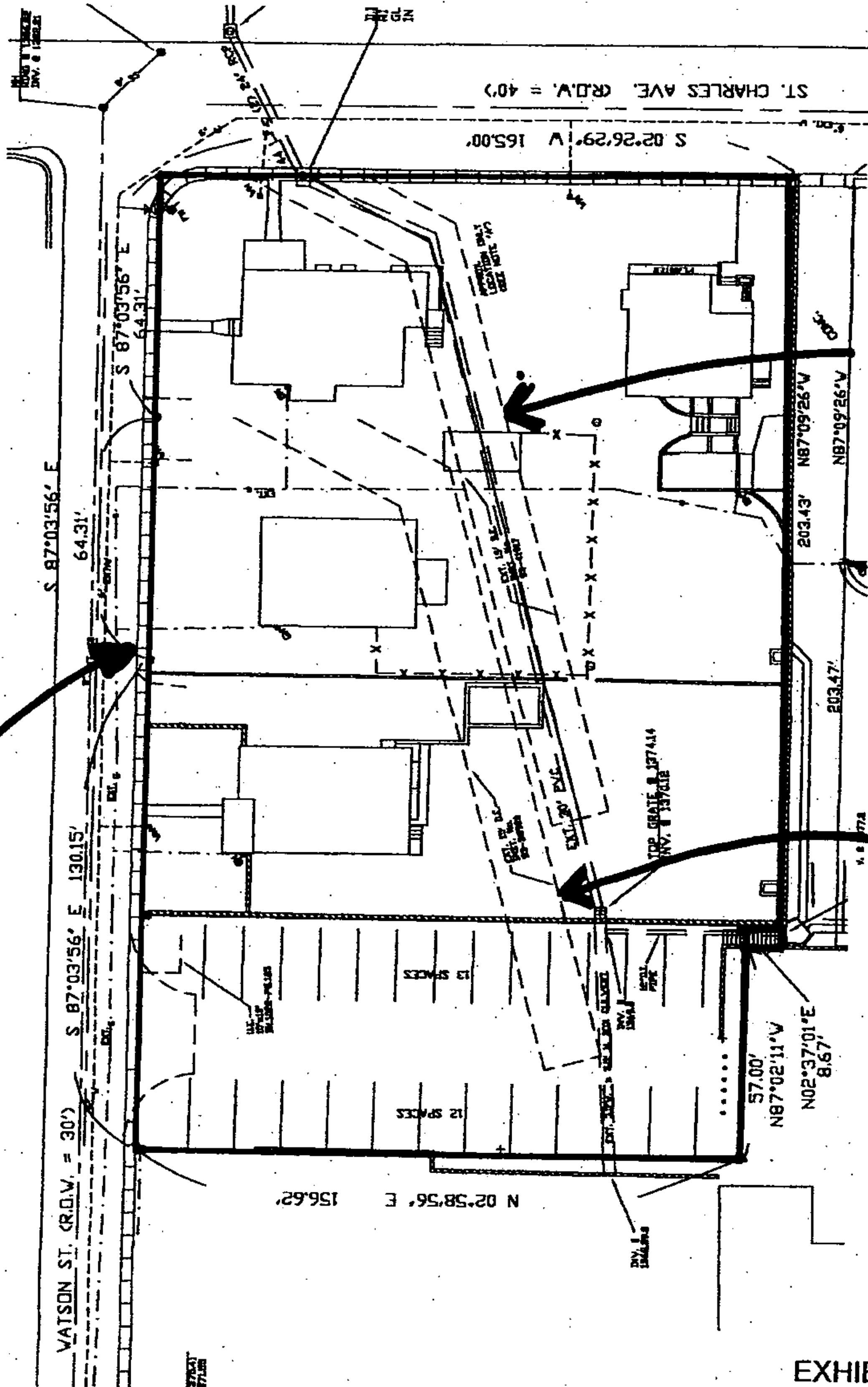
Dated this Seventh (7th) day of October, 2002.

GREG HOUSE

Printed Name


Signature

Subject Property



Easement
Description #1

Easement
Description #2

EXHIBIT A

Assessor's Map

LEGAL DESCRIPTION:
Proposed Drainage Easement Vacation

Property Description:

Lots Eight (8), Nine (9), and Ten (10) in Block Numbered One (1) in Watson's Subdivision of Lot Fourteen (14), Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, and Part of Lot Thirteen (13), of Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, and as per Plat of said addition on file in the office of Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

Easement Description #1:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHEAST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

Easement Description #2:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHWEST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.



EB LandWorks, Inc.
758 Fowler Avenue
Fayetteville, Arkansas 72701
Voice 501.444.7769
Fax 501.444.7793

October 7, 2002

Mr. Tim Conklin, AICP
Director of Planning
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

RE: Request for Drainage Easement Vacations
Lots 8, 9, & 10 Located in Block 1 of Watson's Subdivision of Lot 14,
Block 8 of County Court Addition
Fayetteville, Arkansas

Dear Mr. Conklin:

The owners of the above referenced real estate wish to vacate existing drainage easements located within their property. The request meeting the City of Fayetteville requirements is attached in its entirety.

There are two easements of record that are attached for your review. It is believed by the petitioner, and concurred through discussions with you and the Assistant City Attorney, that the two documents represent only one easement, but that the easement across Lot 9 contains an error. The erroneous description starts the easement from the Northwest corner of Lot 8 of Watson's Subdivision, rather than the Northeast. When the easement is plotted properly as beginning from the Northeast corner of Lot 8, it encompasses the existing drainage infrastructure as was the purpose of the drainage easement.

It is the intention of the petitioner to relocate the existing drainage to the approval of the City of Fayetteville Engineering Department and to dedicate easements to the City as necessary to accommodate the drainage and develop the property to its fullest extent allowed by the current zoning. The petitioner expects this request to be approved contingent to the these approvals.

Please do not hesitate to call me if you have any questions regarding this request.
Thank you for your consideration.

Best Regards:

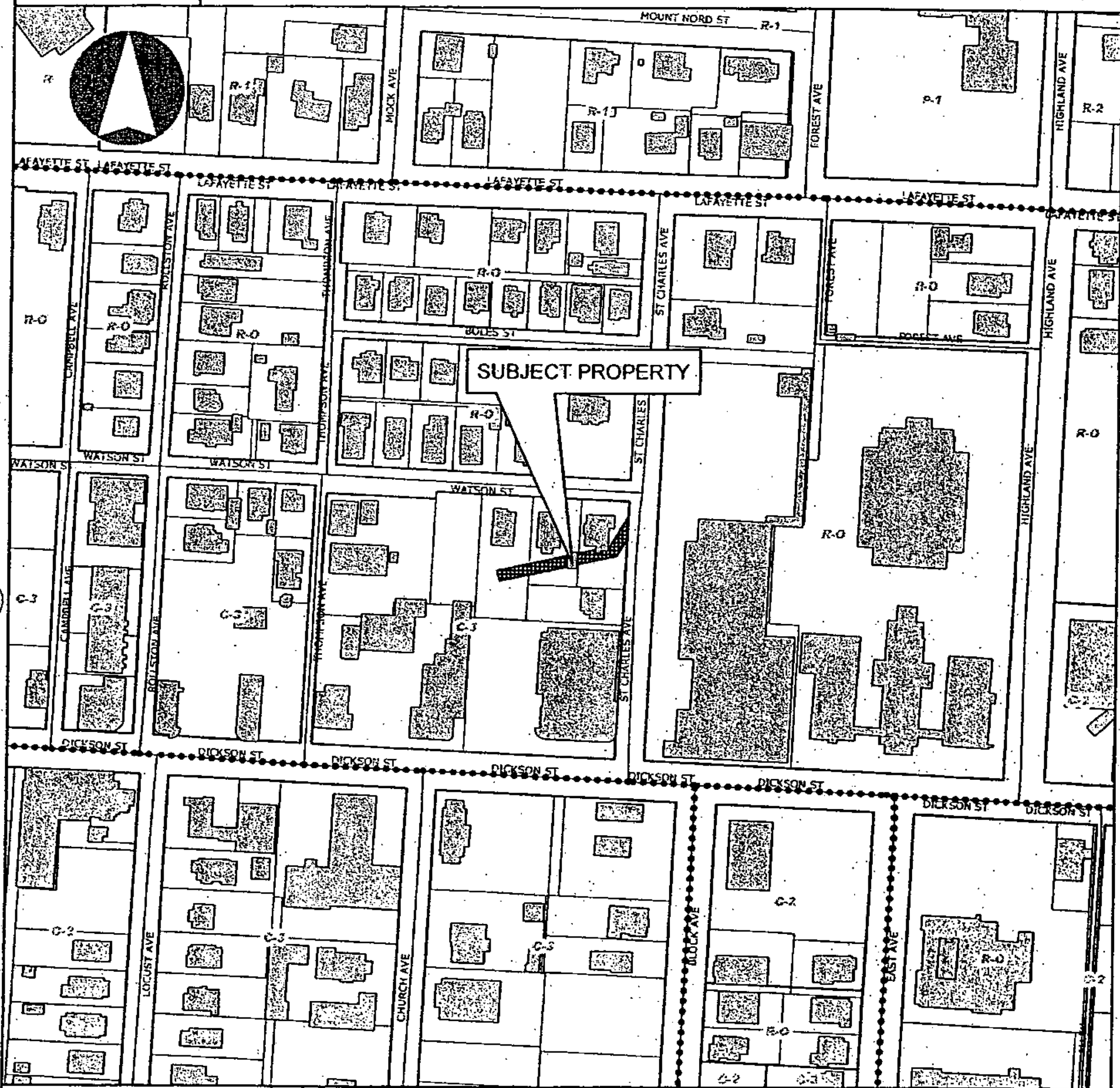
A handwritten signature in cursive script, appearing to read 'Mandy R. Bunch'.

Mandy R. Bunch, PE

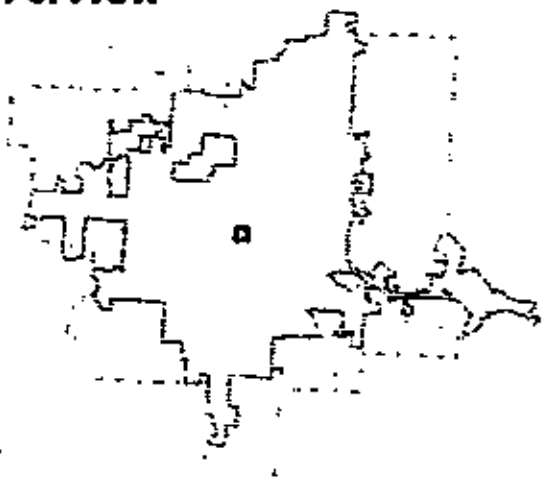
VAC02-12&13.00

Close Up View

HOUSES DEVELOPMENT



Overview



Legend

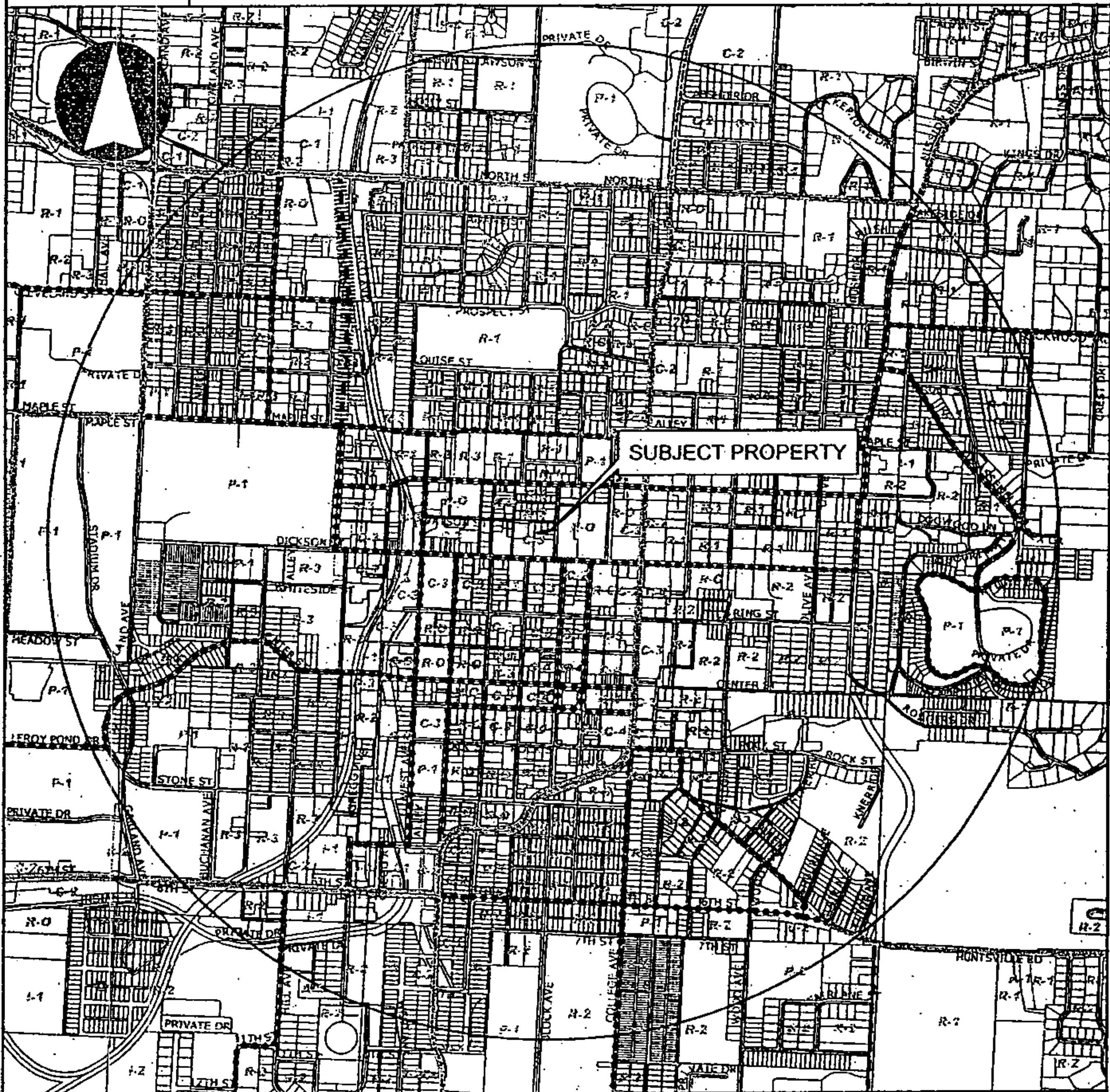
- | | | | |
|----------------|------------------|--------------------|--------------|
| SPC City | Overlay District | Master Street Plan | City Limits |
| dodpoly | Streets | Freeway/Expressway | Outside City |
| VAC02-12&13.00 | Existing | Principal Arterial | |
| Buildings | Planned | Minor Arterial | |
| Lakes | | Collector | |
| | | Historic Collector | |
| | | Planning Area | |
| | | Zoning | |

0 75 150 300 450 600 Feet

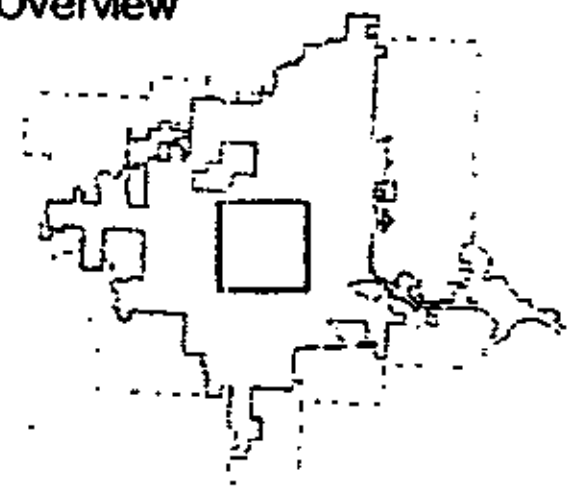
VAC02-12&13.00

One Mile View

HOUSES DEVELOPMENT



Overview



Legend

Subject Property

VAC02-12&13.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

20-Dec-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 05-1811: (SUMMER RESOURCES, 571): Submitted by Mel Milholland for property located at north of HWY 16E, north of Deerfield Way. The property is in the Planning Area and contains approximately 3.75 acres. The request is to annex the subject property into the City of Fayetteville.

\$0.00	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 ☐

[Signature] 12-2-05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 12-2-05
City Attorney Date

Original Contract Number: n/a

[Signature] 12-5-05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 12/2/05
GD

[Signature] 12/6/05
Mayor Date

Received in Mayor's Office
ENTERED 12/2/05
GD

Comments:

City Council Meeting of December 20, 2005
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JCP*

Date: November 29, 2005

Subject: Annexation for Summer Resources (ANX 05-1811)

RECOMMENDATION

The Planning staff recommends approval of the subject annexation request submitted by Mel Milholland for approximately 3.75 acres of property located north of HWY 16E and north of Deerfield Way. This action will incorporate the 3.75-acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property contains 3.75-acres and is located north of Huntsville Road (Hwy 16 East) and west of Mally Wagon Road. The property is adjacent to Deerfield Way Subdivision to the south and Water Brook Phases I and II to the west. This tract was created by a lot split, which was approved by the Subdivision Committee on September 29, 2005. The approved lot split can not be filed until the subject property is annexed into the City of Fayetteville and a deed is received for parkland dedication. The Park Recreation Advisory Board recommended parkland dedication of 2.76 acres to fulfill the requirements for Water Brook Phase I and II. The remaining 0.99 acres will be evaluated as a possible off-site Tree Preservation Easement Area. Annexation of the property will not create an island of unincorporated property or create a peninsula of City property.

Annexation of the subject property begins to "fill in" land that is surrounded to the west and south by incorporated property and to the north and east by Mally Wagon Road and the White River; creating a more desirable city boundary, and ensuring that development of the property is compliant with City regulations within an appropriate zoning district.

DISCUSSION

This item was heard at the regular Planning Commission on November 28, 2005. The Planning Commission voted 9-0-0 to recommend approval of this annexation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED
IN ANNEXATION PETITION ANX 05-1811 FOR PROPERTY
LOCATED NORTH OF HWY 16E, NORTH OF DEERFIELD WAY,
CONTAINING 3.75 ACRES.

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

Section 1: That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

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

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. One.

PASSED and APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ANX 05-1811

A PART OF THE EAST HALF OF THE NORTHWEST QUARTER (NW1/4) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W1/4) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°22'31"E 1312.96 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4), THENCE S87°22'31"E 1312.95 FEET; TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER (NW1/4), THENCE ALONG THE EAST BOUNDARY OF SAID NORTHWEST QUARTER (NW1/4) N02°41'10"E 1318.80 FEET TO THE NORTHEAST CORNER OF SOUTHEAST QUARTER (SE1/4) OF NORTHWEST QUARTER (NW1/4); THENCE S02°41'10"W 400.42 FEET TO A POINT ON A COMMON NORTH BOUNDARY OF EXISTING CITY LIMITS AND DEERFIELD PLACE; THENCE ALONG SAID COMMON BOUNDARY N87°28'53"W 517.99 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A SET IRON PIN; THENCE ALONG SAID COMMON BOUNDARY N87°28'53"W 350.00 FEET TO THE NORTHWEST CORNER OF SAID DEERFIELD PLACE AND A COMMON BOUNDARY OF SAID CITY LIMITS AND THE EAST BOUNDARY OF PROPOSED WATER BROOK SUBDIVISION, SAID POINT BEING A CONCRETE MONUMENT; THENCE ALONG SAID COMMON BOUNDARY OF EXISTING CITY LIMITS AND EAST BOUNDARY OF PROPOSED WATER BROOK SUBDIVISION N02°41'09"E 468.50 FEET TO A FOUND IRON PIN; THENCE ALONG SAID CITY LIMITS BOUNDARY S87°16'57"E 74.64 FEET TO A SET IRON PIN; THENCE S02°41'09"W 465.63 FEET TO THE POINT OF BEGINNING, CONTAINING 3.754 ACRES, MORE OR LESS, WASHINGTON COUNTY, FAYETTEVILLE, ARKANSAS.



PC Meeting of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: November 21, 2005

ANX 05-1811: (SUMMER RESOURCES, 571): Submitted by MEL MILHOLLAND for property located at N OF HWY 16E, N OF DEERFIELD WAY. The property is in the Planning Area and contains approximately 3.75 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owner: SUMMER RESOURCES

Planner: JESSE FULCHER

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	Required <u>YES</u>
	☒ Forwarded ☐ Denied
Date: <u>November 28, 2005</u>	Anthes/Trumbo 9-0-0
CITY COUNCIL ACTION:	Required <u>YES</u>
	☒ Approved ☐ Denied
Date: <u>December 20, 2005</u> (1 st reading if recommended)	

BACKGROUND:

Property description: The subject property contains 3.75-acres and is located north of Huntsville Road (Hwy 16 East) and west of Mally Wagon Road. The property is adjacent to Deerfield Way Subdivision to the south and Water Brook Phases I and II to the west. This tract was created by a lot split, which was approved by the Subdivision Committee on September 29, 2005. The approved lot split can not be filed until the subject property is annexed into the City of Fayetteville and a deed is received for parkland dedication. The Park Recreation Advisory Board recommended parkland dedication of 2.76 acres to fulfill the requirements for Water Brook Phase I and II. The remaining 0.99 acres will be evaluated as a possible off-site Tree Preservation Easement Area.

Proposal: The applicant proposes annexation of 3.75 acres into the City of Fayetteville.

Recommendation: Staff recommends approval of the proposed annexation based on the findings herein.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	West Fork of the White River; pasture	Planning Area
South	Deerfield Subdivision	RSF-4, Res. Single Family – 4 units/acre
East	Storage Facility	Planning Area
West	Water Brook Phase I and II	RSF-4, Res. Single Family – 4 units/acre

INFRASTRUCTURE:

Streets: The parkland will have street frontage within Water Brook Phase I.

Nearby Master Street Plan Streets:

South: Country Ridge and Deerfield Way (Local)

East: Mally Wagon (Collector),

West: Proposed street for Water Brook Phase I (Residential)

Water: Public water is adjacent to the site within Phase I of Water Brook

Sewer: Public sewer is adjacent to the site within Phase I of Water Brook

Fire: The subject property is located approximately 4.3 miles from the Fire Station #5 with a projected response time of 7.75 minutes. After station 3 is built at the corner of Happy Hollow Road and Huntsville Road, the distance will be reduced to 3.3 miles with an anticipated response time of 5.5 minutes. The Fire Department does not figure calls for service on properties that are only being considered for annexation.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as **Residential**.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an

island or peninsula.

Finding: Annexation of the property will not create an island or a peninsula. Due to rapid growth, the City of Fayetteville in the 1960's annexed a peninsula of property to incorporate Lake Sequoyah, a primary water source, within the city limits. Since this time, the City has annexed several properties north and south of the 600' Huntsville Road corridor. Annexation of the subject property begins to "fill in" land that is surrounded to the west and south by incorporated property and to the north and east by Mally Wagon Road and the White River. Therefore, staff finds that the proposed annexation will not further exacerbate any problems associated with the current situation.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the south and west and along a portion of the north property line.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area is currently vacant at this time and located adjacent to Deerfield Place Subdivision and Water Brook Phase I and II. The property does not consist of defined subdivisions or neighborhoods; however, the subject property is a continuation of Water Brook Phase I and II. Additionally, the property will provide parkland dedication and possible tree preservation for Phase I and II of Water Brook Subdivision.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels. The western and southern property lines of the property are entirely adjacent to incorporated property.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of 7.75 minutes for fire protection from Fire Station #5. Response times are anticipated to be reduced with the construction of a new fire station on Huntsville Road at the Tyson Plant.

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property has a dense tree canopy which will be within the parkland dedication boundary.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police currently serve subdivisions to the south of the subject property. Service shall be provided to this area with the same level of response and service as other developments in this area.

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: Water, fire and police protection are currently provided in the surrounding areas. The subject property is not being served by city utilities at this time.

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants are required for Water Brook Phases I and II. This property will be utilized for parkland dedication.

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City. The annexation of this property has been discussed and reviewed in

association with Water Brook Phase I and II.

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. There are no requests to rezone this property at this time.

11.6.p An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed. As required for Water Brook Phases I and II, this property will be dedicated for parkland.

11.6.r Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: This annexation consists of 3.75 acres owned by Summer Resources. It is directly associated with a larger overall tract that was annexed as part of the development for Water Brook Phase I and II.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 3.75 acres.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.

November 21, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 05-1811 (**Summer Resources, 571**) submitted by Mel Milholland for property located N of 16E, west of Deerfield Way would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: November 21, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: November 21, 2005 Re-zoning Review

ANX05-1811: (Summer Resources, 571)

These 8.58 acres is covered by Station 5 at 833 N Crossover.

The property is 4.3 miles from the station with a projected response time of 7.75 minutes to this development. After Station 3 is built, at the corner of Happy Hollow and East Huntsville, the distance will be reduced to 3.3 miles with an anticipated response time of 5.5 minutes.

The Fire Department does not figure calls for service on properties that are being considered for annexation.

ANX05-1812 (McDonald/Bridgedale II, 569)

RZN05-1813 (McDonald/Bridgedale II, 569)

These 7.36 acres are covered by Engine 5 at 833 N Crossover.

The property is 2.8 miles from the station with a projected response time of 6 minutes to this development. After Station 3 is built, on the corner of E Huntsville and Happy Hollow, the distance to the development will be reduced to 1.8 miles with an anticipated response time of 3.75 minutes.

The Fire Department anticipates 7 calls for service (4 EMS & 3 Fire/Other) once the development is completed and maximum build-out has occurred.

There should be no adverse effects on our call volume or response time to this development.

PZD05-1734 (Paradise Point, 177)

These 1.55 acres are covered by Engine 5 at 833 N Crossover.

The property is 3.2 miles from the station with a projected response time of 7 minutes to this development. After Station 5 is relocated to the corner of Crossover and Old Wire, the distance to the development will be reduced to 1.1 miles with an anticipated response time of 2 minutes.

The Fire Department anticipates 5 calls for service (3 EMS & 2 Fire/Other) once the development is completed and maximum build-out has occurred.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department



PC Meeting of September 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~September 7, 2005~~ September 15, 2005

PPL 05-1608: (WATER BROOK PHASE I, 571): Submitted by MEL MILHOLLAND for property located NORTH OF HUNTSVILLE ROAD, WEST OF DEERFIELD WAY. The property is zoned RSF-4, Residential Single Family, four units per acre and contains approximately 35.17 acres. The request is to approve a residential subdivision with 96 single family lots.

Property Owner: FORREST & MODYNE LANE
Submitted on behalf of: CLINT MCDONALD
Planner: ANDREW GARNER

Findings:

Property: The subject property contains 35.17 acres and is north of Huntsville Road and west of Deerfield Way. Deerfield Subdivision is east of the property and an existing abandoned quarry that is filled with water is located north of the site. This property was recently annexed and rezoned RSF-4 for the development of a single family subdivision in June 2005. The site was until recently utilized for agricultural purposes. The West Fork of the White River is north of the site and a tributary of this river traverses the property to the west. The applicant proposes to create a subdivision with 96 single family lots.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	West Fork of the White River; pasture	Planning Area
South	Vacant/Pasture	RSF-4, Res. Single Family – 4 units/acre
East	Residential Single Family Vacant/Pasture	RSF-4, Res. Single Family – 4 units/acre Planning Area
West	One Single Family Home; pasture	Planning Area

Water and Sewer: Water and sewer lines shall be extended to serve the proposed development.

Adjacent Master Street Plan Streets: State Highway 16 (Huntsville Road) – principal arterial.

Right-of-way to be dedicated: 55' right-of-way from the centerline of Huntsville Road, 40' right-of-way dedication for Street '1' and the southern portion of Street '3', and 50' right-of-way dedication for Street '2' and the northern section of Street '3'.

Street Improvements: State Highway 16 (Huntsville Road) is the only major east-west transportation corridor through south Fayetteville; providing the only connection for many subdivisions and communities east of the City. Huntsville Road is a two-lane roadway with shoulders and becomes congested during peak hours, particularly east of Highway 265 (Crossover Road). Staff finds that due to the existing congestion on Huntsville Road, and the proposed project contributing approximately 1,970 additional vehicle trips/day directly to this road, improvements are necessary to ensure that the project would not compound a dangerous traffic condition. Staff finds that the project development should include a middle turn lane on Huntsville Road along the project's frontage.

Access: The proposed entrance into the subdivision is currently located west of Ed Edwards Road, a street south of Huntsville that serves existing residents and a large amount of vacant land. The entry does not line up with Ed Edwards Road on the opposite (south) side of Huntsville Road. Planning Commission determination of appropriate curb-cut/entrance is included as a condition of approval. Staff recommended, and the Subdivision Committee unanimously recommended, to forward this project with the proposed street aligned with Ed Edwards Road. Without this alignment, staff finds a dangerous traffic condition may result, especially with future turning movements and recommends denial of the proposal as presented.

Connectivity: Connectivity is provided to the Deerfield Place subdivision to the east via Country Ridge Road. A temporary cul-de-sac in the northwestern portion of the site would provide future connectivity north to Water Brook Phase II subdivision. It would be very difficult to provide connectivity to the west due to steep topography associated with a tributary drainage to the West Fork of the White River located along the western property boundary. Connectivity to the west is not proposed.

<i>Tree Preservation:</i>	Existing:	6.10%
	Preserved:	2.74%
	Required:	6.10%
	Mitigation:	Required, 121 trees

Recommendation:

Staff recommends approval of **PPL 05-1608** with the following conditions:

Conditions of Approval:

1. Planning Commission determination of appropriate curb cut/subdivision entrance on Huntsville Road. *Staff recommends approval of the entrance into the subdivision as proposed. This entrance lines up with Ed Edwards Road on the south side of Huntsville Road opposite the site.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION

2. Modifications to the street table shall be as follows on the preliminary plat:
 - a. Street 1: 40' right-of-way, 24' street with sidewalk on one side south of Country Ridge Road, transitioning to a 50' right-of-way, 28' street with sidewalk on both sides north of Country Ridge Road.
 - b. Street 2: 50' right-of-way, 28' street with sidewalk on both sides from Highway 16 to Country Ridge Road, transitioning to a 40' right-of-way, 24' street with sidewalk on one side north of Country Ridge Road.
 - c. Street 3: 40' right-way, 24' street with sidewalk on one side.
3. Planning Commission determination of street improvements. *Staff recommends improvements on Huntsville Road (to be coordinated with the Arkansas Highway Department) to include a 12' center turn lane (total 36' pavement width), along the property frontage, 6' sidewalk at the right-of-way line per the Master Street Plan, street lights at maximum 300' separation, and storm drainage as required by City Engineering. The applicant has indicated that they are "unaware of City policy requiring the extent of recommended improvements for a center turn lane". All on-site and off-site improvements are determined by the Planning Commission for each and every project, by City ordinance. All interior streets shall be constructed to City standards.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION

4. An east-west street connecting the northern cul-de-sacs for Phase I of Water Brook shall be constructed prior to the final plat of Phase I. (The applicant anticipates this connection with the upcoming Phase II proposal).
5. A 6' sidewalk is required along Huntsville Road located at the right-of-way. If the applicant is amenable, staff recommends that 4' sidewalks be placed at the right-of-way on both sides of all proposed 40' right-of-way streets, although Master Street Plan standards only require sidewalk on one side of 40' right-of-way streets. Four-foot sidewalks shall be constructed on both sides of all 50' right-of-way streets, per the Master Street Plan.
6. The property line adjustment to create the lot for this subdivision shall be filed with the County of Washington prior to submission of construction documents to the City.
7. A floodplain permit is required prior to construction for any grading or structures in the flood zone.
8. Direct access to Huntsville Road shall be restricted from each adjacent lot.
9. Planning Commission determination of parkland dedication. The Park Recreation Advisory Board recommended parkland dedication of 2.76 acres by the developer prior to final plat. The land identified by the Park and Recreation Advisory Board is located outside the City limits. Prior to final plat and dedication of this land it must be annexed into the City. It should be noted that this parkland will fulfill the parkland requirements

for Phases I and II of the Water Brook Subdivision.

10. The land dedicated for parkland will receive some fill material from the construction of the subdivision, and a ravine in this area will also be converted into a drainage area. Prior to dedication of this parkland at final plat, the fill material shall be fine-graded with appropriate erosion control in place and the drainage improvements completed. Prior to construction of any type on the property to be accepted as parkland, appropriate tree protection and erosion control fencing shall be installed and inspected.
11. On-site areas for delivery and storage of construction materials, on-site parking, cement truck wash-out, and soil stockpiles need to be identified and noted on the plan.
12. Staff asks that the root pruning detail used on the west property line also be used along the east property line shared with the proposed park area. Utilities will be required to trench along this boundary where several significant trees are found.
13. The replacement of 35,053 square feet of canopy is required. On-site mitigation is recommended with a minimum of **(121) 2-inch caliper large tree**. At time of final plat a planting plan, maintenance and monitoring plan, and associated three-year bonds to mitigate for the removal of excess tree canopy is required prior to Final Plat. If all trees can not be reasonably located on the property, with the approval of the Landscape Administrator, a combination of mitigation and monetary donation to the Tree Fund will be accepted.
14. Land adjacent to the proposed park land is being evaluated as a possible off-site Tree Preservation Easement Area. The review does not currently incorporate this area because it is found outside the city limits and was not included with the preliminary plat review. The land must be annexed and all procedures followed from the off-site preservation section of Fayetteville Code of Ordinances prior to Final Plat in order to utilize this option.
15. Street lights shall be installed or proof of payment received with a maximum separation of 300 feet along all streets, including Huntsville Road, prior to final plat.
16. Subdivision area signage shall be permitted in accordance with applicable city codes.
17. The location, height and placement of any landscaped entry feature shall be reviewed by City staff for compliance with ordinance regulations and maintained by the POA.
18. The installation of fence or walls shall be coordinated with all appropriate utility companies and staff to insure property placement. No structures shall be located within right-of-way.

Standard Conditions of Approval:

19. Plat Review and Subdivision comments (to include written staff comments provided to

the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

20. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
21. Prior to application of signatures on the final plat, all punch list items shall be completed, including final acceptance of the lift station.
22. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
23. All street names shall be approved by the 911 coordinator.
24. Preliminary Plat approval shall be valid for one calendar year.

Additional conditions:

- a. _____
- b. _____
- c. _____

PLANNING COMMISSION ACTION: yes Required
_____ Approved _____ Denied

Date: September 12, 2005

Comments:

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By

Date



PC Meeting of October 10, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~October 3, 2005~~ October 11, 2005

PPL 05-1699: Preliminary Plat (WATER BROOK II, 571): Submitted by MEL MILHOLLAND for property located at N OF PHASE I AND HWY 16E, W OF DEERFIELD WAY. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 10.95 acres. The request is to approve Phase II of a residential subdivision with 21 single family lots proposed.

Property Owner: Clint McDonald

Planner: Andrew Garner

Findings:

Background: This project was tabled at the September 26, 2005 Planning Commission because the applicant was not present. This item was opened for public comment at that meeting and no public comments were made.

Property: The subject property contains 10.98 acres and is north of Huntsville Road and west of Deerfield Way. Deerfield Subdivision is southeast of the property and an existing abandoned quarry that is filled with water is located on the site. This property was recently annexed and rezoned RSF-4 for the development of a single family subdivision in June 2005, and the Preliminary Plat for Phase I of Waterbrook was approved by the Planning Commission on September 12, 2005. The site is currently used for pasture. The West Fork of the White River is north of the site and a tributary of this river traverses the property to the west. The applicant proposes to create Phase II of the Waterbrook subdivision with 21 single family lots.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	West Fork of the White River, pasture	Planning Area
South	Waterbrook Phase I Subdivision	RSF-4, Res. Single Family – 4 units/acre
East	Residential Single Family Vacant/Pasture	RSF-4, Res. Single Family – 4 units/acre Planning Area
West	Pasture	Planning Area

Water and Sewer: Water and sewer lines shall be extended to serve the proposed development.

Adjacent Master Street Plan Streets: State Highway 16 (Huntsville Road) – principal arterial.

Right-of-way to be dedicated: 50' right-of-way dedication for Street '1' and 40' right-of-way dedication for Street '3'.

Access: The proposed Phase II of Waterbrook will be accessed off of Street 1 from Phase I of Water Brook to the south.

Connectivity: Connectivity is provided to Phase I of Waterbrook subdivision to the south via Street 1 and Street 3. The applicant proposes a 50' right-of-way stub-out extending approximately 400' from the temporary cul-de-sac at the end of Street 1. It would be very difficult to provide connectivity to the west due to steep topography associated with a tributary drainage to the West Fork of the White River located along the western property boundary. Connectivity to the west is not proposed.

Tree Preservation:	Existing:	38.79%
	Preserved:	31.66%
	Required:	25%
	Mitigation:	Not required.

Recommendation: Staff recommends approval of PPL 05-1699 with the following conditions:

Conditions of Approval:

1. Planning Commission determination of connectivity. *Staff finds that the existing cul-de-sac at the end of Street 1 provides adequate right-of-way stub-out for a future street connection to the north. Staff recommends that appropriate signage be installed to clearly indicate future right-of-way extension to the north. In addition to this northern stub-out, staff recommends one of the following options: (a) construction of the proposed approximately 400' street stub-out with a 50' right-of-width extending to the eastern property line with a sign placed at the property line indicating extension of future street in the area; or (b) construction of a street stub-out extending to the eastern property line in the vicinity of lots 115 and 69 with a 50' right-of-width extending to the eastern property line with a sign placed at the property line indicating extension of future street in the area.*

PLANNING COMMISSION FOUND IN FAVOR OF THIS CONDITION, CHOOSING OPTION 'B' (10/10/05).

2. The property line adjustment to create the lot for this subdivision shall be filed with the County of Washington prior to submission of construction documents to the City.
3. Prior to final plat, a fence shall be constructed around the abandoned rock quarry for public safety purposes to prevent unauthorized access.

4. A floodplain permit is required prior to construction for any grading or structures in the flood zone.
5. Parkland dedication of 2.76 acres by the developer prior to final plat. The land identified by the Park and Recreation Advisory Board is located outside the City limits. Prior to final plat and dedication of this land it must be annexed into the City. It should be noted that this parkland will fulfill the parkland requirements for Phases I and II of the Water Brook Subdivision.
6. The land dedicated for parkland will receive some fill material from the construction of the subdivision, and a ravine in this area will also be converted into a drainage area. Prior to dedication of this parkland at final plat, the fill material shall be fine-graded with appropriate erosion control in place and the drainage improvements completed.
7. With current revisions, all utility easements have been moved to the front leaving only building setback lines in the back. Since no disturbance will occur along the building setbacks in the rear of the property the tree protection fencing can be extending to the property line.
8. Street lights shall be installed or guaranteed with a maximum separation of 300 feet along all streets prior to final plat.
9. Subdivision area signage shall be permitted in accordance with applicable city codes.
10. The location, height and placement of any landscaped entry feature shall be reviewed by City staff for compliance with ordinance regulations and maintained by the POA.
11. The installation of a fence shall be coordinated with all appropriate utility companies and staff to insure property placement. No fence shall be located within right-of-way.
12. Lot 70 is located half in Phase I and Phase II. Revise the plat to clarify in which phase this lot is located.

Standard Conditions of Approval:

13. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
14. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
15. Prior to application of signatures on the final plat, all punch list items shall be completed,

including final acceptance of the lift station.

16. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
17. All street names shall be approved by the 911 coordinator.
18. Preliminary Plat approval shall be valid for one calendar year.

Additional conditions:

- a. _____
- b. _____
- c. _____

Planning Commission Action: yes Required

☐ Approved

☐ Denied

☐ Tabled

Meeting Date: October 10, 2005

Comments: _____

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS
IN THE MATTER OF THE PETITION OF CERTAIN
PROPERTY TO THE CITY OF FAYETTEVILLE,
WASHINGTON COUNTY, ARKANSAS

FILED
2005 AUG 31 PM 1 41
KAREN COMBS PRINCE
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

NO. CC 2005-20

PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

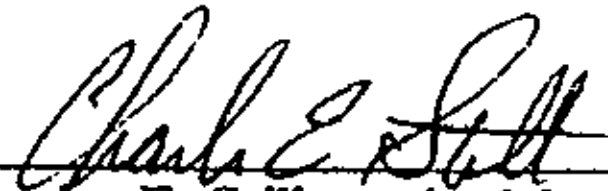
The Petitioner, Summer Resources, LLC, an Oklahoma limited liability company, hereby submits its Petition to annex certain real property into the City of Fayetteville, Washington County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. as follows:

1. That Petitioner owns the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof (the "Real Property"), and said Real Property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas, and is within the City of Fayetteville, School District.
2. The Petitioner names Melvin Milholland, Clint McDonald, and James Atwood, Attorney at Law, P.A. as the persons authorized to act on its behalf with respect to this Petition.
3. The Petitioner desires that the Real Property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the Real Property into the City of Fayetteville.
4. A true and correct presentation of the Real Property and how it is contiguous to the City of Fayetteville, Arkansas is shown on the Plat Map, Exhibit "A", attached hereto.
5. The Petitioner herein desires that the Real Property become part of the City of Fayetteville, Washington County, Arkansas, and Petitioner states that it will do any

and all legal acts necessary to accomplish the objective set forth herein.

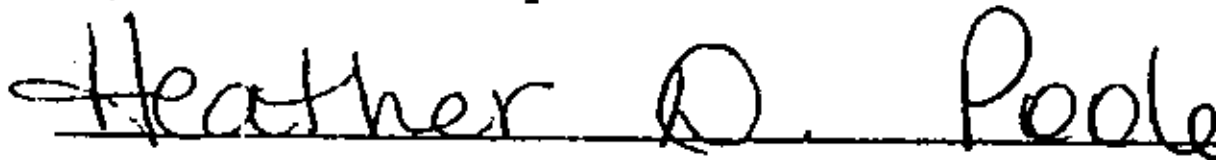
THEREFORE, Petitioner respectfully prays that this Court set a hearing, and after notice of such hearing, that the County Judge sign an Order annexing the above described Real Property into the City of Fayetteville, Washington County, Arkansas, and to order such other relief as is appropriate under applicable law.

Respectfully executed this 29 day of August, 2005.


Charles E. Still, as the Manager of Summer
Resources, LLC

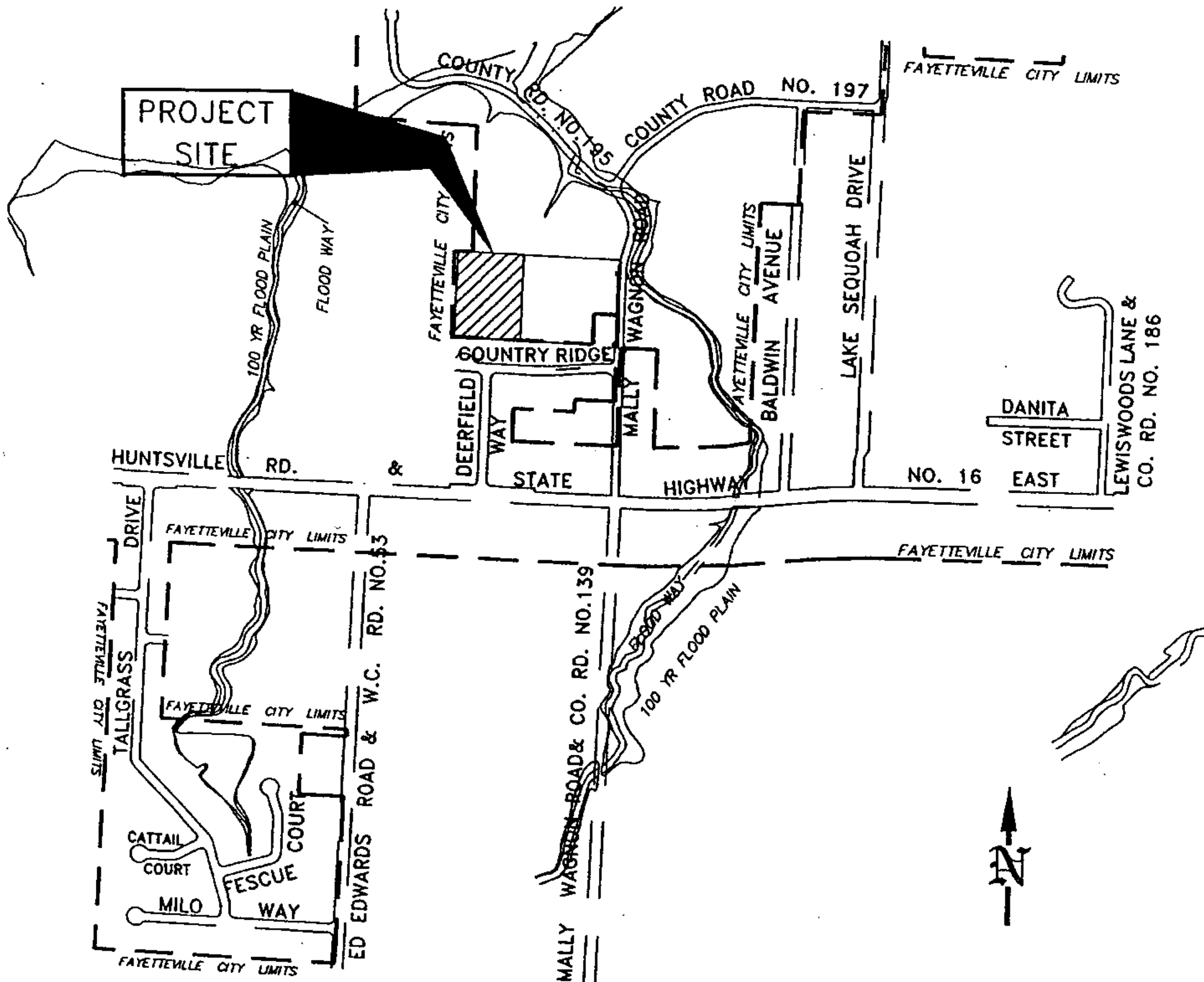
SUBSCRIBED AND SWORN TO before me, a Notary Public, on this the 29th day of
August, 2005.

My Commission Expires:


Heather D. Poole

HEATHER D. POOLE
NOTARY PUBLIC-STATE OF ARKANSAS
SEBASTIAN COUNTY
My Commission Expires 01-10-15

EXHIBIT A



ANNEXATION VICINITY MAP

ANNEXATION DESCRIPTION: (PART OF INST. No. 2003-27724)

A PART OF THE EAST HALF OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W $\frac{1}{4}$) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°22'31"E 1312.98 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW $\frac{1}{4}$) OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$), THENCE S87°22'31"E 1312.95 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER (NW $\frac{1}{4}$), THENCE ALONG THE EAST BOUNDARY OF SAID NORTHWEST QUARTER (NW $\frac{1}{4}$) N02°41'10"E 1318.80 FEET TO THE NORTHEAST CORNER OF SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF NORTHWEST QUARTER (NW $\frac{1}{4}$); THENCE S02°41'10"W 400.42 FEET TO A POINT ON A COMMON NORTH BOUNDARY OF EXISTING CITY LIMITS AND DEERFIELD PLACE; THENCE ALONG SAID COMMON BOUNDARY N87°28'53"W 517.99 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A SET IRON PIN;

THENCE ALONG SAID COMMON BOUNDARY N87°28'53"W 350.00 FEET TO THE NORTHWEST CORNER OF SAID DEERFIELD PLACE AND A COMMON BOUNDARY OF SAID CITY LIMITS AND THE EAST BOUNDARY OF PROPOSED WATER BROOK SUBDIVISION, SAID POINT BEING A CONCRETE MONUMENT; THENCE ALONG SAID COMMON BOUNDARY OF EXISTING CITY LIMITS AND EAST BOUNDARY OF PROPOSED WATER BROOK SUBDIVISION N02°41'09"E 468.50 FEET TO A FOUND IRON PIN; THENCE ALONG SAID CITY LIMITS BOUNDARY S87°16'57"E 74.64 FEET TO A SET IRON PIN; THENCE LEAVING SAID CITY LIMITS S86°56'16"E 275.36 FEET TO A SET IRON PIN; THENCE S02°41'09"W 465.83 FEET TO THE POINT OF BEGINNING, CONTAINING 3.754 ACRES, MORE OR LESS, WASHINGTON COUNTY, FAYETTEVILLE, ARKANSAS.

(MCO: S-2434)
WASHINGTON COUNTY

IN THE COUNTY COURT OF WASHINGTON COUNTY

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

NO. CC2005-36

ORDER OF ANNEXATION

Now on this 10th day of October, 2005, this cause comes to be heard, the Petitioner, Summer Resources, LLC, an Oklahoma limited liability company (the "Petitioner"), who is represented by the Engineer of Record, Melvin Milholland, Clint McDonald, and James E Atwood, Attorney at Law, P.A., after announcing the hearing of the cause and there being no protests or objections, whereupon, the matter is submitted to the Court upon the Petition filed herein, and the oral and documentary evidence having been adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on the 31st day of August, 2005 at which time this Court fixed the 10th day of October, 2005, at 10:00 a.m., as the date and time of hearing for said cause, and that a full notice of this hearing was given as required by law and the proof of publication of said notice is now on file with the County Clerk of this Court and the Court has jurisdiction of this cause.
2. The Court is satisfied that the allegations of the Petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed; that the property owner has a freehold interests in the property hereinafter described in the Petition and constitutes the real owner of the area affected.
3. The land proposed to be annexed to the City of Fayetteville, Washington County,

Arkansas, in this cause is described on "Exhibit A" attached hereto.

4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Acct. No. 1 of the Acts of the Legislature of 1875 of the State of Arkansas, and all Acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1953, as codified in *Ark. Code Ann.* § 14-40-601, et seq., and this Order shall be duly recorded by the County Clerk of Washington County.

IT IS SO ORDERED this 10th day of October, 2005.

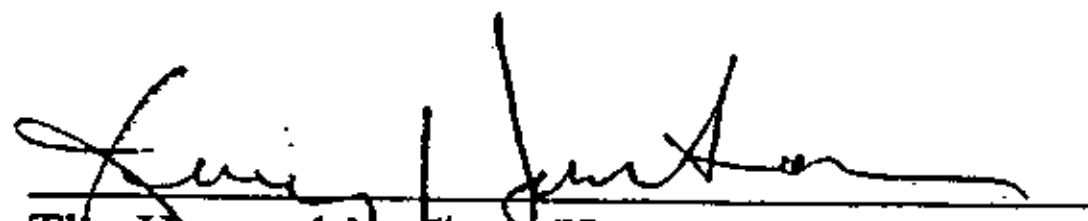
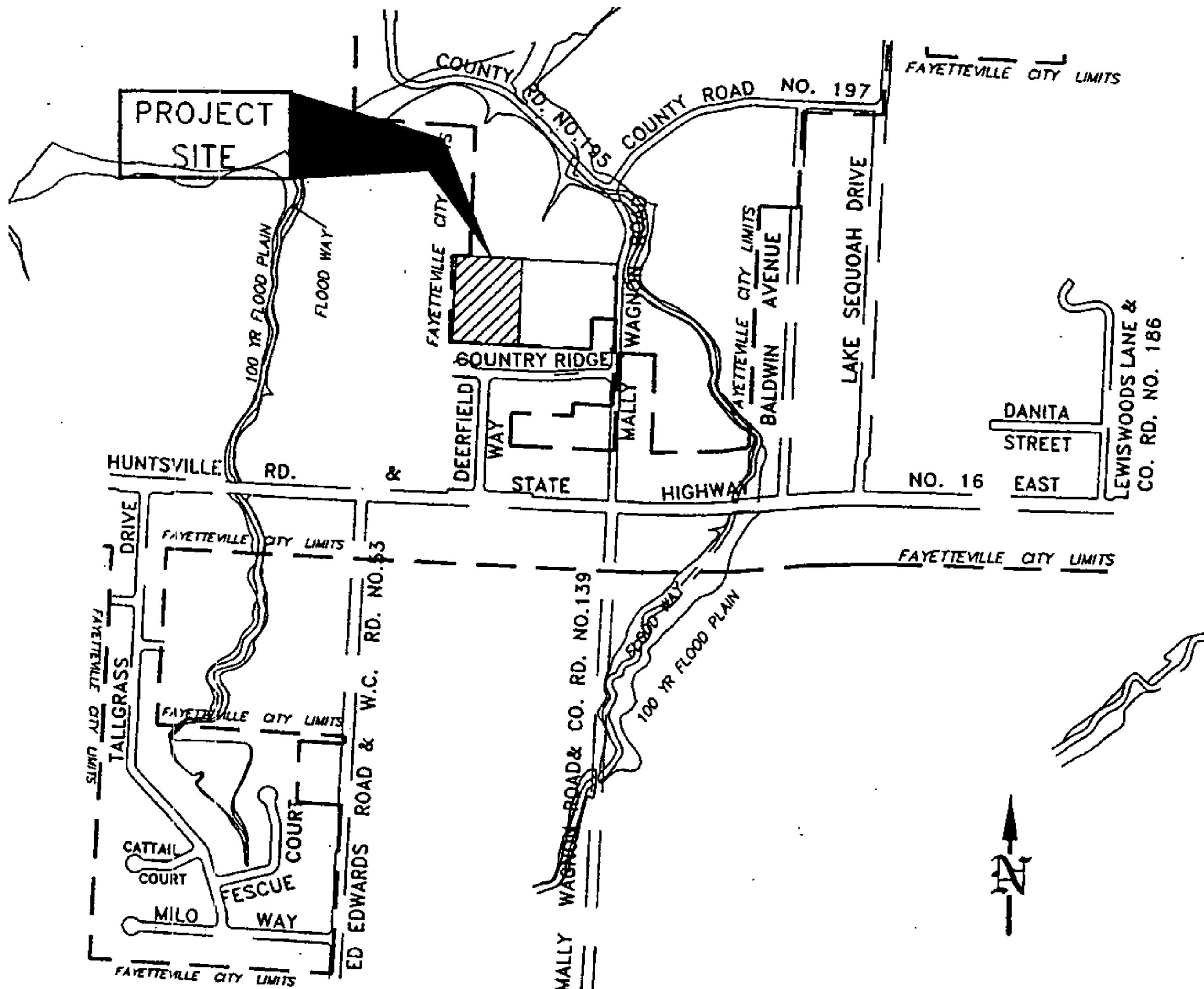

The Honorable Jerry Hunton
Washington County Judge

EXHIBIT A



ANNEXATION VICINITY MAP

ANNEXATION DESCRIPTION: (PART OF INST. No. 2003-27724)

PART OF THE EAST HALF OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W $\frac{1}{4}$) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°22'31"E 1312.96 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW $\frac{1}{4}$) OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$), THENCE S87°22'31"E 1312.93 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER (NW $\frac{1}{4}$), THENCE ALONG THE EAST BOUNDARY OF SAID NORTHWEST QUARTER (NW $\frac{1}{4}$) N02°41'10"E 1318.80 FEET TO THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER (NW $\frac{1}{4}$); THENCE S02°41'10"W 400.42 FEET TO A POINT ON A COMMON NORTH BOUNDARY OF EXISTING CITY LIMITS AND DEERFIELD PLACE; THENCE ALONG SAID COMMON BOUNDARY N87°28'53"W 517.99 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A SET IRON PIN;

THENCE ALONG SAID COMMON BOUNDARY N87°28'53"W 350.00 FEET TO THE NORTHWEST CORNER OF SAID DEERFIELD PLACE AND A COMMON BOUNDARY OF SAID CITY LIMITS AND THE EAST BOUNDARY OF PROPOSED WATER BROOK SUBDIVISION, SAID POINT BEING A CONCRETE MONUMENT;

THENCE ALONG SAID COMMON BOUNDARY OF EXISTING CITY LIMITS AND EAST BOUNDARY OF PROPOSED WATER BROOK SUBDIVISION N02°41'09"E 468.50 FEET TO A FOUND IRON PIN;

THENCE ALONG SAID CITY LIMITS BOUNDARY S87°18'57"E 74.84 FEET TO A SET IRON PIN;

THENCE LEAVING SAID CITY LIMITS S86°38'16"E 275.36 FEET TO A SET IRON PIN;

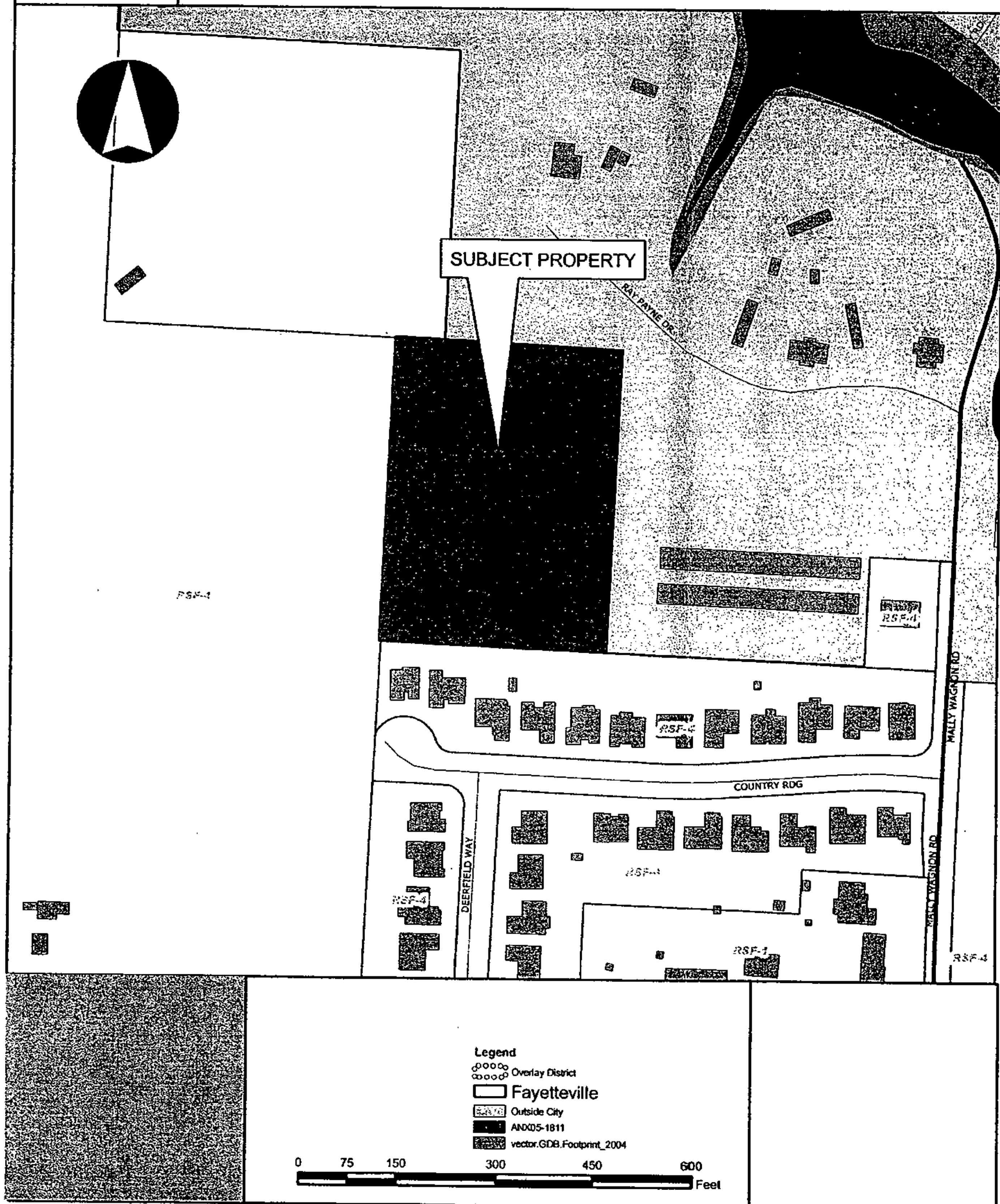
THENCE S02°41'09"W 465.53 FEET TO THE POINT OF BEGINNING, CONTAINING 3.754 ACRES, MORE OR LESS, WASHINGTON COUNTY, FAYETTEVILLE, ARKANSAS.

(MCO: S-2434)
WASHINGTON COUNTY

ANX05-1811

Close Up View

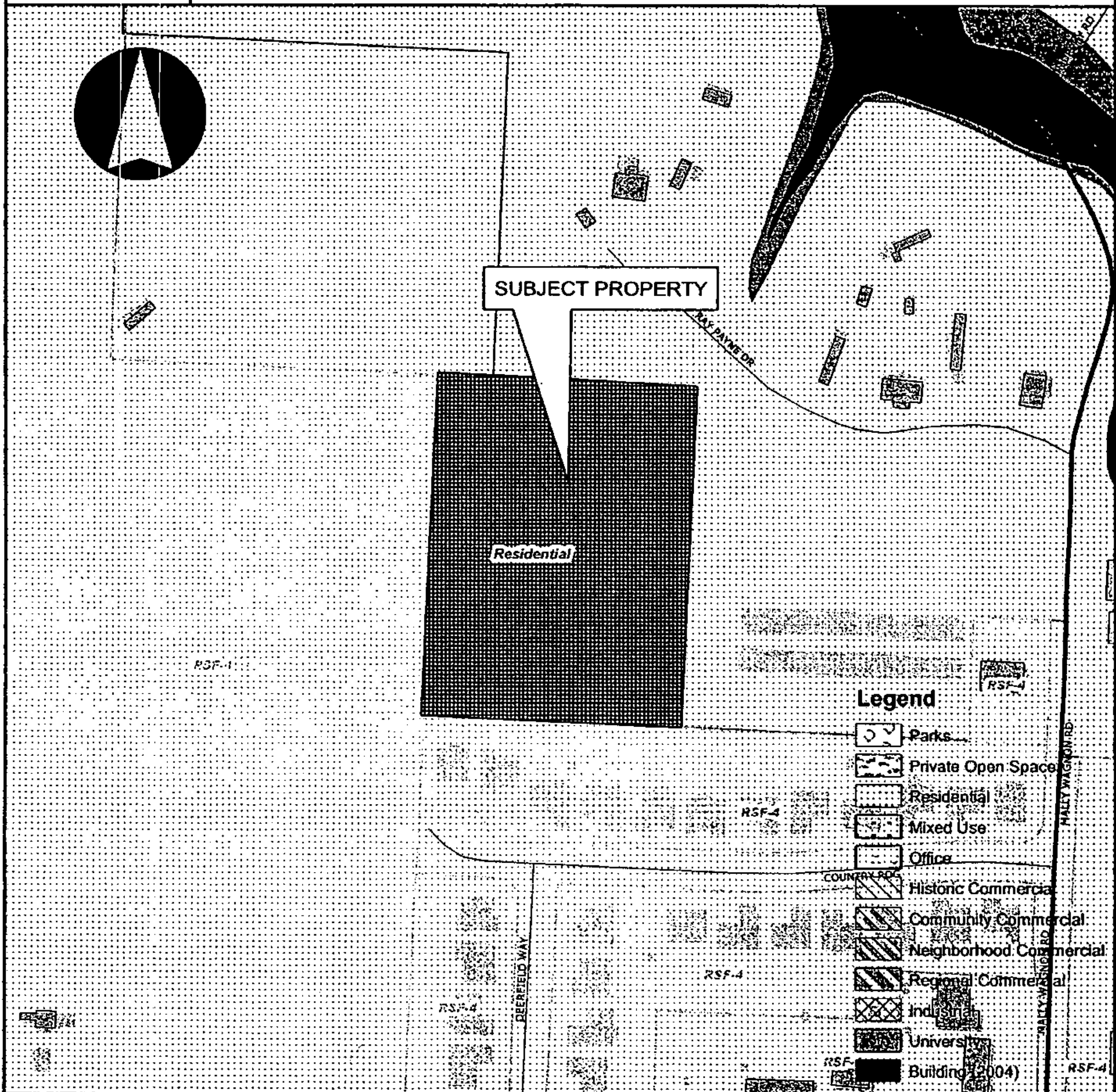
SUMMER RESOURCES



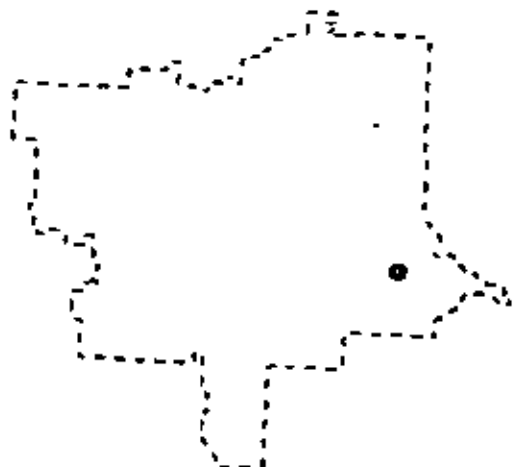
ANX05-1811

Future Land Use

SUMMER RESOURCES



Overview



Legend

Subject Property

ANX05-1811

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

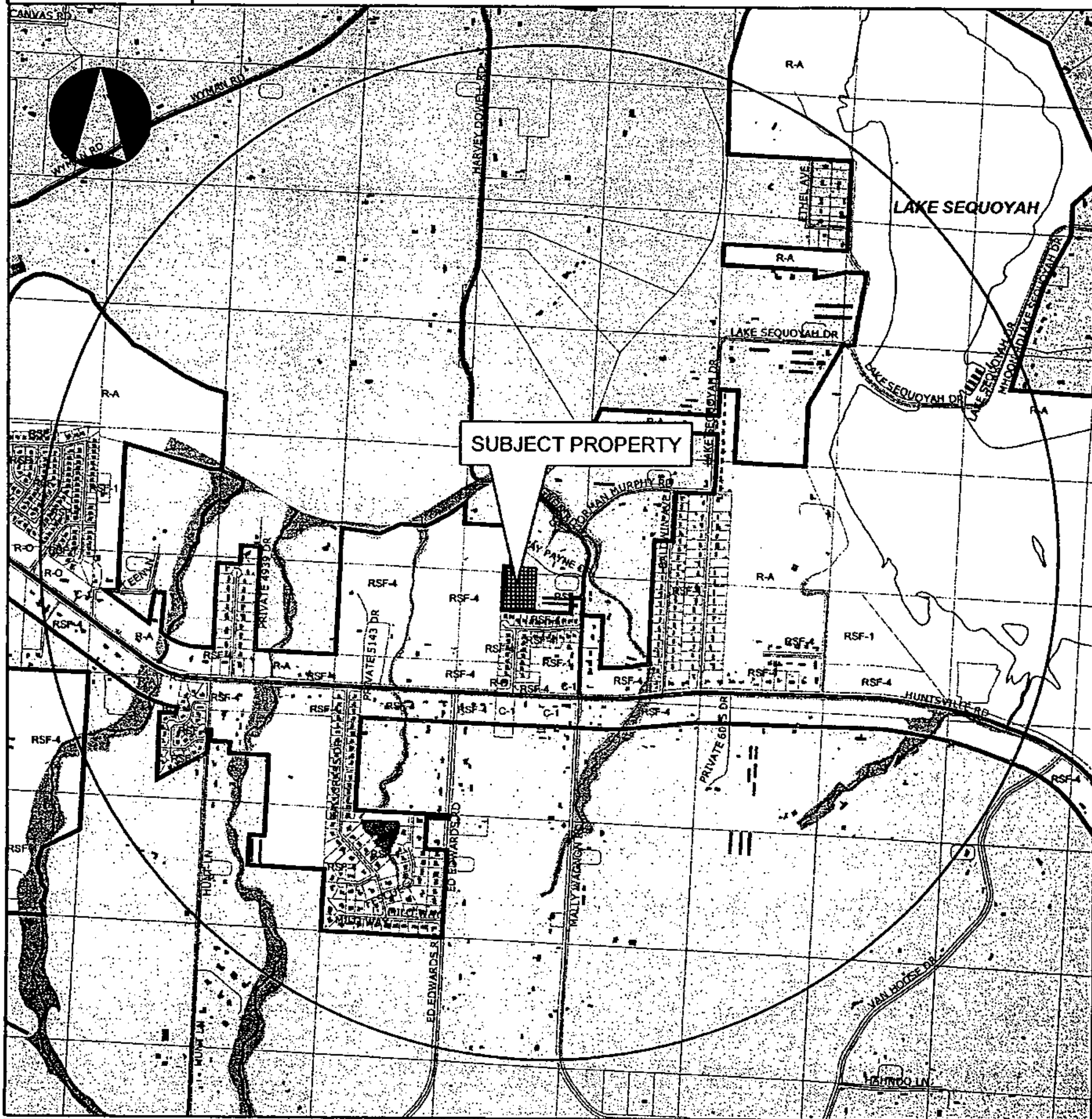
Legend



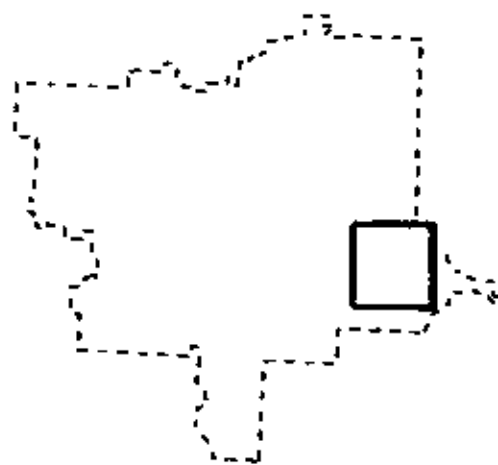
ANX05-1811

One Mile View

SUMMER RESOURCES



Overview



Legend

Subject Property

ANX05-1811

Boundary

Planning Area

Overlay District

Outside City

Legend

Building (2004)

0 0.125 0.25 0.5 0.75 1 Miles

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

20-Dec-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

MDP C-PZD 05-1704: (First Baptist Church, 484): Submitted by Cromwell Architects Engineers in behalf of First Baptist Church for property located at 20 East Dickson Street, 325 and 321 North College Avenue, and 350 and 354 North Highland Avenue. The property is zoned C-2, Thoroughfare Commercial, and R-O, Residential Office, and contains approximately 4.08 acres. The request is to approve a Master Development Plan - Commercial Planned Zoning District for a church facility and associated parking.

\$0.00	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 ☐

[Signature] 12.2.05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 12-2-05
City Attorney

Original Contract Number: n/a

[Signature] 12.5.05
Finance and Internal Service Director Date

Received in City Clerk's Office


[Signature] 12/6/05
Mayor Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: December 01, 2005

Subject: Commercial Planned Zoning District for First Baptist Church (C-PZD 05-1704)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Commercial Planned Zoning District (C-PZD) for First Baptist Church, based on the Master Development Plan, development standards, and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 4.08 acres located at the northwest corner of College Avenue and Dickson Street. The proposal consists of a four phase addition and renovation of the existing structures on the property as well as the addition of parking areas to serve the church.

BACKGROUND

The property consists of several parcels totaling approximately 4.08 acres that is currently utilized for institutional (church) use. The applicant requests a rezoning and Master Development Plan approval for the subject property. The majority of the property is utilized by the First Baptist Church and parking to serve this use. Also located on the property is a vacant commercial building proposed to be renovated and a residential home which is proposed to be removed for parking. Access to the property is established on Highland Avenue and College Avenue.

The applicant requests a rezoning and Master Development Plan approval for expansion of the existing First Baptist Church. The project will include the removal of an existing house, the redevelopment of the former Goff-McNair building, and the construction of additional parking for a total 167 parking spaces. In addition to the renovation of existing structures, total area of new construction is 26,500 square feet. The enlargement of the facility will be for the construction of meeting rooms, though the existing auditorium which seats approximately 1,000 persons will be maintained. The proposed development is to occur under regulations of one Planning Area and in a total four Phases, with the parking area to be improved within Phase II. Phase I, the renovation of the existing sanctuary, is already underway. The projected time frame to secure all permits for full build-out is anticipated for 2015.

DISCUSSION

The Planning Commission voted 8-1-0 in favor of this request on November 28, 2005, with Commissioner Anthes voting no. A Planned Zoning District requires City Council approval as it includes zoning and land use approval. Recommended conditions were amended and approved by the Planning Commission and are reflected in the attached staff report.

With the future submission of development plans, the applicant will be processing a request to development within the Master Street Plan right-of-way of College Avenue which will require Planning Commission and City Council consideration and approval for a lesser dedication of right-of-way on College Avenue.

Discussion at the Planning Commission centered on the long-term proposal for a parking deck, which was removed from the application, and the effect of a potential future rezoning of the property within the Downtown Zoning Code. It was concluded that like the I-540 Design Overlay District, staff, the Planning Commission, and the City Council will likely review recently approved rezoning and development for possible exceptions. This decision, however, will be made in the future.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 05-1704 FIRST BAPTIST CHURCH, LOCATED AT 20 EAST DICKSON STREET, 325 AND 321 NORTH COLLEGE AVENUE, AND 350 AND 354 NORTH HIGHLAND AVENUE, CONTAINING APPROXIMATELY 4.08 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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 C-2, Thoroughfare Commercial, and R-O, Residential Office, to C-PZD 05-1704 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. 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

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
MDP C-PZD 05-1704

A PART OF BLOCK NUMBERED TEN (10) OF THE COUNTRY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL SOUTHWEST CORNER OF LOT SIX (6) OF SAID BLOCK TEN (10), SAID POINT BEING IN DICKSON STREET; THEN N02°50'34"E ALONG THE WEST LINE OF SAID BLOCK TEN (10) 13.16 FEET TO A SET ½" IRON REBAR AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE AND THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET FOR THE TRUE POINT OF BEGINNING; THEN S87°03'19"E ALONG THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET 234.95 FEET TO A CHISELED "X" IN A CONCRETE SIDEWALK AT THE BEGINNING OF A TANGENT 50 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHEASTERLY ALONG SAID CURVE 78.26 FEET, THE CHORD FOR WHICH BEING N47°47'09"E 70.51 FEET, TO A SET ½" IRON REBAR AT THE POINT OF TANGENCY OF SAID CURVE, SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE; THEN N02°37'37"E ALONG SAID RIGHT-OF-WAY 497.00 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE N87°03'20"W 140.39 FEET TO A SET ½" IRON BAR; THEN N02°50'33"E 105.25 FEET TO A SET ½" IRON REBAR ON THE SOUTH LINE OF LOT ONE (1) OF SAID BLOCK TEN (10); THEN N87°13'09"W ALONG THE SOUTH LINE OF SAID LOT ONE (1) 42.42 FEET TO AN EXISTING CONCRETE MONUMENT; THEN N02°33'24"E 67.78 FEET TO AN EXISTING IRON PIPE; THEN N87°22'40"W 99.89 FEET TO AN EXISTING IRON ON THE WEST LINE OF SAID BLOCK TEN (10), SAID POINT ALSO BEING THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE; THEN S02°43'02"W ALONG THE EAST RIGHT-OF-WAY OF HIGHLAND AVENUE 67.50 FEET TO AN EXISTING ½" IRON REBAR; THEN S02°50'34"W 651.84 FEET TO THE POINT OF BEGINNING.



PC Meeting of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: November 21, 2005 *Updated December 1, 2005*

C-PZD 05-1704: Commercial Planned Zoning District (First Baptist Church): Submitted by Cromwell Architects Engineers in behalf of First Baptist Church for property located at 20 E. Dickson Street, 325 and 321 N College Avenue, and 350 and 354 N. Highland Avenue. The property is zoned C-2, Thoroughfare Commercial, and R-O, Residential Office and contains approximately 4.08 acres. The request is to approve a Master Development Plan – Commercial Planned Zoning District for a church facility and associated parking.

Property Owner: First Baptist Church of Fayetteville Planner: Suzanne Morgan

Findings:

Property Description: The property consists of several parcels totaling approximately 4.08 acres that is currently utilized for institutional (church) use. The applicant requests a rezoning and Master Development Plan approval for the subject 4.08 acres. The majority of the property is utilized by the First Baptist Church and parking to serve this use. Also located on the property is a vacant commercial building and a residential home. Access to the property is established on Highland Avenue and College Avenue.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Commercial	C-2 & RMF-24
South	Commercial (the old Jerry's)	C-2 & R-O
East	Commercial (First State Bank)	C-2
West	Central United Methodist Church	R-O

Proposal: The applicant requests a rezoning and Master Development Plan approval for expansion of a church institution on the property. The project will include the removal of an existing house and the redevelopment of the existing structure in which patrons of the church meet and the former Goff-McNair building into, the enlargement and connection of these structures, *and* parking areas ~~and a future parking deck~~. The enlargement of the facility will be for the construction of meeting rooms, though the existing auditorium which seats 1,000 persons will be maintained. The proposed development is to occur in five four Phases. According to the

applicant, Phase I, the renovation of the existing sanctuary, is already underway.

The applicant will add surface parking for a total 167 parking spaces with Phase II of the proposal and another net 88 spaces with future development of a parking garage. Staff finds, through the review of this proposal, that the addition of parking lots along Lafayette Street in this area would be detrimental to the street character. While this proposal does not include additional parking along Lafayette Street, it is important to note that as parking increases with the expansion of the churches in the area, it is important to evaluate the street character, as indicated in the Downtown Master Plan.

Process: The purpose of the subject request is for a rezoning approval in order to allow the expansion of the First Baptist Church. In order to receive approval to expand the church over a long period of time, as funds are available, the applicant pursued the Planned Zoning District process. As recently approved by the City Council, an applicant has the option of presenting a Master Development Plan – Planned Zoning District to the Planning Commission and City Council. Approval of this Master Development Plan would effectively rezone the property based on the plans and information provided. However, it does not give development approval. The applicant is required to return through the large scale development process for each phase of expansion, in this case, in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

The following bulk and area regulations are proposed by the applicant, and are included in detail within the attached submittal:

ZONING CRITERIA: C-PZD 05-1704 (First Baptist Church)

(A) Proposed Uses.

Permitted Use	Conditional Use	Type of Use
Unit 4	None	Cultural & Recreational facilities

*Includes church, classrooms, assembly areas, and other uses associated with the church use.

(B) Density/Intensity. None

(C) Bulk and area regulations. None

(D) Setback requirements. None

(E) Height.

- a. Phase II – Two Stories (24')
- b. Phase III – One Story (14')
- c. Phase IV – Two Stories (24'); Steeple to be reconstructed at a maximum height of 88 feet measured from the main floor of the sanctuary/auditorium.
- d. ~~The proposed parking deck will be a maximum three levels in height.~~

(F) *Building area.* The area occupied by all buildings shall not exceed 60% of the total lot area.

Signage. Signage for the property shall be permitted in accordance with Commercial zoning district regulations in Ch. 174.

~~Signage on the property shall be allowed as follows:~~

Freestanding Signage	Wall Signage
Freestanding sign at College Ave. & Dickson St. Freestanding sign at Dickson St. and Highland Ave.	As permitted in Commercial zones; no other signage permitted

~~* No pylon/pole signs shall be permitted, only monument signs. Height and display area of each monument sign shall comply with ordinance requirements of Ch. 174 Signs.~~

~~Setback of Freestanding Signage:~~

- ~~Freestanding sign at College Avenue and Dickson Street: 15' (as shown on the plat)~~
- ~~Freestanding sign at Dickson Street and Highland Avenue: 0' (as shown on the plat)~~

~~Signage location shall be permitted in accordance with setbacks and other criteria in Ch. 174 Signs, unless noted herein.~~

Water & Sewer: Water and sewer are currently available. However, evaluations of the water system, sewer system, streets, and drainage will need to be made as the scope of the project becomes clearer and as development may be continuing on the subject property over a long period of time. More specifically, the water distribution system may need to be upgraded by the developer to handle the increased demand for domestic and fire supply. The sanitary sewer system will need to be evaluated by the developer to show any deficiencies. Drainage improvements may include the installation of detention and/or improvements to the existing system.

Access: Access is provided to this property from an existing curb cut on College Avenue and from three access points on Highland Avenue. The applicant proposes the relocation and reconstruction of existing curb cuts onto Highland Avenue. Interior to the project private drives and parking areas are proposed.

Adjacent Master Street Plan Streets:

- Highland Avenue (ST – 55); Sufficient right-of-way exists for this street.
- Dickson Street (MS – 55: Main Street); Sufficient right-of-way exists for this street.
- College Avenue (Principal Collector); An additional 25' right-of-way is required for Master Street Plan compliance.

Street Improvements: Staff recommends the following:

- ♦ Construction of sidewalks in accordance with the Master Street Plan adjacent to College Avenue, Highland Avenue, and Dickson Street and through any existing or proposed driveway. The applicant requests the phasing of street improvements adjacent to College Avenue and Dickson Street to correspond with the phasing of construction to avoid the removal of new landscaping and sidewalk when renovating and adding to structures adjacent to the right-of-way. Other improvements will be recommended and determined by the Planning Commission at the time of development.

- ♦ Drainage improvements associated with street improvements will also need to be evaluated and required, as necessary, based on the City Engineer's recommendation and the Planning Commission's determination at the time of Large Scale Development.
- ♦ Dedication of right-of-way to meet Master Street Plan requirements, appropriate drainage, lighting, sidewalk and other surrounding or adjacent street improvements as determined by the Planning Commission to be appropriate in alleviating the impact of the increase in use and traffic generation shall be determined by the Planning Commission.

Tree Preservation: There are several existing trees on the property which may be affected with the development of structures and parking lots. The Landscape Administrator has reviewed the site and suggested means to save some significant trees on the property. The PZD zoning requires preservation of 25% canopy on the site, which will be expected for the development of this property. At the time of development, the applicant shall submit a site analysis and tree preservation plan in accordance with ordinance requirements to be reviewed by the Landscape Administer and reviewed for approval by the Planning Commission.

Parks: No residential dwelling units are proposed for this development. Should the property owner at any time request the approval of dwelling units on the property, contrary to the use allowed within this C-PZD, the City Council shall reconsider the zoning of the subject property.

Public Comment: Staff advised the applicant to contact the adjacent property owners regarding this request. Staff has received some inquiries from adjacent property owners, but no specific concerns have been voiced regarding this proposal.

Recommendation: Staff recommends forwarding the Master Development Plan – Planned Zoning District for First Baptist Church (C-PZD 05-1704), to the City Council for approval with the following conditions:

The Planning Commission voted 5-4-0, with Commissioners Graves, Clark, Vaught and Trumbo voting no, to (1) strike Condition #2 from the conditions of approval, (2) add additional language to Condition #9, (3) Include page numbers in the project booklet, and (4) Remove all references to the future parking deck (or Phase V) from the project booklet and the plat.

The Planning Commission voted 8-1-0 for approval of the rezoning with the following amended conditions:

Conditions of Approval:

1. The Planning Commission shall determine that the provided number of parking spaces is appropriate for the proposed use of the property. The applicant currently proposes to provide 167 parking spaces on the site; 175 spaces is the typical minimum permitted.
2. ~~Planning Commission determination of appropriate signage. The applicant shall comply with the commercial zoning district regulations for commercial signs. The applicant requests two monument signs at the corner of Dickson Street and College~~

~~Avenue and Dickson Street and Highland Avenue. Staff recommends that the requested monument signs meet setback regulations for monument signs within a commercial zoning district.~~

The Planning Commission voted to strike this condition. The applicant shall comply with the sign requirements of commercial zoning districts.

3. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
4. Pursuant to city ordinance, development of the property shall be approved by the Planning Commission through the large scale development review process. Should a subdivision of land be desired, all applicable ordinances and processes shall be followed in order to meet city ordinances.
5. Public water and sewer lines shall be extended as required by city ordinance at the time of development.
6. Street improvements at the time of development shall include, at minimum, the following:
 - ◆ Construction of sidewalks in accordance with the Master Street Plan adjacent to College Avenue, Highland Avenue, and Dickson Street and through any existing or proposed driveway. The applicant requests the phasing of street improvements adjacent to College Avenue and Dickson Street to correspond with the phasing of construction to avoid the removal of new landscaping and sidewalk when renovating and adding to structures adjacent to the right-of-way. Other improvements will be recommended and determined by the Planning Commission at the time of development.
 - ◆ Drainage improvements associated with street improvements will also need to be evaluated and required, as necessary, based on the City Engineer's recommendation and the Planning Commission's determination at the time of Large Scale Development.
 - ◆ Dedication of right-of-way to meet Master Street Plan requirements, appropriate drainage, lighting, sidewalk and other surrounding or adjacent street improvements as determined by the Planning Commission to be appropriate in alleviating the impact of the increase in use and traffic generation shall be determined by the Planning Commission.
7. A Tree Preservation Plan that needs the Tree Preservation ordinance shall be prepared at the time of development. Trees that meet the significant tree status as determined by the Urban Forester shall remain, unless approved for removal by the Urban Forester. The applicant shall reference the attached comments from the Urban Forester and utilize them in future development proposals. Future development proposals shall

indicate compliance with the landscape requirements of the Unified Development at the time of submittal.

8. Staff recommends the establishment of a vegetative buffer between this property and any adjacent residential zoning, to be reviewed at the time of development.
9. All development shall meet applicable building codes and other ordinances of the City of Fayetteville. *Development on the subject property shall comply with City of Fayetteville ordinances, including the Downtown Master Plan, at the time of submittal of development plans, unless approved otherwise herein.*
10. The City Council approval of lesser dedication of right-of-way for College Avenue from the required 55' right-of-way from centerline to the requested 30' right-of-way from centerline prior to development approval for any Phase of development.
11. Zoning and development criteria shall be enforced as noted within the staff report "Zoning Criteria" sections A-F, as noted above. Said information shall be included with any submitted development plans.
12. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
13. Any right-of-way, easements, etc. which are required to be vacated to allow the approval of the proposed development shall be addressed prior to the approval of Phase II.
14. Phasing: The anticipated build-out is 2015 for Phases I, II, III, and IV and 2026 for approval of Phase V. In order to ensure the proposed Master Development Plan meets all of the goals and criteria set forth, a phasing schedule is required. If certain permitting times are not met, the Planned Zoning District approval shall be voided, or extended as allowed by §166 of the UDC. The following development phasing shall be enforced:
 - Phase I: The applicant has stated that Phase I of the project is underway. Any other permit necessary for completion of Phase I shall be issued within 1 year of the passing of the ordinance.
 - Phase II: All necessary permits to begin construction of the project, pursuant to the criteria established in §166, shall be obtained within 3 years of the date of the ordinance passing.
 - Phase III: All necessary permits to begin construction of the project, pursuant to the criteria established in §166, shall be obtained within 3-6 years of the date of the ordinance passing.
 - Phase IV: All necessary permits to begin construction of the project, pursuant to the criteria established in §166, shall be obtained within 6-9 years of the date of the ordinance passing.
 - ~~Phase V: All necessary permits to begin construction of the project,~~

~~pursuant to the criteria established in §166, shall be obtained within 20
years of the date of the ordinance passing.~~

Planning Commission Action: Required YES

☒ Approved ☐ Denied ☐ Tabled

Meeting Date: November 28, 2005

Motion: Myres

Second: Clark

Vote: 8-1-0 with Commissioner Anthes voting no.

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature _____

Date _____

CITY COUNCIL ACTION:

yes Required

 Approved Denied

Date: _____

Comments:

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this rezoning/master development plan item.

By _____

Date _____

Findings associated with C-PZD 05-1704

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. In review of the General Plan 2020, the application provides for the expansion of an existing institutional use in the downtown area.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development may require the provision of public facilities, at the cost of the developer. Fire and emergency response time is adequate, as indicated in the attached correspondence.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, retains a downtown character with the structures built close to the street. The property is currently utilized for a church, as are several of the surrounding properties. Staff finds that the proposed use is compatible with these institutional and surrounding commercial and residential uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is suitable for the intended use, as it has undergone development in the past.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: Based on the Master Development Plan submitted, traffic counts may increase. The applicant proposes the expansion of an existing church, however, the main auditorium is not proposed to be enlarged. At the time of development, the existing streets will be evaluated by the engineer and requirements made by the Planning Commission as to the extent of improvements necessary for development approval.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Conceptual architectural elevations of the proposed development and architectural standards have been proposed. Architectural standards will be evaluated at the time of development to ensure all buildings proposed adhere to the context of the neighborhood surroundings.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(J) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. The requirements of the Unified Development Code from which the applicant intends to vary include the parking ratio requirement (167 spaces are proposed, where the ordinance allows a minimum 175 spaces), the sign requirements and as with any other Planned Zoning District establish unique permitted uses and bulk and area regulations.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is required between the parking lot and the any residential use; with development of the site, all applicable development criteria will be applied for appropriate landscaping, screening and buffering of parking areas and objectionable uses.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Ingress and egress interior to the project shall be evaluated and required to be constructed with the large scale development of the property. Public streets shall be improved to an acceptable standard, as determined by the Planning Commission, and interior private drives shall be constructed to provide for safe and adequate access to all structures for emergency vehicles.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: The applicant proposes 167 spaces for to serve a main auditorium of 1,000 seats. Standard parking ratios require 1 parking space for every 4 seats. A minimum 175 spaces is allowed by ordinance for the proposed use.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The development provides greenspace adjacent to the streets. Much of this property is currently impervious, though the expansion of the parking lot will reduce the amount of existing greenspace. Staff recommends that the development comply with the ordinance requirement to maintain 15% pervious surface and comply with the landscape requirements of the Unified Development Code at the time of submittal.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights will be evaluated at the time of development.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

**Paving Width
(No On-Street Parking)**

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets/drives shall conform to city standards. Improvements to existing streets shall be determined by the Planning Commission at the time of development. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: N/A

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development.

- (13) *Commercial design standards.* All PZD developments that contain office or

commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Institutional facilities, including a church use, are not required to comply with standard Commercial Design Standards, though the proposed structures are evaluated for compatibility with the consideration of a conditional use permit. The applicant has submitted proposed elevations and architectural design standards for the proposed development. All structures shall be evaluated as set forth in the project booklet, to ensure that the proposed buildings will adhere to the context of the surrounding commercial developments and existing church structure. Architectural elevations shall be reviewed at the time of development for a determination of this development standard of the proposed PZD.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
 - (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or

revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

- (a) The homeowner's association must be legally established before building permits are granted.
- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.

- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance, where applicable.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing

natural features and amenities.

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds the uses to be compatible to the area, with the commitments, development standards, conditions of approval and other criteria in place with the rezoning request.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to C-PZD 05-1704, with one unique Planning Area. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

D) *C-PZD, Commercial Planned Zoning District*

(1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

- (a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.
- (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.
- (c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.

- (d) To encourage commercial development which is consistent with the city's General Plan.
- (e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: The proposed use of the property is confined to one specific use. A portion of the property owned by the applicant is currently being utilized for this use and it is a compatible use with the surrounding commercial and residential areas. The First Baptist Church is an established development and use in the downtown area. The requested Master Development Plan will allow an existing non-conforming use and structure to become compliant and encourage its longevity in the downtown area.

(2) Permitted Uses.

Unit 4	Cultural and recreational facilities
--------	--------------------------------------

FINDING: See Zoning Criteria Chart above for the use permitted by right as proposed by the applicant.

(3) Conditions.

- (a) In no instance shall the commercial or office use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.
- (b) Residential uses must be appropriate to the design of the project.
- (c) Warehousing and light industrial uses shall have a gross area per use that does not exceed five thousand (5,000) square feet and at least twenty percent (20%) of the floor area used for retail sales.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from C-2, Thoroughfare Commercial, and R-O, Residential Office, to C-PZD 05-1704, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Historic Commercial. Rezoning this property to C-PZD 05-1704, with the associated Master Development Plan, is not specifically consistent with the land use plan for this area, however it is consistent with the historic and existing use of this property and several other properties within the downtown also designated Historic Commercial. The proposed plan, commitment and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is to a great degree consistent with many of the principles and policies in place

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 needed in order to develop the property for a church institution, a reduced setback, and a reduction in the parking requirements of the Unified Development Code without processing a conditional use requests, waiver requests, and variance applications.

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

Finding: The proposed zoning will not cause an increase in traffic, as the existing property is currently utilized as a church facility. The expansion of this use, however, will likely increase the amount of pedestrian and vehicular traffic on one or two days of the week. Street improvements will need to occur as a result, and shall be installed with development of the project. Staff finds the proposal will not appreciably increase traffic danger and congestion.

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: Population density will not alter with the requested rezoning. There is one existing home on the property to be removed; however the majority of the property is developed for non-residential use.

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



Planning Commission of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

To: Cromwell Architects Engineers

From: Sarah K. Patterson (Urban Forester)

Date: September 6, 2005

Subject: Master Development Comments

ITEM #: PZD-Master Development Plan (First Baptist Church)

TREE PRESERVATION PLAN

1. Zoned PZD, a preserved canopy of 25% will be expected for this area. Significant tree canopies, as defined in the Landscape Manual, will need to be denoted on the Tree Preservation Plan so that their location can be compared to that of development.
2. In the overall design, significant trees in good condition will be expected to have a higher priority of preservation. I would stress the importance of designing structures that work around these trees versus complete removal.
3. A site analysis report with map will need to be submitted for review.
4. The Tree Preservation Plan should include all grading, proposed preservation areas, and canopy square foot calculations including existing, removed, and preserved.
5. For the planned parking lot expansion near Lafayette Street it will be important to identify and call out trees and their condition. It might be beneficial in this area to try to create islands and planters around existing trees. Preservation might be a better option in this area rather than starting new with small trees.
6. Near the Playground and Phase II addition there is an existing tree that could add many benefits to the playground area. It will take several years of growth for a new tree to provide as much shade as a well established tree found in an urban environment.

Depending on the health and species methods could be taken to possible preserve this tree
for future enjoyment.

MDP-CPZDPS - 1704

~~Parcel~~ 3rd Submitted

Parcel Closes

11/8/2005 TS

SURVEY DESCRIPTION

A PART OF BLOCK NUMBERED TEN (10) OF THE COUNTY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL SOUTHWEST CORNER OF LOT SIX (6) OF SAID BLOCK TEN (10), SAID POINT BEING IN DICKSON STREET; THENCE N02°50'34"E ALONG THE WEST LINE OF SAID BLOCK TEN (10) 13.16 FEET TO A SET 1/2" IRON REBAR AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE AND THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET FOR THE TRUE POINT OF BEGINNING; THENCE S87°03'19"E ALONG THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET 234.95 FEET TO A CHISLED "X" IN A CONCRETE SIDEWALK AT THE BEGINNING OF A TANGENT 50 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHEASTERLY ALONG SAID CURVE 78.26 FEET, THE CHORD FOR WHICH BEING N47°47'09"E 70.51 FEET, TO A SET 1/2" IRON REBAR AT THE POINT OF TANGENCY OF SAID CURVE, SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE; THENCE N02°37'37"E ALONG SAID RIGHT-OF-WAY 497.00 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE N87°03'20"W 140.39 FEET TO A SET 1/2" IRON REBAR; THENCE N02°50'33"E 105.25 FEET TO A SET 1/2" IRON REBAR ON THE SOUTH LINE OF LOT ONE (1) OF SAID BLOCK TEN (10); THENCE N87°13'09"W ALONG THE SOUTH LINE OF SAID LOT ONE (1) 42.42 FEET TO AN EXISTING CONCRETE MONUMENT; THENCE N02°33'24"E 67.78 FEET TO AN EXISTING IRON PIPE; THENCE N87°22'40"W 99.89 FEET TO AN EXISTING IRON ON THE WEST LINE OF SAID BLOCK TEN (10), SAID POINT ALSO BEING THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE; THENCE S02°43'02"W ALONG THE EAST RIGHT-OF-WAY OF HIGHLAND AVENUE 67.50 FEET TO AN EXISTING 1/2" IRON REBAR; THENCE S02°50'34"W 651.84 FEET TO THE POINT OF BEGINNING.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

Wednesday, August 31, 2005

Jeremy Pate
Director of Current Planning
125 W. Mountain Street
Fayetteville, AR 72702

Dear Mr. Pate,

I am in receipt of the Master Development Plan of the PZD for the First Baptist Church located at Dickson Street and College Avenue. I was asked to share the proposed PZD with our Central Dispatch Center for input on any comments.

It is the opinion of the Fayetteville Police Department this PZD will have a negligible impact on calls for police service.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Turberville".

Lieutenant Rob Turberville
Fayetteville Police Department



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: November 2, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: November 7th First Baptist Church C-PZD.

First Baptist Church C-PZD

This Church is covered by Engine 1 and Ladder 1 located on Center Street. It is ½ mile from Station 1 with an anticipated response time of 2 minutes. Looking over the Plat Review Worksheet, which our Fire Marshal's office filed concerning this development, I see no problems with this addition to the Church. Typically, as with most assembly properties, there will be no adverse affect on our call volume.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department

FAYETTEVILLE FIRE DEPARTMENT

Office of the Fire Marshal

Plat Review Worksheet

Plat Name: MPD for PZD First Baptist Church / Dickson St.

Occupancy Classification: Mixed

Reviewed by: Battalion Chief Kyle S. Curry

Date: September 08, 2005

ACCESS

- ☒ Capable of supporting at least 75,000 pounds *AFC D102.1*
- ☐ Access roads have a minimum width of 20 feet *AFC 503.2.1*
- ☒ Buildings over 30 feet in height have access for aerial apparatus *AFC D105.1*
- ☒ Access roads for aerial apparatus have a minimum width of 26 feet *AFC D105.2*
- ☐ At least one aerial access located within 15 feet (minimum) to 30 feet (maximum) from structure *AFC D105.3*
- ☐ "Dead End" access roads in excess of 150 feet have appropriate turnaround provisions *AFC D103.4*
- ☐ Gated access has a minimum width of 20 feet *AFC D103.5*
- ☐ Means of securing gates be approved by Office of the Fire Marshal *AFC D103.5*
- ☐ "Fire Lanes" 20 - 26 feet in width marked on both sides of lane *AFC D103.6.1*
- ☐ "Fire Lanes" greater than 26 feet in width marked on one side of lane *AFC D103.6.2*
- ☐ "Fire Lanes" have a minimum width of 26 feet (*turnout*) at hydrant location *AFC D103.1*
- ☐ Multiple Family Residential with more than 100 dwelling units equipped with two separate access roads *AFC D106.1*
- ☐ One- or Two-Family dwelling developments with more than 30 units equipped with two separate access roads *AFC D107.1*

HYDRANTS

- ☐ Maximum distance between hydrants - 500 feet (fire flow requirement of 1750 gpm) *AFC C105*
- ☒ Maximum distance between hydrants - 500 (fire flow requirement of _____ gpm) *AFC C105*
- ☒ Dedicated hydrant within 100 feet of Fire Department Connection *NFPA 13*

FIRE PROTECTION SYSTEMS

- ☒ Sprinkler system required *AFC Ch. 9*
- ☐ Hood system required *AFC 609 and Ch. 9*
- ☒ Standpipe system required *AFC Ch. 9*
- ☒ Fire Alarm and Detection system required *AFC Ch. 9*
- ☐ Smoke and Heat Vents required *AFC Ch. 9*
- ☒ Fire Department Connections "free standing" (height of building + 15%) in area that is visible and designated to what structure it supplies *AFC Ch. 9/Requirement of F.F.D.*
- ☐ Fire Pump required

GENERAL

- ☐ Address numbers, names, and designations readily visible from street or frontage *AFC 505*
- ☒ Knox-Box or Knox Switch required *AFC 506*
- ☐ Fire Command Center required *AFC 509*

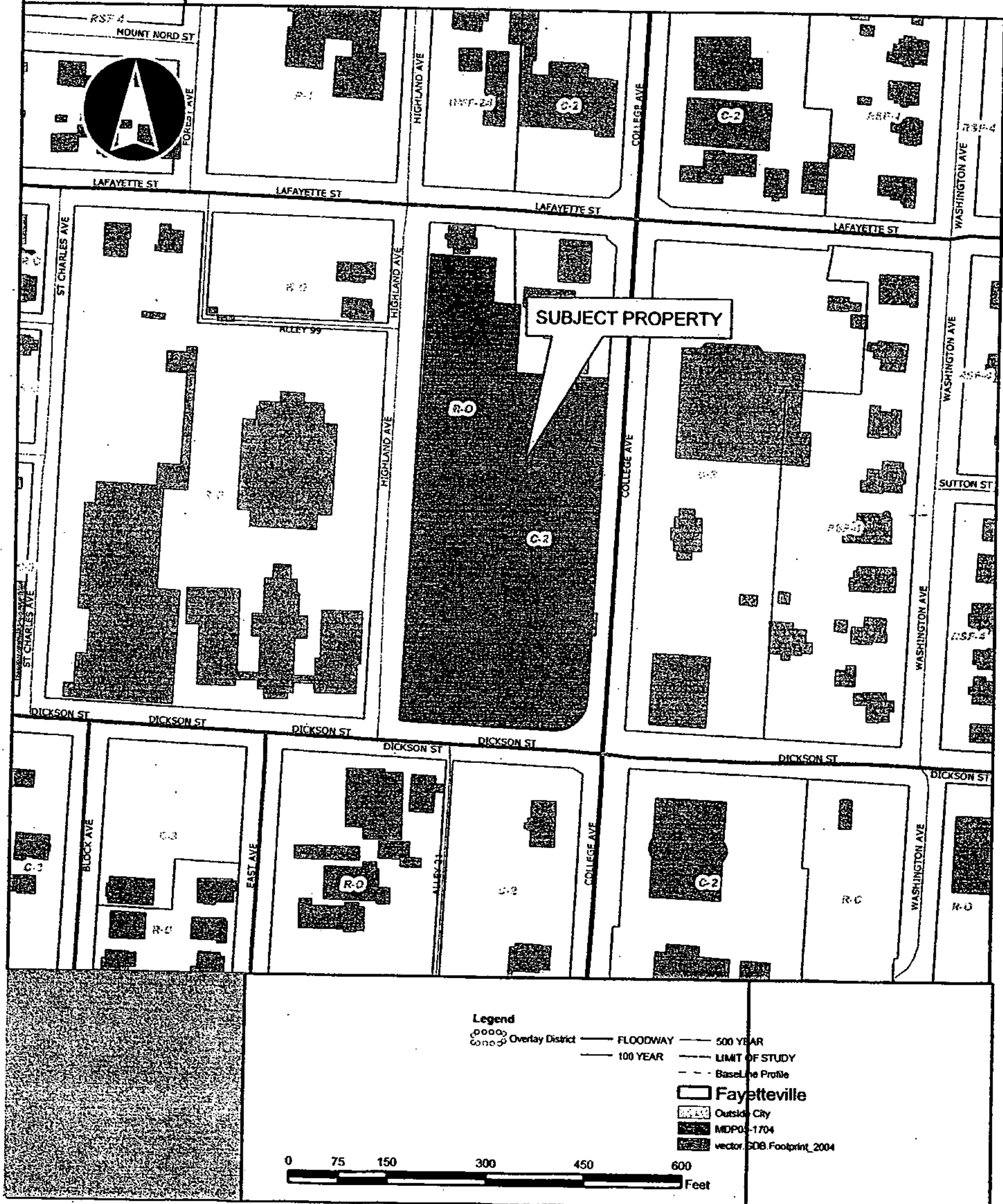
COMMENTS

- * All access roads need to have a minimum width of 26 feet in order to allow for aerial apparatus
- * Hydrant spacing will need to be a maximum of 300 feet
- * Structure will need to be equipped with a sprinkler system
- * Free standing FDC located to the north of the west drive at the south west corner of structure
- * Dedicated hydrant within 100 feet of FDC
- * Fire alarm and detection systems will be required

MDP05-1704

Close Up View

FIRST BAPTIST CHURCH

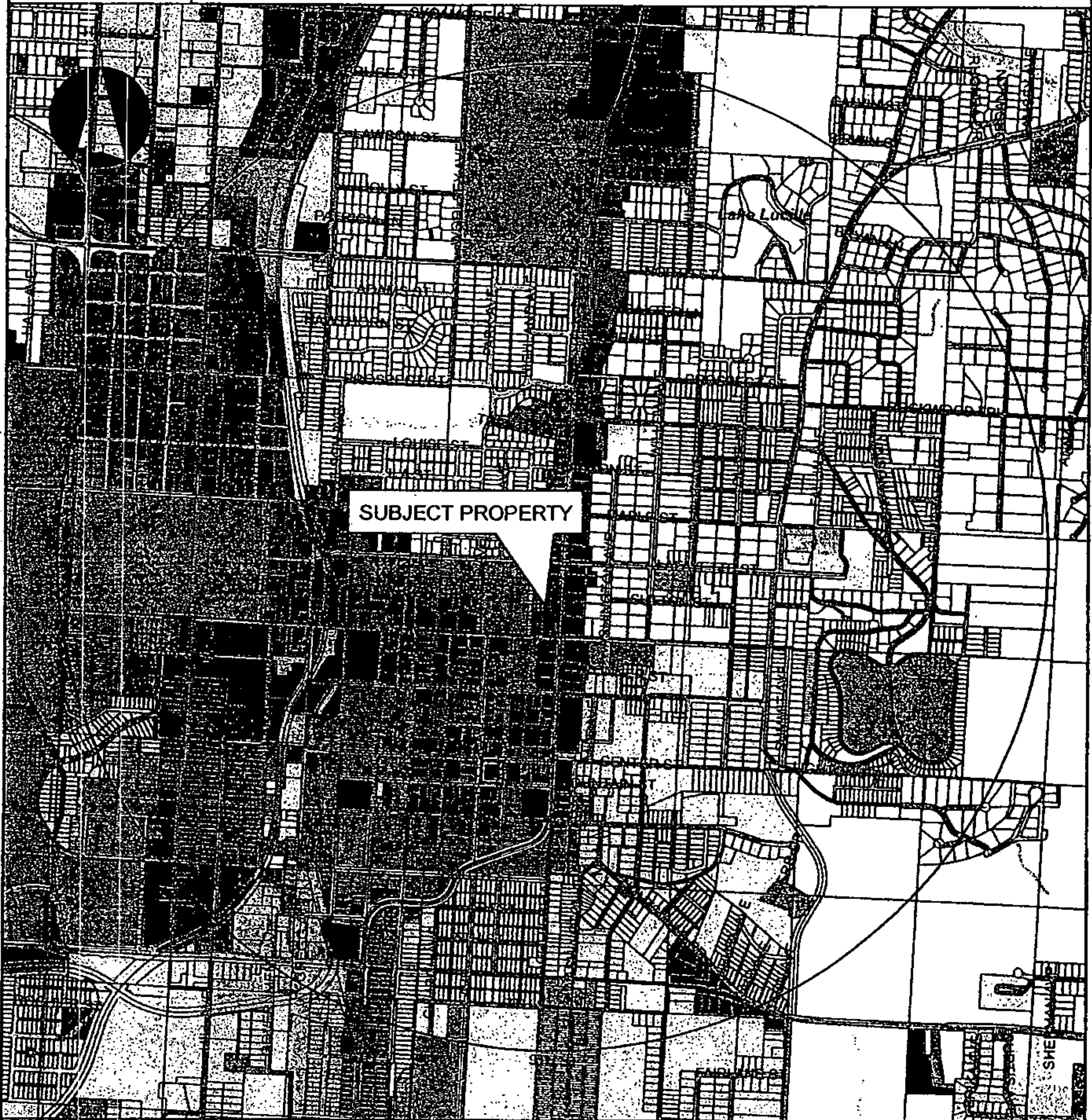


MDP05-1704

One Mile View

FIRST BAPTIST CHURCH

C-PZD 05-1704 First Baptist Church
Page 33 of 45



Overview

Legend

Subject Property

MDP05-1704

Boundary

Planning Area

Outside City

0 0.125 0.25 0.5 0.75 1
Miles

Application for
Planned Zoning District
(C-PZD)

FIRST BAPTIST CHURCH

Fayetteville, Arkansas

12-01-05

GENERAL PROVISIONS

Authority

This PZD master development plan is authorized by sections 161 and 166-Planned Zoning Districts of the City of Fayetteville Unified Development Code. The provisions of this PZD master development plan shall run with the land. The landowners, their successors, heirs, or assigns shall be bound by this master development plan, as amended and approved by the City Council.

Adoption

The adoption of this PZD master development plan shall evidence the findings and decision of the Fayetteville City Council that this Planned Zoning District for First Baptist Church is in general conformity with the Fayetteville General Plan 2020; is authorized by the provisions of Sections 161 and 166 of the City of Fayetteville Unified Development Code.

The provisions of this PZD master development plan shall prevail and govern the development of First Baptist Church, provided, however, that where the provisions of this Master development plan do not address a particular subject, the relevant provisions of the City of Fayetteville Unified Development Code, as amended, or any other applicable resolutions or regulations of the City of Fayetteville, shall be applicable.

Enforcement

To further the mutual interest of the residents, occupants, and owners of the PZD Master development plan and of the public in the preservation of the integrity of the Plan, the provisions of this Plan relating to the use of land, statement of commitments, development and architectural standards, and the location of common open space shall run in favor of the City of Fayetteville and shall be enforceable at law or in equity by the City without limitation on any other power or regulation otherwise granted by law.

Conflict

Where there is more than one provision within the PZD Master Development Plan that covers the same subject matter, the provision which is most restrictive or imposes higher standards or requirements shall govern unless determined otherwise by the Zoning and Development Administrator.

Maximum Level of Development

The total number of dwellings or the total commercial, business, or industrial intensity approved for development within the Planning Areas is the maximum development requested for platting or construction. The actual number of dwellings or level of development for commercial, business, or industrial properties may be less due to subdivision or site improvement plan requirements or other requirements of the City Council.

Project Tracking

At the time of subdivision final plat or large scale development the applicant shall provide a summary of the development, to date, to the Planning Division, in order to assure maximum development limits are not exceeded.

Application for a Planned Zoning District
Non-Residential Development

Landowner:
First Baptist Church
20 East Dickson St.
Fayetteville, AR 72701

Representative:
Cromwell Architect Engineer
107 N. Block St.
Fayetteville, AR 72701

1. GENERAL PROJECT CONCEPT

As shown on the proposed Master Development Plan the church has set forth a phased development of the property that combines additions to and renovations of the existing facility buildings. It also shows the alteration of existing parking areas to accommodate the proposed additions, enhance traffic circulation, and provide new areas of landscaping.

Inasmuch as the church sanctuary seating capacity is actually being reduced as a result of the currently in-progress renovation of the sanctuary (Phase I of the MDP) the church's vision is more oriented toward the following goals. 1) The alleviation of inadequate facilities for the services and ministries offered for the congregation. These include updating and expansion of children's department, rearrangement of classroom spaces for better access for the elderly members of the church, and other provisions for improvement. 2) The resolution of long standing internal circulation problems that have plagued the use of the facility for many years, and, 3) the re-establishment of the church's historical identity on the corner of College and Dickson, by the installation of a usable and appropriately sized front entrance and foyer with orientation to the intersection.

As shown on the MDP site plan, the church expects to proceed through four phases of development.

Phase I is the wholly internal renovation of the existing sanctuary. This phase is currently underway.

Phase II consists of the addition of children's classrooms and circulation to join the former Goff-McNair building to the church facility. It also includes the renovation of a portion of the Goff-McNair building, and the alteration of the existing parking area to provide the church with full available parking capacity. New landscaping in compliance with the City Landscape Ordinance will be accomplished also. Phase II is anticipated to

be undertaken in the next 1-3 years, as funding is available.

Phase III will continue the renovation of the Goff-McNair building and add classrooms and circulation to connect to the east end of the existing sanctuary, as well as additional landscape areas along College Ave. These additions will initiate the creation of connective elements along College Ave. to produce the street-wall effect envisioned in the city's master plan. The church anticipates undertaking Phase III 1-3 years following the completion of Phase II, as funding is available.

Phase IV consists of the creation of a new front entrance and foyer to the south of the existing sanctuary. This addition is intended to re-establish the public image of the church on the intersection of College and Dickson while providing a usable main entry to the church as well as finalizing the creation of a fully integrated circulation system within the church campus. It will be accompanied by extensive landscaping, including the retaining of large mature maple trees, to appropriately define the nature of this important city focal point. Phase IV is anticipated to be undertaken in 1-3 years following the completion of Phase III, as funding is available.

In addition to these phases the church envisions the replacement of the existing steeple atop the central church tower with an open bell tower in keeping with the scale and design of the existing tower base. In addition the church plans to erect one low monument sign on the property at the location shown on the Master Development Plan. These elements will be undertaken during one of the phases listed above as funds are available.

The development elements of this plan, buildings, paved areas and landscaping will have the following types of impact. Surface run-off and drainage will have the same pattern as the existing drainage pattern. And while the altered parking area will add to drainage quantities, the addition of landscaped islands and perimeter landscaping, as well as the removal of existing curb-cuts and drives, will yield a more or less commensurate reduction in drainage quantities. The development will be compatible with the surrounding land use patterns, all of which is commercial or institutional in nature. Such needs as are deemed necessary in compliance with the requirements of the UDC in terms of Buffers and Screening, Landscaping, and Tree Preservation will be incorporated into the detail of design at the time of Large Scale Development Review. As to the impact on city services, the additional use of water and sewer services would appear not to be significant; and, while it is the hope of the church that the use of the facility will be increased with this development the impact on existing traffic patterns will not be significant.

The proposed additions and renovations to the facility will be constructed in accordance with the city's adopted building code at the time of the issuance of a building permit and will employ all the necessary measures required by code for fire protection.

Being a non-residential development this plan does not provide for any internal streets, lots, parks or separate planning areas. As well there are no natural or man-made hazards or resource areas in its boundaries other than those falling under the guidelines for tree preservation.

Proposed Zoning and Development Standards

ZONING STANDARDS

- A. Permitted Uses : Church Facility – Use Unit 4
- B. Conditional Uses : None
- C. Bulk and Area Regulations : None
- D. Density : None
- E. Setback Regulations : Front - None
 Side - None
 Rear - None
- F. Height Regulations : Building height not to exceed height of 88 feet
 measured from main floor of sanctuary
- G. Building Area : The area occupied by all buildings shall not exceed
 60% of the total area of the property.

DEVELOPMENT/ARCHITECTURAL STANDARDS

The design of proposed additions and renovations will continue the current building heights and general massing, and will employ sloping and low slope roofs.

The materials employed will fuse the existing buff brick with window walls comprised of translucent and transparent glazing. These window walls will echo typically traditional window forms as well as larger scaled combinations to achieve a new, more lively façade texture. Trim materials will follow the stone appearance of the existing dressings with both concrete and synthetic stucco.

As can be seen in the accompanying depictions, the proposed additions along College Ave. are intended to engage the guidelines of the city's master plan to foster appropriate street-wall elements, while the proposed new main entrance and its garden setting are intended to provide the intersection of College and Dickson an appropriately scaled definition of the church's quadrant of the intersection.

Site design elements will incorporate typical existing materials, concrete walks at secondary locations and patterned concrete at prominent locations such as the proposed new main entrances. With the exception of the walks at the intersection of College and Dickson, existing sidewalks will be maintained, or replaced where derelict, in their current configurations on the perimeter, and will meet the requirements of Section 166.03 All proposed landscaping will comply with current City Landscape Ordinance. Current street lighting will be maintained in place. Fencing indicated will meet requirements City Buffer and Screening ordinance at the time of Large Scale Development Review. A monument sign, indicated on the MDP, is proposed to be erected during the phases of development, and will comply with the City sign ordinance in area, height and setback. It will be constructed of materials compatible with the building, brick and stone with either applied or incised lettering.

The surface parking shown on the MDP will be accomplished in Phase II, and will comply with the requirements of Chapter 172 of the UDC. The proposed future parking deck will meet the requirements of Chapter 172 of the UDC as well as the requirements of the City building code.

PHASE DATA

PHASE II

AREA

HEIGHT

NEW CONSTR
 16,700 SF

TWO STORY - 24 FEET

RENOVATION
 6,800 SF

PHASE III

AREA

HEIGHT

NEW CONSTR
 3,800 SF

ONE STORY - 14 FEET

RENOVATION
 10,400 SF

PHASE IV

AREA

HEIGHT

NEW CONSTR
 6,000 SF

TWO STORY - 24 FEET

RENOVATION
 500 SF

TABLE OF COMPARATIVE ZONING REGULATIONS

	C-PZD	C-2	R-0
A. PERMITTED USES	CHURCH FACILITY (USE UNIT 4)	Units 1,4,12,13,14,15,16,17,18,19,20,33 and 34	Units 1,5,8,9,11,12 and 25
B. CONDITIONAL USES	NONE	Units 2,3,21,28,32,35	Units 2,3,4,13,24,26 and 36
C. BULK and AREA REGULATIONS	NONE	NONE	NONE
D. DENSITY	NONE	NONE	Inapplicable residential requirements
E. SETBACK REGULATIONS	Front None Side None Rear None	Front 50 ft Side None Side when contiguous to residential 15 ft Rear None	Front 30 ft Side 10 ft Side when contiguous to residential 15 ft Rear w/o easement 25 ft Rear from center-line of public alley 10 ft
F. HEIGHT REGULATIONS	Building height not to exceed 88 feet, as measured from main floor of sanctuary.	Any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.	There shall be no maximum height limits in R-0 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 R0F District an additional distance of one foot for each foot of height in excess of 20 feet.
G. BUILDING AREA	The area occupied by all buildings shall not exceed 60% of the total area of the property comprising this Planned Zoning District.	On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.	On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

LAND USE TABLE

USE	AREA	ACREAGE	%
CHURCH FACILITY USE UNIT 4	95,000 sf	4.1 AC	53%

ZONING REGULATIONS

A. PERMITTED USES

USE UNIT 4	CHURCH FACILITY
------------	-----------------

B. CONDITIONAL USES

NONE

C. BULK and AREA REGULATIONS

NONE

D. DENSITY

NONE

E. SETBACK REGULATIONS

Front	None
Side	None
Rear	None

F. HEIGHT REGULATIONS

Building height not to exceed 88 feet, as measured from main floor of sanctuary.

G. BUILDING AREA

The area occupied by all buildings shall not exceed 60% of the total area of the property comprising this Planned Zoning District.
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STATEMENT OF COMMITMENTS

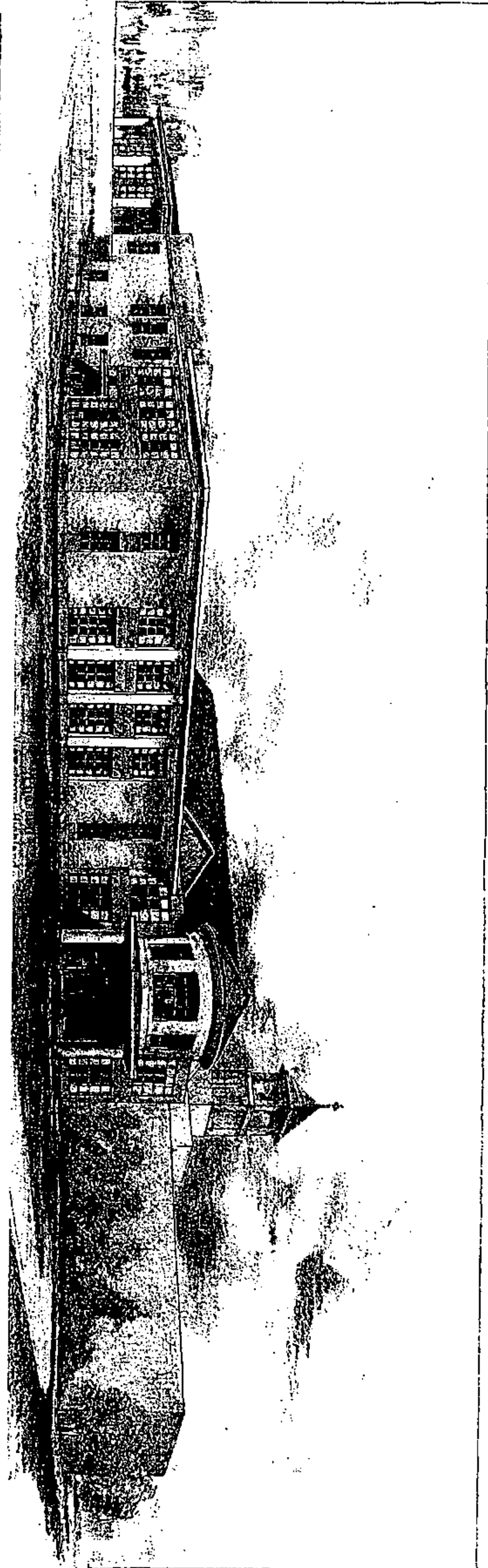
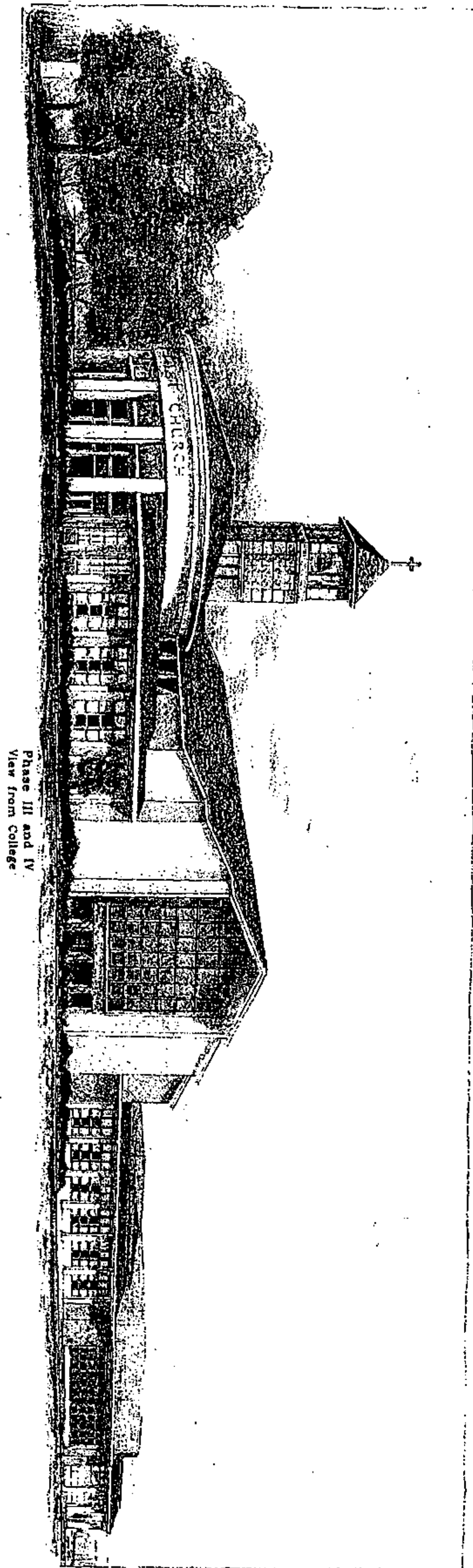
First Baptist Church will comply with such requirements as are deemed necessary in accordance with Chapter 167 Tree Preservation and Protection of the UDC.

First Baptist Church will undertake the proposed phasing as set out in the General Project Concept. The church's envisioned timetable is dependent upon financial capability.

First Baptist Church will ensure that all buildings set forth in this development plan will be constructed in accordance with the adopted building code of the City of Fayetteville and will as such provide necessary measures for fire protection in accordance with that code.

First Baptist Church will ensure that all sidewalks, street lighting, water, sewer, street access and drainage will comply with City of Fayetteville regulations.

First Baptist Church will provide the surface parking shown on the MDP during Phase II of the proposed Master Plan of Development.



**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

20-Dec-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

MDP R-PZD 05-1734: (Paradise Point, 177): Submitted by H2 Engineering, Inc. for property located west of Crossover, south of Joyce Boulevard. The property is zoned RMF-24, Residential Multi-Family, 24 units per acre, and contains approximately 1.55 acres. The request is to approve a Master Development Plan - Residential Planned Zoning District with 12,065 s.f. of retail space, 12 residential units, and 55 parking spaces.

\$0.00	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 ☐

[Signature] 12-2-05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 12-2-05
City Attorney

Original Contract Number: n/a

[Signature] 12-5-05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
12/2/05
EO

[Signature] 12/6/05
Mayor Date

Received in Mayor's Office
ENTERED
12/2/05
JTB

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JCP*

Date: December 01, 2005

Subject: Residential Planned Zoning District for Paradise Point (R-PZD 05-1734)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Paradise Point, based on the Master Development Plan, development standards, statement of commitments, and detailed large scale development plans submitted. This action will establish a unique zoning district for a multi-use project on approximately 1.55 acres located east of Crossover Road (Hwy 265) and south of Joyce Boulevard.

BACKGROUND

The subject property consists of approximately 1.55 acres located west of Crossover Road and the UAMS Campus. It is currently zoned RMF-24 and surrounded by a golf course to the west and south.

The applicant requests a rezoning and large scale development approval for a mixed use development within a unique R-PZD zoning district. The proposed, self-described "New Orleans" style building will be two stories with 11 residential units on the second floor and one residential unit with 12,065 square feet of retail/office retail space on the first floor.

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on November 28, 2005. A Planned Zoning District requires City Council approval as it includes zoning, land use, and development approval. Recommended conditions were amended and approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1734, PARADISE POINT, LOCATED WEST OF CROSSOVER, SOUTH OF JOYCE BOULEVARD, CONTAINING APPROXIMATELY 1.55 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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 RMF-24, Residential Multi-Family, 24 units per acre, to R-PZD 05-1734 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. 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

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
MDP R-PZD 05-1734

LOTS 1 AND 2 OF FINAL PLAT OF SEXTON POINT, PLAT RECORD 13-23, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1
THENCE N02°25'36"E 184.24 FEET;
THENCE S88°07'29"E 10.49 FEET;
THENCE N02°11'58"E 4.23 FEET;
THENCE S87°38'29"E 55.34 FEET;
THENCE S23°38'06"E 99.87 FEET;
THENCE S86°00'07"E 248.30 FEET TO THE WEST RIGHT-OF-WAY OF ARKANSAS HIGHWAY 265;
THENCE ALONG SAID WEST RIGHT-OF-WAY THE FOLLOWING THREE COURSES: THENCE 134.67 FEET ALONG A CURVE TO THE RIGHT HAVING A 914.93 FOOT RADIUS AND A S10°53'03"W 134.55 FOOT CHORD;
THENCE S15°14'01"W 122.74 FEET;
THENCE 45.11 FEET ALONG A CURVE TO THE LEFT HAVING A 1175.73 FOOT RADIUS AND A S13°38'43"W 45.10 FOOT CHORD;
THENCE LEAVING SAID WEST RIGHT-OF-WAY N86°33'20"W 40.99 FEET;
THENCE N28°47'51"W 234.05 FEET;
THENCE N85°55'23"W 139.87 FEET TO THE POINT OF BEGINNING, CONTAINING 1.55 ACRES, MORE OR LESS.



PC Meeting of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 21, 2005 *Updated December 2, 2005*

R-PZD 05-1734: Planned Zoning District (PARADISE POINT, 177): Submitted by H2 ENGINEERING, INC. for property located at W OF CROSSOVER, S OF JOYCE BLVD. The property is zoned RMF-24, Residential Multi-Family – 24 units per acre, and contains approximately 1.55 acres. The request is to approve a Residential Planned Zoning District with 12,065 s.f. of retail space, 12 residential units (24 bedrooms) and 55 parking spaces proposed.

Property Owner: KIRK ELSASS

Planner: SUZANNE MORGAN

Findings:

Property Description: The subject property consists of approximately 1.55 acres located west of Crossover Road and the UAMS Campus. It is currently zoned RMF-24 and surrounded by a golf course to the west and south.

Proposal: The applicant requests a rezoning and large scale development approval for a mixed use development within a unique R-PZD zoning district. The proposed New Orleans style building will be two stories with 11 residential units on the second floor and one residential unit with 12,065 square feet of retail/office retail space on the first floor.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	UAMS Campus	R-O, C-1
South	Golf Course	RMF-24
East	Vacant	R-O
West	Golf Course	RMF-24

The following bulk and area regulations are proposed by the applicant:

(A) Proposed Uses.

Permitted uses

Use Unit 1	City-wide uses by right
Use Unit 2	City-wide uses by conditional use permit
Use Unit 5	Government Facilities
Use Unit 12	Offices, studios, and related services
Use Unit 15	Neighborhood Shopping Goods
Use Unit 16	Shopping Goods
Use Unit 17	Trades and Services
Use Unit 24	Home occupations
Use Unit 25	Professional Offices
Use Unit 26	Multi-family Dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Use Unit 13	Eating Places
Use Unit 36	Wireless Communication Facilities

(B) Density.

Units per acre	7.7
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(C) Bulk and area regulations.

Lot minimum width	40 feet
Lot area minimum	1.55 acres
Land area per dwelling unit	5,625 square feet maximum

(E) Setback requirements.

Front Building Setbacks: 50'

Rear Building Setback: 3'

Side Building Setback: 3'

(F) Height. 35' maximum height

(G) Building area. 19.9% of site.

Water & Sewer: Water and sewer lines are being extended to serve the development.

Access: The applicant has proposed access to the development from Hwy 265 and an access easement through the U of A Medical Sciences campus to the north. At this time, the applicant

has not received approval of the proposed access to the north. Staff recommends that should this access easement not be obtained by the developer prior to building permit consideration, that the project be reconsidered by the Planning Commission to determine if with one access to Crossover Road/Hwy 265 that safe and adequate means for traffic is provided.

Adjacent Master Street Plan Streets: Hwy 265 (Crossover Road) – Principal Arterial

Street Improvements: Staff recommends street improvements on Hwy 265 to include the construction of a sidewalk.

Parks: Park fees are due for 12 multi-family dwellings.

Tree Preservation:

Existing:	23%
Preserved:	13%
Required:	23%

Mitigation will be required to replace 6014 square feet of canopy. The applicant has chosen to do a combination of on-site planting and a deposit into the Tree Escrow Account.

Recommendation: Staff recommends forwarding the Master Development Plan – Planned Zoning District for Paradise Point (R-PZD 05-1734), to the City Council for approval with the following conditions:

The Planning Commission voted 8-1-0 to approve an amendment to Condition #17 with Commissioner Anthes voting no.

The Planning Commission voted 9-0-0 for approval of the rezoning and development approval with the following amended conditions:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends construction of a 6' sidewalk along Hwy 265, adjacent to the Master Street Plan right-of-way.*
2. Planning Commission determination of commercial design standards. *Staff finds that the proposed elevations are compliant with Commercial Design Standards and the intent of the architectural design criteria listed within the Master Development Plan Project Booklet.*
The Subdivision Committee found in favor of the proposed elevations and supported the modification of the building material of the western elevation from brick to siding.

The Planning Commission voted to approve the commercial design standards.

3. Planning Commission determination of safe and adequate access to the subject property. *The applicant has proposed access to the development from Hwy 265 and an access easement through the U of A Medical Sciences campus to the north. At this time, the applicant has not received approval of the proposed access to the north. Staff recommends that should the applicant not obtain a perpetual access easement to the property to the north prior to the issuance of a building permit, the application shall be resubmitted to the Planning Commission for evaluation of safe and adequate means of access and traffic patterns.*

The Planning Commission recommended approval with a second access and the allowance for this second access to the north to be moved west of where currently proposed. The plat has been revised to show a secondary access to the north along the western property line. The addition of parking has also been shown as part of the proposed access to serve the property to the north. Prior to construction of this parking area all necessary permits for construction shall be obtained.
4. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
5. If grading within 5' feet of any property line, the applicant shall obtain written approval from the adjacent property owner.
6. The applicant shall submit a lighting plan and cut sheets which meet City ordinance requirements to the Planning Division for review at the time of building permit.
7. Dedication of right-of-way for Hwy 265 by warranty deed prior to issuance of a building permit.
8. The off-site utility easement to the south of the property and access easement to north shall be obtained by separate document prior to issuance of a building permit.
9. The existing utility easement on the property that is within the proposed building footprint shall be vacated prior to the issuance of a building permit.
10. Parking requirements shall be met at all times. The required parking numbers may increase should one or more tenant spaces be modified to a use that requires more parking than retail.
11. Parks fees for 12 multi-Family Units are due in the amount of \$4,716 prior to issuance of a building permit.
12. The applicant shall mitigate for the removal of tree canopy by planting 17 trees, contributing \$4,250, or a combination thereof. Species and location of mitigation trees

shall be approved by the Urban Forester.

13. Signs shall be permitted in accordance with the R-O, Residential Office, zoning district regulations.
14. Permitted uses within this R-PZD shall be restricted to Use Unit 1: City-wide Uses by right; Use Unit 5: Government Facilities; Use Unit 12: Offices, studios, and related services; Use Unit 15: Neighborhood Shopping Goods; Use Unit 16: Shopping Goods; *Use Unit 17: Trades and Services*; Use Unit 24: Home Occupations; Use Unit 25: Professional Offices; and Use Unit 26: Multi-family Dwellings.
15. Conditional uses within this R-PZD shall be restricted to Use Unit 2: City wide Uses by Conditional Use; Use Unit 13: Eating Places; and Use Unit 36: Wireless Communication Facilities.
16. The applicant shall address all comments on the attached Landscape Plan Review and Tree Preservation Review, which shall be considered as part of the official conditions of approval.
17. The project shall be constructed in one phase. All required permits to construct the proposed development shall be issued within ~~5~~ 2 (*two*) years of City Council approval.

Standard Conditions of Approval:

18. Street lights shall be installed with a maximum separation of 300 feet along Hwy 265 (Crossover Road).
19. Three bike racks shall be installed on the property within 50' of the entrance and in accordance with the requirements of Ch. 172.10 of the Unified Development Code and clearly identified on the site plan for building permit review.
20. Trash enclosures shall be screened on a minimum of three (3) sides with materials that are complimentary to and compatible with the proposed building. Elevations of the enclosure shall be submitted for review at the time of building permit application. Access to the enclosure shall not be visible from the street, pursuant to city ordinance.
21. All mechanical/utility equipment shall be screened using materials that are compatible with and incorporated into the structure.
22. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
23. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat

review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

24. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
25. Prior to the issuance of a building permit the following is required:
- a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

The applicant has made the requested modifications to the plat and the project booklet.

Additional Conditions:

Planning Commission Action:
Meeting Date: November 28, 2005

☐ Approval

☐ Forwarded to P.C.

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 05-1734

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. In review of the General Plan 2020, the application provides for the development of vacant property located west of Crossover Road, south of Joyce Boulevard.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions with some minor corrections required.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development may require the provision of public facilities, at the cost of the developer. Fire and emergency response time is adequate, as indicated in the attached correspondence.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, creates a mixed use development that will provide a suitable transition between commercial and office developments to the north and residential properties to the south. Although the immediate property to the south, east, and west are not developed at this time, the Future Land Use Plan designates these areas for private open space and residential development. Staff finds that the proposed use is compatible with these commercial and residential uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is currently vacant property suitable for development of residential and commercial use.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: As the property is currently vacant and yields no traffic, the proposed development would result in an increase in the traffic on the surrounding streets. These streets (Crossover Road/Hwy 265 and Joyce Boulevard) are, however, designated as Principal Arterial streets intended to carry large volumes of traffic.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Architectural elevations of the proposed development and architectural standards have been proposed. Staff finds that the elevations proposed adhere to the standards set forth and are compatible with the surrounding developments.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District and development plans have been reviewed in light of all applicable development and zoning ordinances. The Master Development Plan sets out the basic guidelines, development and zoning criteria, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. These criteria have been incorporated into the proposed development plans.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and

landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is typically required between commercial and residential developments. None of the adjacent properties are used for residential purposes. However, the applicant proposes a 12' landscape buffer with trees planted 1 per 30' along the north property line.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The applicant proposes one access onto Crossover Road/Hwy 265 and one access into AHEC to the north. Approval from the adjoining property to the north to construct the proposed access has not been received and this second access is not guaranteed. Staff recommends that should the applicant not obtain a perpetual access easement to the property to the north prior to the issuance of a building permit, the application shall be resubmitted to the Planning Commission for evaluation of safe and adequate means of access and traffic patterns.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the

respective use areas.

FINDING: The applicant proposes to meet the parking requirements set forth in the Unified Development Code. The required number of parking for the proposed development is 73 spaces (50 minimum and 95 maximum). The applicant proposes the development of 55 parking spaces. The required number of parking spaces was calculated based on all commercial space being occupied by retail business. Approval of a Certificate of Occupancy for each tenant shall be subject to the provision of sufficient parking within the development.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The Unified Development Code requires a 15' landscape area adjacent to the right-of-way and 5' greenspace adjacent to side and rear property lines. The applicant's proposal provides a 15' landscape area adjacent to the right-of-way, but no more than 3' greenspace adjacent to the side and rear property lines; the applicant has requested approval of a 3' side and rear building setback. Approximately 36.4% of the site is retained as greenspace.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks are provided within the right-of-way and the development, with a pedestrian connection from the right-of-way to the interior of the project.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights shall be installed a maximum 300' apart adjacent to the right-of-way.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private drives shall conform to city standards. Recommended improvements along Crossover Road/Hwy 265 are limited to the construction of a 6' sidewalk at the right-of-way as AHTD is anticipated to improve the street adjacent to this property in the near future. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: The applicant proposes to construct the nonresidential facilities within the same phase as the residential facilities.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan has been submitted and reviewed by the Urban Forester. Tree canopy covers 23% of the site, all of which is required to be preserved by Planned Zoning District regulations. The applicant proposes preservation of 13% canopy; therefore, mitigation is required.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The applicant has submitted architectural design standards, elevations, and a material sample board. Planning Commission determination of compliance with the standards set forth by the applicant and Commercial Design Standards is addressed in the conditions of approval.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also

issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing

natural features and amenities.

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds the uses to be compatible to the area, with the commitments, development standards, conditions of approval and other criteria in place with the rezoning request.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 05-1734, with one Unique Planning Area. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

- (1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:
 - (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.
 - (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
 - (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed use is mixture of residential and retail/office uses. This type of development will provide a transition between commercial areas to the north and residential uses to the south. Staff finds that it meets the intent and purpose of an R-PZD.

(2) Proposed Uses.

Permitted Uses:

Use Unit #	Type of Use
Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Conditional Uses:

Use Unit #	Type of Use
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 16	Shopping goods

FINDING: See Zoning Criteria Chart above for the use permitted by right as proposed by the applicant.

(3) Conditions.

- (2) All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.
- (4) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from RMF-24, Residential Multi-family – 24 units per acre to R-PZD 05-1734, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Residential. Rezoning this property to R-PZD 05-1734, with the associated Master Development Plan, is not specifically consistent with the land use plan for this area, however it is consistent with the surrounding land uses and allows for a transition between commercial property to the north and residential development to the south. The proposed plan, commitment and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is to a great degree consistent with many of the principles and policies in place.

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 needed in order to develop the property with both residential and retail/office use and a reduced setback.

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

Finding: The proposed zoning will cause an increase in traffic, as the existing property is currently vacant. However, by right, the property could be developed at 24 units per acre, which would allow the construction of approximately 36 dwelling units. Staff finds the proposed mixed use development will not appreciably increase traffic danger and congestion on Crossover Road/Hwy 265 or Joyce Boulevard, two Principal Arterial streets.

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: Population density will increase with the requested rezoning. The property is currently vacant. The development of 12 residential units will increase the population of this area by approximately 27 persons.

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

PARADISE POINT

MASTER DEVELOPMENT PLAN

(R-PZD 05-1734)



Owner / Applicant: Paradise Point, LLC
3900 Front St.
Fayetteville, AR 72703

Representative: H2 Engineering
2758 Millennium Dr.
Fayetteville, AR 72703

Summary

Paradise Point is a PZD located in east Fayetteville on Highway 265 just south of the intersection of Highway 265 and Joyce Boulevard. We are proposing a 2-story building with 12,065 SF of office / retail space and one 2bd/2ba residential unit on the first floor and 11 - 2bd/2ba residential units on the second floor. The building footprint will be 13,445 S.F., not including balconies or overhangs. With balconies included, the second floor will be 14,744 S.F. The property is currently zoned RMF-24, with R-O zoning to the north and RMF-24 to the south. We feel that the proposed PZD is a perfect fit between these two zonings.

General Project Concept

- **Street and Lot Layout** – This PZD is a single building with parking as required by the Unified Development Code.
- **Site Plan** – See Master Development Plan Sheet
- **Buffer Areas** – There is a landscape buffer to the north of the property to serve as a buffer between our project and the existing building to the north. The buffer is 12' wide with trees located every 30'.
- **Tree Preservation Areas** – There are no existing large groupings of trees on the site that would serve as one large tree preservation area. However, great care has been taken to preserve as many existing trees as possible. Four additional trees will be planted in the detention pond to serve as mitigation for the trees that are disturbed by the development.
- **Storm Water Detention Areas and Drainage** – Drainage flows onto the site from the northwest. This water will be diverted into a storm pipe and directed to the south end of the site and into a detention pond. This detention pond will serve to detain the water coming onto the site and the water generated on site. Storm water also travels along the east side of the property in an existing ditch along Highway 265. The only disturbance to this ditch will be to pipe it under the entrance drive which will not significantly impact the storm drainage along Highway 265.
- **Undisturbed Natural Areas** – There are a few small undisturbed areas around the perimeter of the site. These areas have been left undisturbed in order to prevent the disturbance of existing trees.
- **Existing and Proposed Utility Connections and Extensions** – An 8" sanitary sewer line is located to the west and an 8" water line is located on site on the west side of the property. We propose connecting to each of these for service.
- **Development and Architectural Design Standards** – The building on this project is designed to project the feel and climate of a small town urban setting similar to Dickson Street, rooted in images of the French Quarter in New Orleans.
- **Building Elevations** – Building Elevations are attached.

Proposed Development Phasing and Time Frame

This project consists of 1 phase. This zoning approval is intended to allow construction anytime within 2 years of approval. However, construction is anticipated to occur from January, 2006 – May, 2006.

Proposed Planning Areas with Proposed Zoning and Development Standards

This project has only 1 planning area. The project will consist of a single 2-story building with office / retail space and 1 residential unit on the first floor and residential units only on the second floor.

Permitted uses will be City-wide Uses by right (Use Unit 1), government facilities (Use Unit 5), offices, studios, and related services (Use Unit 12), neighborhood shopping goods (Use Unit 15), shopping goods (Use Unit 16), trades and services (Use Unit 17), home occupations (Use Unit 24), professional offices (Use Unit 25), and multi-family dwellings (Use Unit 26).

Conditional uses will be City-wide Uses by conditional use (Use Unit 2), eating places (Use Unit 13), and wireless communication facilities (Use Unit 36).

The residential unit density will be 7.8 units or less per acre. The office/retail space will be 12,065 SF or less. Front setbacks will be a minimum of 50 feet, side and rear setbacks will be a minimum of 3 feet. Height restrictions in this project are set at 35 feet.

Materials proposed for the building are brick, hardi-board siding, metal roofing, and wrought iron railings.

Analysis of the Site Characteristics

No environmentally hazardous, sensitive, or natural resource areas have been found on this site.

Reason for Zoning Change Request

A request for a zoning change is being made on this piece of property because the property is difficult to develop under the current RMF-24 Zoning. This property is a combination of two parcels which have been combined to form an irregular shaped lot. The architect has designed the building in a way which works well with the irregular lot shape. We also feel that the proposed mixed use nicely transitions from R-O and RMF-24 of the adjacent properties while conforming to the well landscaped and sufficiently articulated buildings in surrounding developments.

Comparison of the Proposed Master Development Plan to the Current Zoning District Requirements

Description	Current Zoning (RMF-24) Requirements	Proposed Zoning (R-PZD) Requirements
Permitted Use Units Allowed	Use Unit 1 - City-wide Uses by right Use Unit 8 - Single-family dwellings Use Unit 9 - Two-family dwellings Use Unit 10 - Three-family dwellings Use Unit 26 - Multi-family dwellings	Use Unit 1 - City-wide Uses by right Use Unit 5 - Government Facilities Use Unit 12 - Offices, studios, etc. Use Unit 15 - Neighborhood shopping Use Unit 16 - Shopping goods Use Unit 17 - Trades and Services Use Unit 24 - Home occupation Use Unit 25 - Professional offices Use Unit 26 - Multi-family dwellings
Conditional Uses	Use Unit 2 - City-wide uses by cond. Use permit Use Unit 3 - Public protection and utility fac. Use Unit 4 - Cultural and recreational facilities Use Unit 11 - Manufactured home park Use Unit 24 - Home occupation Use Unit 25 - Professional offices Use Unit 36 - Wireless comm. facilities	Use Unit 2 - City-wide uses by cond. use permit Use Unit 13 - Eating places Use Unit 36 - Wireless comm. facilities

Description	Current Zoning (RMF-24) Requirements	Proposed Zoning (R-PZD) Requirements
Front Setback	25 Ft.	50 Ft.
Side Setbacks	8 Ft.	3 Ft.
Rear Setbacks	25 Ft.	3 Ft.
Maximum Height	20 Ft.	35 Ft.
Density - Units per Acre	4 to 24	7.8 (max)
Lot Area Minimum (Prof. Offices)	1 Acres	1.55 Acres
Lot Width Minimum (Prof. Offices)	100 Ft.	40 Ft.
Land Area per Dwelling Unit (2 BR)	2,000 SF	5,625 SF (min)
Site Coverage (% covered by bldg)	N / A	19.9%

Note: The existing zoning of this property is RMF-24.

Recreational Facilities

Sweetbriar Park is located ½ mile southwest of the project. Routh Park and Rocky Branch Park are both located approximately 1 mile south of the project. No recreational Facilities are planned on this site.

Relationship to the Existing and Adjacent Land Uses

The property is bounded on the north and across Highway 265 to the east by R-O zoning and to the south and west by RMF-24 zoning. This PZD is the perfect transition between these zonings, allowing both office space and residential units. The property to the north is currently used as office space and the property to the west is a golf course development. The property to the south and to the east, across Highway 265, are currently undeveloped.

Compliance with Fayetteville General Plan 2020

This development does comply with the Fayetteville General Plan 2020.

Traffic Study

No traffic study has yet been required for this project and we do not anticipate one being required, due to the small amount of impact this project will have on Highway 265 to the east.

Impacts on City Services

There are no significant impacts to city services associated with this project.

Statement of Commitments

Dedication and On or Off-site Improvements

An additional 15' of Right-of-Way is being dedicated on Highway 265, going from a 40' Right-of-Way from centerline to a 55' Right-of-Way from Centerline. This accommodates a 110' Right-of-Way on Highway 265, as required for Principal Arterials.

Natural Resources and Environmental Sensitive Areas

There are no known natural resources or environmentally sensitive areas on this site.

Project Phasing Restrictions

The phases and estimated completion dates have been established as presented previously herein the master plan for the project. As phasing has been identified, described and approved as part of the PZD master development plan, process phasing may vary from the requirements of Chapter 166 of the UDC with regard to expiration of permits and plans.

Fire Protection

Paradise Point will be served by the Fayetteville Fire Department. Station 4 is located less than 2.5 miles away from Paradise Point. A new Fire Station is proposed at Routh Park 1 mile to the south of Paradise Point on Highway 265.

Other Commitments Imposed by the City

There are currently no other commitments imposed by the City.

Parks, Trails and Open Space Commitments

Tree preservation and protection will be implemented in accordance with the City of Fayetteville code of Ordinances Title XV Unified Development Code: Chapter 167 Tree Preservation & Protection. Landscaping within Paradise Point will be designed in accordance to the City of Fayetteville Landscape Manual which sets forth the standards and specifications for Tree Preservation, Protection and Landscaping.

Building Elevations

Building Elevations are attached.

Development Standards, Conditions and Review Guidelines

Screening and Landscaping

The screening and landscaping will be provided as set forth in Section 166.09 Buffer Strips and Screening.

Traffic and Circulation

Design of the traffic and circulation on the project will be in accordance with Section 166 of the Unified Development Code. In order to provide better traffic circulation and connectivity, a connection to the parking area on the property directly north of Paradise Point is being proposed. This will provide an entrance / exit point on Joyce St. Discussions with the owner of that property are on-going at this time. A proposed 40' access easement is pending.

Parking Standards

The parking lot will be designed and constructed in accordance with the standards found in Section 172 of the Unified Development Code.

Perimeter Treatment

No perimeter treatment is planned.

Sidewalks

Sidewalks will be designed and constructed in accordance with the Master Street Plan and Section 171 of the Unified Development Code.

Street Lights

Street lights will be designed and constructed in accordance with the Unified Development Code.

Water

Water lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. An 8" water line is located to on site which we propose to connect to.

Sewer

Sewer lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. An 8" sanitary sewer line is located to the west of the property along the golf course which we propose to connect to.

Streets and Drainage

Streets and drainage will be designed and constructed in accordance with the Unified Development Code and the Master Street Plan.

Tree Preservation

Tree preservation and protection will be implemented in accordance with Section 167 of the Unified Development Code.

Commercial Design Standards

A portion of the structure proposed for this project will house office or commercial space. Therefore, the structure will comply with the commercial design standards as set forth in Section 166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

Signage

All signage on the project shall be permitted in accordance with R-O district criteria as set forth by Chapter 174 of the Unified Development Code. A monument sign is planned at the entrance on Highway 265 and individual office signs are planned for the office units.

View Protection

There is a landscape buffer to the north of the property to serve as a buffer between our project and the existing building to the north.

Revocations

The developer understands causes for revocation and will take all measures necessary to avoid revocation.

Covenants, Trusts, and Homeowner Associations

There are no covenants, trusts or Homeowner Associations associated with this project.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

D.11.
R-PZD 05-1797 Bungalows at Cato Springs Road
and Cline Avenue
Page 1 of 32

20-Dec-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

MDP R-PZD 05-1797: (Bungalows at Cato Springs, 600): Submitted by McClelland Consulting Engineers, for property located northwest of Cato Springs Road and Cline Avenue, west of 71 Business/south School Avenue. The property is zoned RSF-4, Residential Single-Family, 4 units per acre, and contains approximately 5.52 acres. The request is to approve a Master Development Plan - Residential Planned Zoning District with four planning areas that could yield 30 single-family lots.

\$0.00	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 ☐

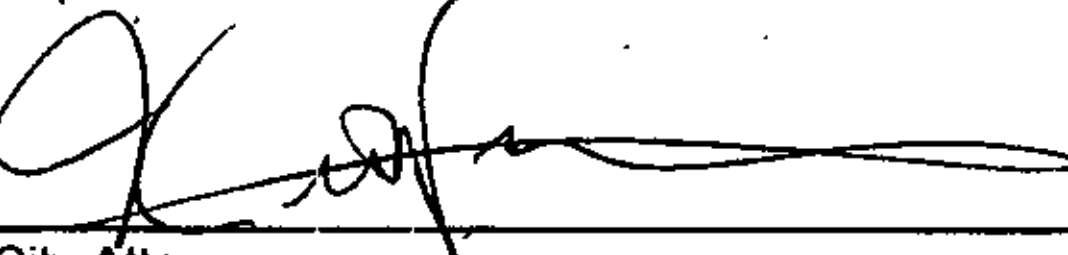
Budget Adjustment Attached ☐

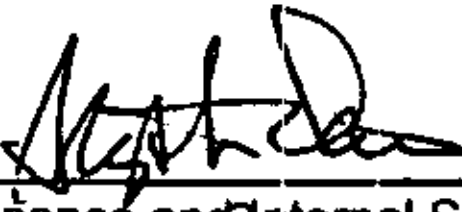

Department Director 12-2-05
Date

Previous Ordinance or Resolution # n/a

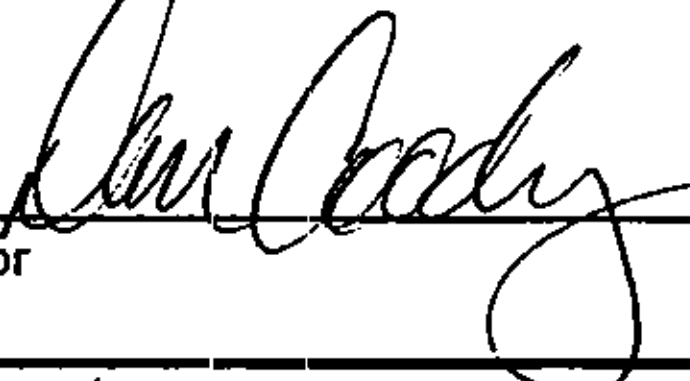
Original Contract Date: n/a

Original Contract Number: n/a


City Attorney 12-2-05
Date


Finance and Internal Service Director 12-5-05
Date

Received in City Clerk's Office



Mayor 12/6/05
Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: December 1, 2005

Subject: Rezoning for Bungalows at Cato Springs (R-PZD 05-1797)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for the Bungalows at Cato Springs, submitted by McClelland Consulting Engineers, Inc. This action will establish a unique zoning district for a residential subdivision on a 5.52-acre site located north of Cato Springs Road and west of Cline Avenue.

BACKGROUND

At the August 22, 2005 Planning Commission meeting the applicant proposed this site to be rezoned from RSF-4 to RMF-6. The Planning Commission voted 5-1-0 to deny the rezoning request. The site contains two tracts totaling 5.52 acres that are being used for large lot rural residential uses with two single-family dwellings. A tandem lot for an additional single family home on the property was approved by the Planning Commission in 1996. The Cato Springs Branch Creek and wooded area traverses north-south near the western edge of the property and an old railroad spur is to the north. It is currently zoned RSF-4, Residential Single-Family Four Units Per Acre. The applicant requests rezoning approval for a unique R-PZD zoning district. The proposed use of the site is for a single family development with a maximum of 30 lots.

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on November 28, 2005. A Planned Zoning District (PZD) requires City Council approval as it includes zoning approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

The project consists of four planning areas with three different types of single family lots and one planning area for a preservation and trail uses. The planning areas are designed to provide more traditional type single family uses adjacent to the established neighborhood to the east, with higher density, and more affordable units along the west adjacent to undeveloped riparian area associated with the Cato Springs Branch Creek. The development concept fronts single family residential uses onto a main street with alley access to the rear of lots. Finding the proposal compliant with the intent and spirit of the ordinance and compatible with developing land in the vicinity, staff and the Planning Commission recommend approval of this R-PZD.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL
PLANNED ZONING DISTRICT TITLED R-PZD 05-1797,
BUNGALOWS AT CATO SPRINGS, LOCATED
NORTHWEST OF CATO SPRINGS ROAD AND CLINE
AVENUE, WEST OF 71 BUSINESS/SOUTH SCHOOL
AVENUE, CONTAINING APPROXIMATELY 5.52
ACRES, MORE OR LESS; AMENDING THE OFFICIAL
ZONING MAP OF THE CITY OF FAYETTEVILLE; AND
ADOPTING THE ASSOCIATED MASTER
DEVELOPMENT PLAN.

**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-4, Residential Single-Family, 4 units per acre, to R-PZD 05-1797 as shown
in Exhibit "A" attached hereto and made a part hereof.**

**Section 2. That the change in zoning classification is based upon the
approved master development plan, development standards, and conditions of
approval as submitted; determined appropriate; and approved by the City Council.**

**Section 3. That this ordinance shall take effect and be in full force at such
time as all of the requirements of the master development plan have been met.**

**Section 4. 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**

**By: _____
SONDRA SMITH, City Clerk**

EXHIBIT "A"
MDP R-PZD 05-1797

SURVEY DESCRIPTION TRACT A:
P.N. 765-15055-000

A PART OF THE SW1/4 OF THE SW1/4 OF SECTION 21, TOWNSHIP 16 NORTH,
RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 21; THENCE
ALONG THE SOUTH LINE OF SAID SECTION 21 S87°13'26"E 584.55 FEET;
THENCE DEPARTING SAID SOUTH LINE N09°16'40"E 40.27 FEET TO THE
NORTH RIGHT-OF-WAY LINE OF CATO SPRINGS ROAD (R/W VARIES) AS
SHOWN ON A PLAT RECORDED AS DOCUMENT 96073612; THENCE
N09°16'40"E 227.73 FEET; THENCE N09°14'37"E 53.37 FEET; THENCE
N09°39'50"E 23.81 FEET; THENCE S85°02'10"E 389.40 FEET TO THE WEST LINE
OF THE MCCLINTON'S 2ND ADDITION; THENCE ALONG SAID WEST LINE
S03°16'39"W 288.08 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SAID CATO
SPRINGS ROAD; THENCE ALONG SAID NORTH LINE N87°13'26"W 421.25 FEET
TO THE POINT OF BEGINNING, CONTAINING 2.75 ACRES, MORE OR LESS.
SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD
OR FACT.

SURVEY DESCRIPTION TRACT B:
P.N. 765-15055-002

A PART OF THE SW1/4 OF THE SW1/4 OF SECTION 21, TOWNSHIP 16 NORTH,
RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 21; THENCE
ALONG THE SOUTH LINE OF SAID SECTION 21 S87°13'26"E 584.55 FEET;
THENCE DEPARTING SAID SOUTH LINE N09°16'40"E 40.27 FEET TO THE
NORTH RIGHT-OF-WAY LINE OF CATO SPRINGS ROAD (R/W VARIES) AS
SHOWN ON A PLAT RECORDED AS DOCUMENT 96073612; THENCE
N09°16'40"E 227.73 FEET; THENCE N09°14'37"E 53.37 FEET; THENCE
N09°39'50"E 23.81 FEET TO THE POINT OF BEGINNING; THENCE N09°39'50"E
116.34 FEET; THENCE N06°11'27"E 69.72 FEET; THENCE N16°08'04"E 136.10
FEET; THENCE S87°10'04"E 342.47 FEET TO THE NORTHWEST CORNER OF
THE MCCLINTON'S 2ND ADDITION; THENCE ALONG THE WEST LINE OF SAID
MCCLINTON'S 2ND ADDITION S03°16'39"W 332.05 FEET; THENCE DEPARTING
SAID WEST LINE N85°02'10"W 389.40 FEET TO THE POINT OF BEGINNING,
CONTAINING 2.77 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS,
COVENANTS OR RESTRICTIONS OF RECORD OR FACT.



PC Meeting of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~November 17, 2005~~ December 1, 2005

R-PZD 05-1797: Planned Zoning District (Bungalows at Cato Springs, 600): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located NORTHWEST OF CATO SPRINGS ROAD AND CLINE AVENUE, WEST OF 71 BUSINESS/SOUTH SCHOOL AVENUE. The property is zoned RESIDENTIAL SINGLE-FAMILY FOUR UNITS PER ACRE (RSF-4) and contains approximately 5.52 acres. The request is to approve a Master Development Plan for a Residential Planned Zoning District (R-PZD) with three planning areas that could yield 30 single-family lots.

Property Owner: JIM KNIGHT
Planner: ANDREW GARNER

Findings:

Background: At the August 22, 2005 Planning Commission meeting the applicant proposed this site to be rezoned from RSF-4 to Residential Multi-Family Six Units Per Acre (RMF-6). The Planning Commission voted 5-1-0 to deny the rezoning request.

Property Description and Setting: The subject property contains part of two tracts totaling 5.52-acres owned by the Hausers and Mitchells. It is located north of Cato Springs Road and west of Cline Avenue. The property is being used for large lot rural residential uses with two single-family dwellings and a number of accessory structures. A tandem lot for an additional single family home on the property was approved by the Planning Commission in 1996. The Cato Springs Branch Creek and wooded area traverses north-south near the western edge of the property and an old railroad spur is to the north. The site is zoned RSF-4 and as shown in *Table 1* is immediately surrounded by single-family residential and undeveloped land, with a variety of zoning.

Table 1
Surrounding Land Uses and Zoning

Direction From Site	Land Use	Zoning
North	Undeveloped; Single-Family Residential	RSF-4; RMF-24
South	Single-Family Residential	RSF-4
East	Single-Family Residential	RSF-4
West	Undeveloped (Cato Springs Branch and associated floodplain)	RSF-4; I-1

RSF-4, Residential Single-Family Four Units Per Acre
RMF-24, Residential Multi-Family 24 Units Per Acre
I-1, Heavy Commercial and Light Industrial

Proposal: The applicant requests a rezoning approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a single-family development with a maximum of 30 lots ranging from 1,500 square feet to 3,800 square feet, three planning areas, and a 1.5-acre preservation and trail area associated with the Cato Springs Branch Creek. Each of the planning areas has identified single-family uses, with a variety of bulk and area regulations. The planning areas are designed to provide more traditional type single family uses adjacent to the existing neighborhood to the east, with higher density, and more affordable units along the west adjacent to undeveloped riparian associated with the Cato Springs Branch and industrial zoning to the west.

Process: The purpose of the subject request is for a rezoning approval in order to secure entitlement for the property with a concept of a variety of single family residential uses fronting onto a main street with alley access to the rear of lots. As recently approved by the City Council, an applicant has the option of presenting a Master Development Plan – Planned Zoning District without development-level plans. This action would effectively rezone the property based on the conceptual plans and information provided. However, it does not give development approval. The applicant is required to return through the preliminary plat process in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

Bulk and area criteria, while usually provided within the staff report, have been provided in duplicate by the applicant. The project booklet provided gives the zoning criteria in detail, as do the Master Development Plans. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Water & Sewer: Water and sewer lines are currently available in the area, and would be designed and constructed in accordance with city specifications to serve the development.

Access: The applicant proposes construction of a single neighborhood street running through the middle of the property and ending in a cul-de-sac connecting with two alleys. Lots are located along either side of this main street, with alleys along the eastern and western side of the lots to allow for rear access to the residences and trash service.

Adjacent Master Street Plan Streets: Cato Springs Road (minor arterial).

Parks: The western portion of the site is adjacent to the Cato Springs Branch. The western 1.5 acres is planned to be dedicated as open space/greenspace to the City of Fayetteville, and has the potential to be used to connect the overall Multi-Use trails system within the City of Fayetteville and/or provide pedestrian access to Great House Springs Park to the north.

Tree Preservation: Tree preservation and protection will be implemented in accordance with Section 167 of the Unified Development Code at the time of development. The applicant desires to preserve the existing 60" trunk diameter catalpa tree in front of the existing residential structure. The majority of tree preservation has been identified as occurring within the proposed green space/trail area; however, if this is dedicated as a park to the City, the tree canopy numbers in this area will not count as preserved.

Public Comment: Staff has not received any objectionable public comment.

Recommendation: Staff recommends forwarding **R-PZD 05-1797** to the City Council with a recommendation of approval and with the following condition:

Conditions of Approval:

1. Zoning criteria for Planning Areas 1-3 shall be revised as follows:
 - a. Architectural Design Standards: reference a commitment to the concept of the architectural elevations presented in the booklet (*see Condition No. 2 below*).
 - b. Parking: specify parking per city requirements (unless proposed otherwise).
 - c. Signage: ~~specify signage per city requirements, or specify that no signage is allowed.~~ Signage shall be permitted in accordance with the regulation set forth in Chapter 174 of the Unified Development Code for Residential Single Family Zoning Districts.

PLANNING COMMISSION ADDED 11/28/05.

2. Front building facades as they face the street shall be varied in material and color so that no two same facades are adjacent to one another.
3. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
4. Pursuant to city ordinance, development of the property shall be approved by the Planning Commission through the preliminary plat review process. Should a subdivision of land be desired, all applicable ordinances and processes shall be followed in order to meet city ordinances.
5. Street connectivity. Staff recommends further evaluation at the time of development.

Property to the west will not be connected. Property to the east will likely not be connected, with the exception that the alley along the eastern property line could potentially provide connection with the alley right-of-way running adjacent to the eastern property line. To the south is proposed access. Property to the north is undeveloped and a street stubbed out to this property may be beneficial to disperse traffic should that property develop.

6. Detention shall be provided to meet City of Fayetteville requirements, unless at the time of development the City Engineer approves otherwise, in accordance with City ordinance and policy.
7. Parkland dedication requirements shall be met at the time of development. This may include dedication of land, fees-in-lieu, or a combination thereof.
8. Public water and sewer lines shall be extended as required by city ordinance at the time of development.
9. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
10. Development on the subject property shall comply with City Fayetteville ordinances at the time of submittal of development plans.
11. The western 1.5 acres proposed to be dedicated to the City as park/trail, should be designated as a separate planning area (PA-4), with appropriate zoning criteria for the anticipated park and recreational uses (Use Units 1, 3, and 4).
12. Building separation shall meet all applicable building codes, and may result in a greater separation requirement than the proposed minimum five feet.
13. Screening or natural vegetation shall be provided along the west and east property lines to reduce the impact of the alley and parking areas on adjacent properties. Specific screening will be recommended at the time of development.
14. Rear setbacks along public alleys shall be measured from the centerline of the alley; based on the plans provided, and a 25' rear setback from centerline of the public alley appears to be adequate. Please address the plats/booklet accordingly.
15. Tree preservation plans shall be submitted at the time of development meeting city of Fayetteville criteria. The minimum percent canopy for PZDs is 25%. Staff calls attention to the fact that while conceptually the Master Plan presented meets the goals and intent of the Master Development Plan PZD, much of the interior canopy is being removed if submitted as currently proposed, and would not meet with staff's approval. Further, the applicant noted in the booklet that the majority of tree preservation areas would be located in the 1.5-acre preservation/trail area proposed to be dedicated to the City as parkland. Parkland cannot count as preserved tree canopy per City ordinance.

The applicants should be aware that further detailed information and potentially modifications to the plans to incorporate a higher percentage of tree canopy interior to the developed areas is expected at the time of development.

16. All existing easements that conflict with the future development shall be vacated.
17. Prior to City Council, the booklet shall be revised as follows:
 - a. Include page numbers in the booklet.
 - b. Remove references to Sandestin, Florida on the building elevations.
 - c. Label 'kitchens' to replace 'greatroom' within the architectural renderings.

PLANNING COMMISSION ADDED THIS CONDITION (11/28/05).

Planning Commission Action: Required: YES

☐ Approved ☐ Denied ☒ Forward to City Council ☐ Tabled

PC forwarded to City Council with recommendation for approval by a vote of 9-0-0, with Commissioner Allen making the motion and Commissioner Clark seconding.

Meeting Date: November 28, 2005

Comments: _____

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 05-1797

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The General Plan 2020 designates this site Mixed Use. Rezoning this property to R-PZD 05-1797 with a variety of single family dwelling units and density is consistent with the land use plan and compatible with surrounding land uses and density within surrounding developed property.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow a variety of single-family residential uses and density. The proposed zoning criteria in the eastern portion of the site would provide for the larger lots and setbacks that would provide a compatible transition from the adjacent RSF-4 single family neighborhood on Cline Avenue, to higher density in the eastern portion of the site.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is being used for large lot rural residential uses, with the

Cato Springs Branch and associated floodplain located in the western one-third of the site. The site is relatively flat, and the proposed use for residential development concentrated out of the floodplain and riparian area is compatible with the natural environment.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed PZD would potentially result in 30 new single-family lots that could generate 300 average daily vehicle trips. Depending on the scale and timing of proposed development of this site, a traffic study may be required to evaluate the level of service of the road network that would be used to access this site. At a minimum, the developer would be expected to improve Cato Springs Road along the project frontage to Master Street Plan standards to ensure safe and adequate vehicular and pedestrian access. Additional improvements may be required and would be evaluated at the time of development.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations are provided in order to describe the appearance of the community once constructed.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(B) *Development standards, conditions and review guidelines*

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation; water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all

applicable development and zoning ordinances. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. Staff finds that the proposal herein does incorporate an acceptable level of compatibility. Density, maximum dwelling units and building area have been addressed for each lot, and tree preservation is proposed to meet City of Fayetteville standards, allowing for a project that enhances the neighborhood.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening shall be placed along the eastern boundary of the subject property to screen the site from the established residential neighborhood to the east. In addition, each dwelling unit shall plant a minimum of one 2" caliper tree along the site's street frontage.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and

interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Ingress and egress interior to the project shall be evaluated and required to be constructed with the development of the property. The internal street system consisting of one main cul-de-sac street and two alleys linking to the cul-de-sac provide adequate circulation. The site is fairly constrained due to natural and man-made features and does not have much, if any opportunity for exterior street connectivity outside of the entrance onto Cato Springs Road. However, issues of connectivity and street design criteria will be further evaluated at the time of development. It is anticipated that the project's frontage on Cato Springs Road will need to be improved as part of development of the project.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the proposed single-family residential uses shall apply.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The Master Development Plan proposes screening along the eastern property line to screen the site from the established residential neighborhood to the east. Screening is not proposed between the northern property line and the General Industrial (I-2) zone to the north. Along the western property line 1.5 acres is proposed to be dedicated greenspace for use as a trail/preservation area.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development to ensure compliance.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights will be required at the time of development.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.
- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.
- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:
- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
 - (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
 - (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
 - (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
 - (v) The plat of the planned development shall designate each private street as a "private street."
 - (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
 - (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

**Paving Width
(No On-Street Parking)**

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public streets shall conform to city standards as indicated in the submitted statement of commitments. Streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: The project would not result in the construction of nonresidential facilities, other than the infrastructure required to support the single-family lots. The anticipated dedication of parkland in the western portion of the site if recommended by the Park and Recreation Advisory Board would occur at the time of final plat.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of

buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development, which will require the site to maintain a minimum of 25% tree canopy under the tree ordinance. Specifically, the applicant would like to preserve a 60" trunk diameter catalpa tree in front of the existing residence. Other tree canopy may be required interior to the project, which may result in a reduction of dwelling units or reconfiguration of the development. The Urban Forester has commented that staff will not support the Tree Preservation Plan as currently presented and the applicant should be aware that further detailed work and modifications to the plans to incorporate a higher percentage of tree canopy interior to the developed area will occur at the time of development.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Not applicable. This PZD does not propose any commercial structures.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning

Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under

conventional land development regulations.

- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposed Master Development Plan incorporates several of the above goals of a PZD. The Master Development Plan has changes in density over the site, which encourages a variety of sizes of single-family dwellings. The proposed zoning would be compatible with surrounding single-family neighborhoods to the east and south, by allowing only single-family detached units. The increased density on the site allows for more intense uses as anticipated for this area on the General Plan 2020. The major natural features on the site include the Cato Springs Branch, one very large catalpa tree, and several other significant trees. This Master Development Plan has identified the Cato Springs Branch area and the large catalpa tree as anticipated to be preserved, and with 25% tree preservation required under the PZD ordinance would likely be able to preserve many other significant trees.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 05-1797, with three (3) Planning Areas. Staff also recommends including the 1.5 acre preservation area as a Planning Area for a total of four (4) Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

- (1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.
- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: This Master Development Plan meets the purpose and intent of the R-PZD requirements as this 5.52 site is more appropriate to develop as a PZD rather than the existing zoning, or a blanket rezoning of the entire site to a different residential zoning. This Master Development Plan encourages a variety of single-family residential housing types in this transition area between established neighborhoods, university, and industrial uses. This site is identified as Mixed Use in the General Plan 2020. Consistent with the Guiding Policies for Mixed Use areas, the density of the proposed Master Development Plan, and its proximity to the University of Arkansas may encourage students to live in the area, and help support public transit. The proposed single family uses on the site would be compatible with surrounding development, and the preservation area in the western portion of the site could be a public park/trail for the use and enjoyment of this community and Fayetteville at large.

- (2) *Permitted uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.
- (4) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: See Zoning Criteria Chart within the project booklet provided by the applicant for the uses permitted by right and by conditional use in each Planning Area as

proposed by the applicant. This project booklet, if approved, will remain on file in the Planning Division for comparison to future development on the property.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from RSF-4, Residential Single Family, 4 units per acre, to R-PZD 05-1797, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Mixed Use Area. Rezoning this property to R-PZD 05-1797, with the associated Master Development Plan, would allow for a variety of single-family residential development. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the General Plan 2020 for new development.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning is to a great degree consistent with many of the principles and policies in place. The policies encouraged by the General Plan 2020 call for a mixture of housing sizes and types, pedestrian-friendly neighborhoods, and expanding public trails and parks system. This project meets all of these goals, and provides an internal transition of residential density that attempt to address adjacent land uses.

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

Finding: This 5.52 site is more appropriate to develop as a PZD rather than the existing zoning, or a blanket rezoning of the entire site to a different residential zoning. This Master Development Plan encourages a variety of single-family residential housing types in this transition area between established neighborhoods, university, and industrial uses. This site is identified as Mixed Use in the General Plan 2020, and the proposed Master Development Plan would help this vicinity start to achieve some of the identified goals of its Mixed Use designation.

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

Finding: The proposed zoning will result in an increase in vehicle trips over the existing zoning. Under the current RSF-4 zoning, the 5.52-acre site could

potentially yield 22 single-family units, resulting in approximately 220 vehicle trips per day. Under the proposed R-PZD 05-1797 zoning, the site would yield a maximum of 30 single-family units, resulting in approximately 300 vehicles trips per day. This is an increase of 80 vehicle trips per day over that anticipated under the current zoning, and would result in an even greater increase in vehicle trips compared to the existing two residences on the site. Street improvements will be required to be installed with development of the site. Due to the relatively small scale of this site, its development will likely only trigger localized, although essential, street improvements to Cato Springs Road. The Police and Fire Departments review of this proposed rezoning did not indicate substantial adverse impacts to their service as a result of this rezoning.

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: Population density and use intensity are planned to increase in this area as identified in the General Plan 2020. Water and sewer services will be required to be evaluated and submitted at the time of development; those improvements necessary to retain an acceptable level of service for all infrastructure as dictated by the City of Fayetteville will be required of the developer, including the extension of water service, and sewer lines, and other infrastructure needs deemed appropriate and meeting the rough proportionality of the impact of this development on the existing infrastructure.

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

**FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS**

**113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469**

TO: Andrew Garner, Planner

FROM: Alison Jumper, Park Planner

DATE: October 31, 2005

SUBJECT: Parks & Recreation Tech. Plat Review Comments

Meeting Date: November 2, 2005
Item: PZD 05-1797 The Bungalows at Cato Springs
Park District: SW
Zoned: RPZD
Billing Name & Address: Jim Knight

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$393 per unit = \$ _____
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- This project will need to be reviewed by the Parks and Recreation Advisory Board for a recommendation regarding park land dedication requirements.
- Please contact Park Staff to coordinate submittal and meeting dates.



THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3471

To: McClelland Consulting Engineers, Inc.
From: Sarah K. Patterson, Urban Forester
Date: October 31, 2005
Subject: Concept Review Comments

ITEM #: R-PZD 05-1797: Planned Zoning District (Bungalows @ Cato)

TREE PRESERVATION PLAN

1. As a Planned Zoning District, by Chapter 167 of the Unified Development Code, the developer is required the most restrictive preservation percent; 25%.
2. A full Tree Preservation Plan will be required with the submittal of plans for this development. This should include but not be limited to canopy calculations, significant tree inventory, and a site analysis.
3. Keep in mind trees of 'significant' size, found on slopes, and/or found along waterways are high priority for preservation.
4. Without the trees shown on the development plan it is difficult to determine whether any would be proposed for preservation. Staff will not support this PZD as it currently appears to preserve little to no canopy.
5. Without having visited the site, staff suggests a preservation area located between the existing house and Cato Springs Road that would encompass the area with the densest canopy and on average larger trees.

November 7, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **R-PZD 05-1797: Planned Zoning District (The Bungalows at Cato Springs, 600)** submitted by McClelland Consulting Engineers for property located NW of Cato Springs and Cline Ave would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,



Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE
FIRE DEPARTMENT
OFFICE of the FIRE MARSHAL

TO: Planning

FROM: Battalion Chief Kyle S. Curry 

DATE: November 07, 2005

RE: MDP for PZD Bungalows at Cato Springs

Single Family Residential:

- All roads shall have a minimum width of 20 feet
- Rear alleys (concerned about accessing these areas for vehicle fires – have not received a ruling on whether they need to be 20 feet in width)
- Hydrant spacing shall not exceed 500 feet (from last existing hydrant)
- Addresses will need to be readily visible from the street
- Driving grades over 10% present special consideration
- Driveways to structures will need to be able to support fire apparatus and give adequate width (if located off of frontage more than 75 feet)



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

R-PZD05-1798 (DEPALMA ADDITION, 487)

These 10.04 acres are covered by Engine 1 and Ladder 1 on Center Street.

The property is 2.4 miles from the station with a projected response time of 9 minutes to this development. The 9 minute response time is above our response time goal of having the first unit on the scene within 6 minutes, 90% of the time. Also, our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time, will not be met. The longer than average response time is due to the steepness of Rockwood Trail and the narrow winding road leading down to this development.

The Fire Department anticipates 1 call for service (1 EMS & 0 Fire/Other) once the development is completed and maximum build-out has occurred.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department

From: Travis Dotson
To: Fulcher, Jesse; Garner, Andrew; Morgan, Suzanne
Date: 10/31/05 3:09PM
Subject: Meeting of the Technical Plat Review Committee for Nov. 2, 2005

Jesse,

LSD 05-1799: Village Apartments - Site plans show no place for a dumpster pad. According to the number of units - it should have at least two six yard dumpsters going twice a week.

LSD 05-1801: The Stadium Centre - The site plans show three locations for dumpster pads. The two sites at the southern part of the complex will be easily accessible, however will need to be built 30' wide x 10' deep to house two dumpsters each. The third site on the north end of this complex is not in location accessible for our trucks to pick up. The pad needs to be placed in an area that would be a straight shot for our trucks or angled for our trucks to access.

Andrew,

R-PZD 05-1797: The bungalows at Cato Springs - The width of the alleyways is a concern of our division. We will need no less than 15' wide alleys with "NO PARKING" designation on trash day. If parking is allowed in alleyways, we will need a considerably wider alleyway larger than 15'. Also if we are required to go down alley ways in this area, each residence will need to have a numbered address on the front of the property as well as the back.

LSD 05-1800: Drake Hill - Container pad area needs to be at least 15' wide x 10' deep.

LSD 05-1809: The Lofts @ Underwood Plaza - The container pad at this site needs to be larger, and in a more accessible area. 15'wide x 10'deep

Suzanne,

LSD 05-1805: Cornerstone Home Services - This plat shows no designated area for a trash container of any size.

THANKS!

Travis Dotson

From: Brent O'neal
To: mmorgan@mcclelland-engrs.com
Date: 11/10/05 4:40PM
Subject: The Bungalows at Cato Springs-PZD

Due to the limited information provided, the comments listed below are of a general nature and do not include requirements from other divisions that may arise later in the development process. The following are Engineering Division comments for the above Planned Zoning District Master Development Plan:

1. Improvements to the water system will be required which may require off-site improvements. An evaluation will need to be made at the time of submittal on how the water system is to be connected with the existing system.
2. Sanitary sewer is adjacent to the site. A study of the downstream system shall be conducted by the developer.
3. The site has access to Cato Springs Road. Improvements to Cato Springs Road will be required along the property frontage. Off-site improvements to Cato Springs Road may be required. Further evaluation will be conducted by staff at the time of preliminary plat submittal. Right-of-way for Cato Springs Road will also be required at the time of preliminary plat.
4. Runoff from most of the site flows overland to the north and west to a creek. Standard improvements and requirements for drainage will be required for the development. This may or may not include provisions for detention of storm water.

CC: Casey, Matt; Fulcher, Jesse; Garner, Andrew; Morgan, Suzanne; Pate, Jeremy

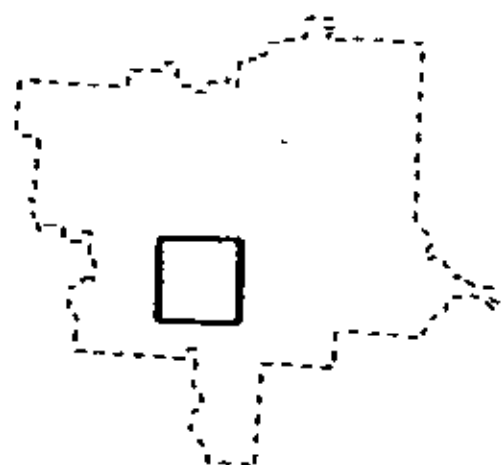
RPZD05-1797

THE BUNGALOWS AT CATO SPRINGS

One Mile View



Overview



Legend

Subject Property
RPZD05-1797

Boundary

Planning Area
Overlay District
Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

RPZD05-1797

THE BUNGALOWS AT CATO SPRINGS

Close Up View



Legend

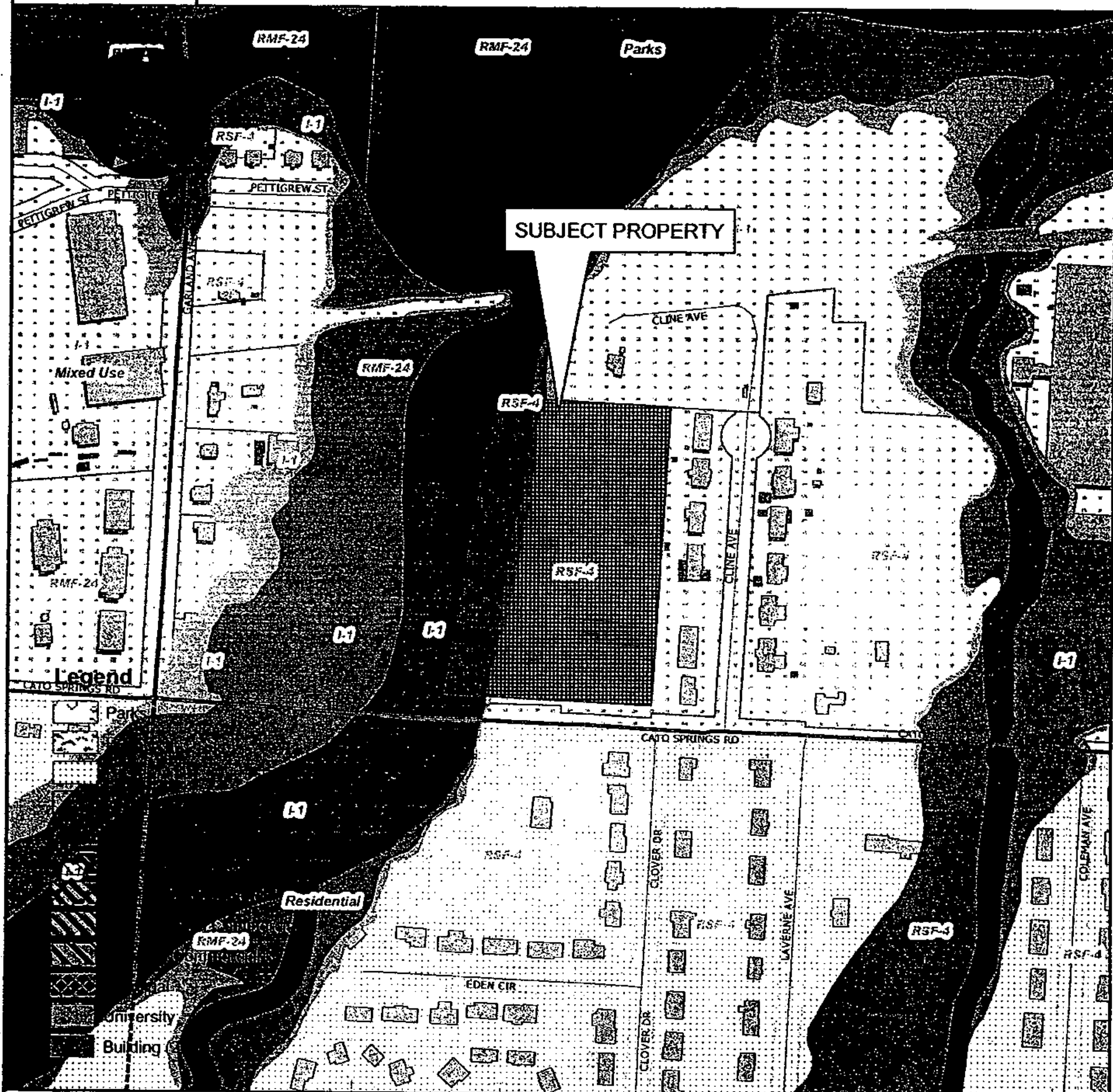
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RPZD05-1797
- vector.GDB.Footprint_2004

0 125 250 500 750 1,000 Feet

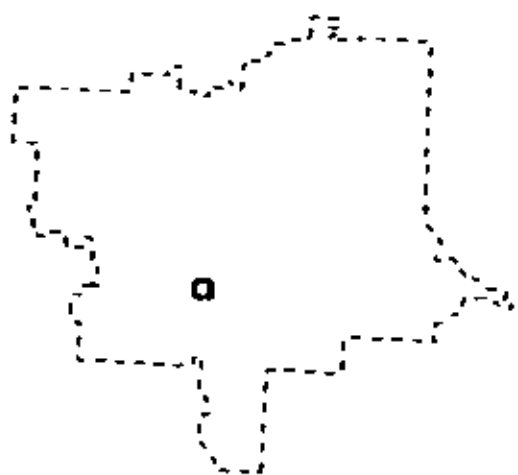
RPZD05-1797

Future Land Use

THE BUNGALOWS AT CATO SPRINGS



Overview



Legend

Subject Property
RPZD05-1797

Streets

Existing
Planned

Boundary

Planning Area
Overlay District
Outside City

Legend



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

D.12.
R-PZD 05-1798 DePalma Addition
Page 1 of 38

20-Dec-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

MDP R-PZD 05-1798: (DePalma Addition, 487): Submitted by H2 Engineering, Inc. for property located at the south end of Anson Street. The property is zoned RSF-4, Residential Single-Family, 4 units per acre, and contains approximately 10.04 acres. The request is to approve a Master Development Plan - Residential Planned Zoning District for a residential subdivision with five single-family lots and a private street.

\$0.00	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

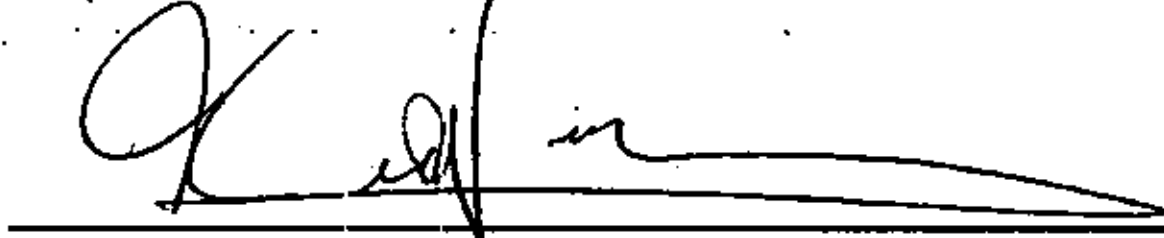
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Department Director
12-7-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

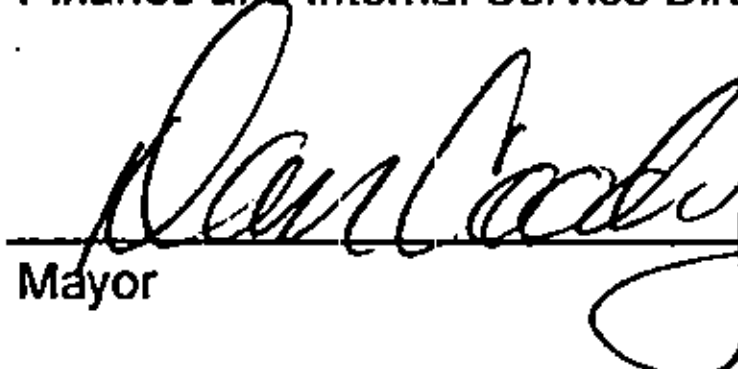

City Attorney
12-2-05
Date

Received in City Clerk's Office



Finance and Internal Service Director
12-5-05
Date

Received in Mayor's Office



Mayor
12/6/05
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: December 1, 2005

Subject: Rezoning for DePalma Addition (R-PZD 05-1798)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for DePalma Addition, submitted by H2 Engineering, Inc. This action will establish a unique zoning district for a residential subdivision on a 10.04-acre tract located at the south end of Anson Road.

BACKGROUND

The subject property contains approximately 10.04 acres of undeveloped tree-canopied hillside south of Anson Road on Mount Sequoyah. It is currently zoned RSF-4, Residential Single-Family Four Units Per Acre. The applicant requests rezoning approval for a unique R-PZD zoning district. The proposed use of the site is for a single family development with five large single-family lots (2.00 to 2.04 acres).

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on November 28, 2005. A Planned Zoning District (PZD) requires City Council approval as it includes zoning approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

The site is located on a steep hillside. The developer has incorporated large lots with 50-foot building setbacks off of all property lines and tree preservation measures. These zoning requirements minimize the amount of impact on the hillside and are compatible with the surrounding large-lot development. In addition to tree preservation requirements for a PZD, the applicant has committed that no live tree removal will be allowed from the building setbacks, other than for the construction of a driveway, without the prior authorization of the City of Fayetteville Urban Forester. Finding the proposal compliant with the intent and spirit of the ordinance and compatible with developing land in the vicinity, staff and the Planning Commission recommend approval of this R-PZD.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1798, DEPALMA ADDITION, LOCATED AT THE SOUTH END OF ANSON STREET, CONTAINING APPROXIMATELY 10.04 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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-4, Residential Single-Family, 4 units per acre, to R-PZD 05-1798 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. 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

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
MDP R-PZD 05-1798

BOUNDARY DESCRIPTION:

A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 14-16-30 SAID POINT BEING A FOUND 3/8" REBAR AND RUNNING THENCE S86°43'37"E 330.06 FEET; THENCE S02°13'23"W 1322.09 FEET; THENCE N87°31'00"W 330.00 FEET; THENCE N02°13'23"E 1327.05 FEET TO THE POINT OF BEGINNING CONTAINING 10.04 ACRES MORE OR LESS, SUBJECT TO UTILITY EASEMENTS AND RIGHT OF WAY RECORD, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

DRAFT



PC Meeting of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~November 17, 2005~~ December 1, 2005

R-PZD 05-1798: Planned Zoning District (DePalma Addition, 487): Submitted by H2 ENGINEERING, INC. for property located at the SOUTH END OF ANSON STREET. The property is zoned RESIDENTIAL SINGLE-FAMILY FOUR UNITS PER ACRE (RSF-4) and contains approximately 10.04 acres. The request is to approve a Master Development Plan for a Residential Planned Zoning District (R-PZD) with five single family lots and a private drive.

Property Owner: JOHN OATES
Planner: ANDREW GARNER

Submitted on behalf of: BARBER DEVELOPMENT

Findings:

Property Description and Setting: The subject property consists of approximately 10.04 acres located south of Anson Road. The property is an undeveloped, heavily tree canopied hillside on Mount Sequoyah with right-of-way onto Anson Street. This property was included as an out-parcel in the Biella Estates Preliminary Plat that was approved at the September 26, 2005 Planning Commission meeting. At that time it was indicated that a PZD would be processed for this tract. The site is currently zoned and surrounded entirely by RSF-4 zoning. Surrounding land uses include undeveloped wooded hillside to south and east, and residential single family uses to the north and west. The Mount Sequoyah Preserve City Park is south of the property, and property identified to be donated into this preserve as part of the Biella Estates development is immediately east of the site.

Proposal: The applicant requests a rezoning approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a single family development with large lots ranging from 2.00 to 2.04 acres consisting of five single-family lots.

Process: The purpose of the subject request is for a rezoning approval in order to secure entitlement for the property with a concept of large-lot single family residential uses. As recently approved by the City Council, an applicant has the option of presenting a Master Development Plan – Planned Zoning District without development-level plans. This action would effectively rezone the property based on the conceptual plans and information provided. However, it does

not give development approval. The applicant is required to return through the preliminary plat process in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

Bulk and area criteria, while usually provided within the staff report, have been provided in duplicate by the applicant. The project booklet provided gives the zoning criteria in detail, as do the Master Development Plans. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Water & Sewer: Water and sewer lines are currently available in the area, and would be designed and constructed in accordance with city specifications to serve the development.

Access: The applicant proposes construction of a private street (20' access easement) extending through the end of the Anson Street cul-de-sac through the site.

Adjacent Master Street Plan Streets: Anson Street (local street).

Street Improvements: The condition of Anson Street would be evaluated at the time of development and may require improvements in accordance with Master Street Plan standards for a local street.

Parks: The site is adjacent to the Mount Sequoyah Preserve. No onsite recreational facilities or parkland is planned at this time.

Tree Preservation: Tree preservation and protection will be implemented in accordance with Section 167 of the Unified Development Code at the time of development. The applicant has committed that no live tree removal will be allowed from the building setbacks (50 feet from all property lines), other than for the construction of a driveway, without the prior authorization of the City of Fayetteville Urban Forester.

Public Comment: Staff has not received any objectionable public comment.

Recommendation: Staff recommends forwarding R-PZD 05-1798 to the City Council with a recommendation of approval and with the following conditions:

Conditions of Approval:

1. Planning Commission determination of a waiver request to reduce the required 22-foot wide pavement section for a two-way private street to the proposed, maximum 20-foot wide pavement section (UDC Section 166.06(B)(10)). *Staff recommends approval of this waiver, finding that with the low density and traffic to be served by the street and lack of connection to other streets in the area, the requested 20-foot width is adequate on this hillside. Construction standards shall meet with City approval at the time of development.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION

(11/28/05).

2. Planning Commission determination of a waiver request for a dead-end private street longer than 500 feet in length. *Staff supports this request finding the Mount Sequoyah Preserve's significant topography and other developed property does not allow for a reasonable street connection.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION
(11/28/05).

3. Development on the subject property shall comply with those ordinances in effect at the time of submittal including but not limited to the Hillside Overlay District.
4. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
5. Pursuant to city ordinance, development of the property shall be approved by the Planning Commission through the preliminary plat review process. Should a subdivision of land be desired, all applicable ordinances and processes shall be followed in order to meet city ordinances.
6. Prior to development approval, the applicant shall provide proof of available access easement to this site off of the Anson Street cul-de-sac. Access to the proposed maximum five lots shall meet with the approval of the City at the time of development, and is subject to City ordinance for private streets. Public and private streets shall not be gated, pursuant to City ordinance.
7. Parkland dedication requirements shall be met at the time of development. This may include dedication of land, fees-in-lieu, or a combination thereof.
8. No live tree removal will be allowed from the 50-foot building setbacks, other than for the construction of a driveway, without the prior authorization of the City of Fayetteville Urban Forester.
9. Water and sewer service shall be provided in accordance with City standards at the time of development. Detailed plans shall be provided at that time.
10. *Low-scale pedestrian lights shall be utilized on the private street.*

PLANNING COMMISSION ADDED THIS CONDITION (11/28/05).

ADDITIONAL CONDITIONS PLACED UPON THE APPLICANT TO REVISE THE SUBMITTAL WERE MET WITH THE RE-SUBMITTAL PRIOR TO CITY COUNCIL, THEREFORE THESE CONDITIONS HAVE BEEN REMOVED.

Planning Commission Action: Required: YES

☐ Approved ☐ Denied ☒ Forward to City Council ☐ Tabled

PC forwarded to City Council with recommendation for approval by a vote of 9-0-0, with Commissioner Allen making the motion and Commissioner Lack seconding.

Meeting Date: November 28, 2005

Comments: _____

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 05-1798

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 05-1798 with single family dwelling units is consistent with the land use plan and compatible with surrounding land uses and density within surrounding developed property.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow large-lot residential uses compatible with surrounding residential uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is undeveloped hillside on Mount Sequoyah with a large amount of tree canopy. The proposed Master Development would limit a maximum of 5 single-family dwelling units on 10 acres. The low density large lot requirement, combined with compliance with the tree preservation ordinance would help reduce grading and development on the steep hillside more so than allowed under current zoning, and would be

compatible with the natural environment.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: This project would potentially result in five new single-family lots that would generate a relatively small amount of traffic. The condition of Anson Street and other local streets would be evaluated at the time of development to determine appropriate street improvements that would be associated with this development.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan and project booklet have been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural materials and design standards are called out, in order to describe the appearance of the community once constructed.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. Staff finds that the proposal herein does incorporate an acceptable level of compatibility. Density, maximum dwelling units and building area have been addressed for each lot, and tree preservation is

proposed to meet City of Fayetteville standards, allowing for a project that enhances the neighborhood.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening for the proposed large-lot residential uses in this vicinity is not required, although the proposed commitment to preserving trees in the 50-foot building setbacks will screen this development.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The five proposed single-family lots accessed off of a private drive ending in a cul-de-sac would not compound traffic congestion or create a dangerous traffic condition. Appropriate improvements to Anson Street and other potentially impacted streets would be evaluated at the time of development.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the proposed single-family residential uses shall apply.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: Perimeter treatment is not required with the proposed single family lots. The Master Development Plan does require a 50-foot building setback off of all property lines which would provide a buffer between the residences. Further, the applicant has committed in the zoning requirements that no live trees may be removed from the building setbacks, except for construction of driveways, without the authorization of the City of Fayetteville Urban Forester.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development to ensure compliance.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights will be provided to the project site, pursuant to city code.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-

de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The private street/drive shall conform to city standards, which has been indicated in the submitted statement of commitments and shown on the plat. The request for a 20-foot wide street is an exception from the 22-feet required. Due to the low traffic volume and no connectivity, staff recommends in favor of the 20-foot wide pavement width. The private street shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: The project would not result in the construction of nonresidential facilities, other than the infrastructure required to support these five single-family lots.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development. The applicant has committed that no live tree removal will be allowed from the building setbacks, other than for the construction of a driveway, without the prior authorization of the City of Fayetteville Urban Forester.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Not applicable. This PZD does not propose any commercial structures.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Mount Sequoyah is one of the prominent hillsides and scenic areas in Fayetteville, and is a highly visible area in the center of the city. Staff finds that the low density, lot impact nature of this development, combined with the large building setbacks will protect the view of this development from adjacent and surrounding properties, and will help preserve views of Mount Sequoyah.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any

additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
 - (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.

- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposed Master Development Plan complies with the intent of the criteria listed above by requiring large lots with large building setbacks to ensure the low-impact development of the existing hillside and extensive tree canopy.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 05-1798, with one (1) Planning Area. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R - PZD, Residential Planned Zoning District.*

- (1) *Purpose and intent*. The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:
 - (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.
 - (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
 - (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
 - (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed Master Development Plan is more appropriate for the site than the existing RSF-4 zoning or a general rezone to a different residential zoning. The proposed use consists of large-lot single-family residential uses consistent with the existing surrounding, relatively low density development on Mount Sequoyah. The proposed PZD allows zoning requirements to be enforced ensuring that these five lots will be developed in a compatible manner with the existing Mount Sequoyah Preserve, hillside, dense tree canopy, and residences. Existing adjacent land uses have been considered in the creation of this zoning district, as evidenced by the large lots, building setbacks, and commitment to tree preservation. Improvements to infrastructure may be required in order to ensure that the local streets that serve these five lots are in adequate condition, and to extend water and sewer to the site. By creating large lots with large building setback and a maximum building area of 10% of the 2-acre lots, the Mount Sequoyah Hillside and tree canopy would be developed less intensively and intrusively than allowed under current zoning. This type of low impact development on Mount Sequoyah is an appropriate use and benefit to this community and Fayetteville at large.

- (2) *Permitted uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.
- (4) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: See Zoning Criteria Chart within the project booklet provided by the applicant for the uses permitted by right and by conditional use in each Planning Area as proposed by the applicant. This project booklet, if approved, will remain on file in the Planning Division for comparison to future development on the property.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from RSF-4, Residential Single Family, 4 units per acre, to R-PZD 05-1798, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Residential Area. Rezoning this property to R-PZD 05-1798, with the associated Master

Development Plan, retains residential uses on the site. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the General Plan 2020 for new development.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning of these 10 acres on Mount Sequoyah is consistent with the General Plan 2020 policies related to the designated residential use of the area, preservation of environmental resources, and community character. The proposed Master Development Plan requires less intense development than the current RSF-4 zoning, and maintains a similar large-lot density pattern as surrounding property, which is not required under the current RSF-4 zoning.

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 needed in order to ensure that development of this environmentally sensitive area of Fayetteville is developed at a reasonable density that is compatible with adjacent properties. Additionally to allow a private street to provide for access, a Planned Zoning District is required.

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

Finding: Under the current RSF-4 zoning, the 10-acre site could potentially yield 40 single-family units, resulting in approximately 400 vehicle trips per day. Under the proposed R-PZD 05-1798 zoning, the 10-acre site would yield a maximum of 5 single-family units, resulting in approximately 50 vehicles trips per day. The proposed zoning would result in potentially less vehicle trips than the current zoning.

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: As stated in Finding No. 3 above, the proposed zoning would result in a reduction in the number of potential residences on the property. Therefore the population density and subsequent load on public services would also be decreased compared to the current zoning.

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

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469

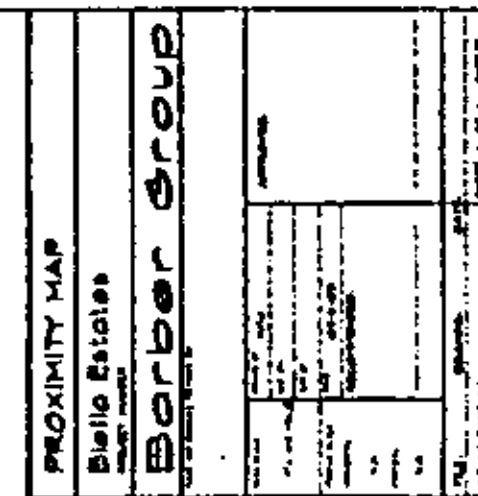
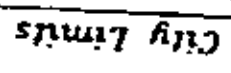
TO: Andrew Garner, Planner
FROM: Alison Jumper, Park Planner
DATE: October 31, 2005
SUBJECT: Parks & Recreation Tech. Plat Review Comments

Meeting Date: November 2, 2005
Item: PZD 05-1797 Depalma Addition
Park District: SE
Zoned: RPZD
Billing Name & Address: Anthony Depalma

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$393 per unit = \$ _____
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- This project is adjacent to land that will be donated to the Parks and Recreation Division with Biella Estates.
- This project will need to be reviewed by the Parks and Recreation Advisory Board for a recommendation regarding park land dedication requirements.
- Please contact Park Staff to coordinate submittal and meeting dates.



-  Existing Park Land
-  Community Park Service
-  Neighborhood Park
-  Mini Park Service



Biella Estates



THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3471

To: H2 Engineering, Inc.
From: Sarah K. Patterson, Urban Forester
Date: October 31, 2005
Subject: Concept Review Comments

ITEM #: R-PZD 05-1798 Planned Zoning District (DePalma Addition)

TREE PRESERVATION PLAN

1. As a Planned Zoning District, by Chapter 167 of the Unified Development Code, the developer is required the most restrictive preservation percent; 25%.
2. A full Tree Preservation Plan will be required with the submittal of plans for this development. This should include but not be limited to canopy calculations, significant tree inventory, and a site analysis.
3. Staff supports running all utilities along the roadway to minimize canopy lose during the installation of infrastructure.
4. Although lots sizes are large, restrictions on these 5 lots is recommended to keep canopy reduction to a minimum once lots are sold to private homeowners. These kinds of restrictions would have to be enforced by a property owners association.
5. Currently, the Urban Forester has no jurisdiction on private property for tree removal. Please see the note under General Project Concept on the Master Development Plan and revise. (see note 4 above) Hillside Ordinance will reverse this and allow for this kind of provision in Hillside Overlay Districts such as this one.

November 7, 2005

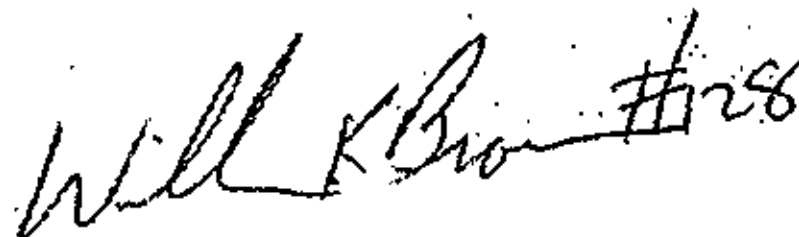
Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **R-PZD 05-1798: Planned Zoning District (Depalma Addition, 487)** submitted by H2 Engineering for property located at S. End of Anson would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Sincerely,



Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE
FIRE DEPARTMENT
OFFICE of the FIRE MARSHAL

TO: Planning

FROM: Battalion Chief Kyle S. Curry *KSC*

DATE: November 07, 2005

RE: MDP for PZD DePalma Addition

Single Family Residential:

- All roads shall have a minimum width of 20 feet
- Hydrant spacing shall not exceed 500 feet (from last existing hydrant)
- Addresses will need to be readily visible from the street
- Driving grades over 10% present special consideration
- Driveways to structures will need to be able to support fire apparatus and give adequate width (if located off of frontage more than 75 feet)

From: Brent O'neal
To: Hennelly, Tom
Date: 11/10/05 12:44PM
Subject: Depalma Addition M-PZD--Engineering Comments

Due to the limited information provided, the comments listed below are of a general nature and do not include requirements from other divisions that may arise later in the development process. The following are Engineering Division comments for the above Planned Zoning District Master Development Plan:

1. Confirm the street cross-section to be proposed. Waivers for street design, cul-de-sac length, etc., may need to be processed. The condition of the street(s) leading to the property will need to be evaluated with the submittal of a preliminary plat. Any off-site improvements will be determined at that time.
2. The water system for the area will need to be studied to show adequacy of pressure and flow. The development may also be in the assessment area for pressure plane improvements.
3. More detail is required for the proposed sewer system. At present, the City has no standards for accepting low-pressure sewer systems. Confirm that the easement for the proposed sewer would be acceptable to the Parks Department as shown.

Brent K. O'Neal, P.E.
Staff Engineer, City of Fayetteville
125 W. Mountain
Fayetteville, AR 72701
479/575-8206
fax 479/575-8202

CC: Casey, Matt; Fulcher, Jesse; Garner, Andrew; Morgan, Suzanne; Pate, Jeremy



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

R-PZD05-1798 (DEPALMA ADDITION, 487)

These 10.04 acres are covered by Engine 1 and Ladder 1 on Center Street.

The property is 2.4 miles from the station with a projected response time of 9 minutes to this development. The 9 minute response time is above our response time goal of having the first unit on the scene within 6 minutes, 90% of the time. Also, our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time, will not be met. The longer than average response time is due to the steepness of Rockwood Trail and the narrow winding road leading down to this development.

The Fire Department anticipates 1 call for service (1 EMS & 0 Fire/Other) once the development is completed and maximum build-out has occurred.

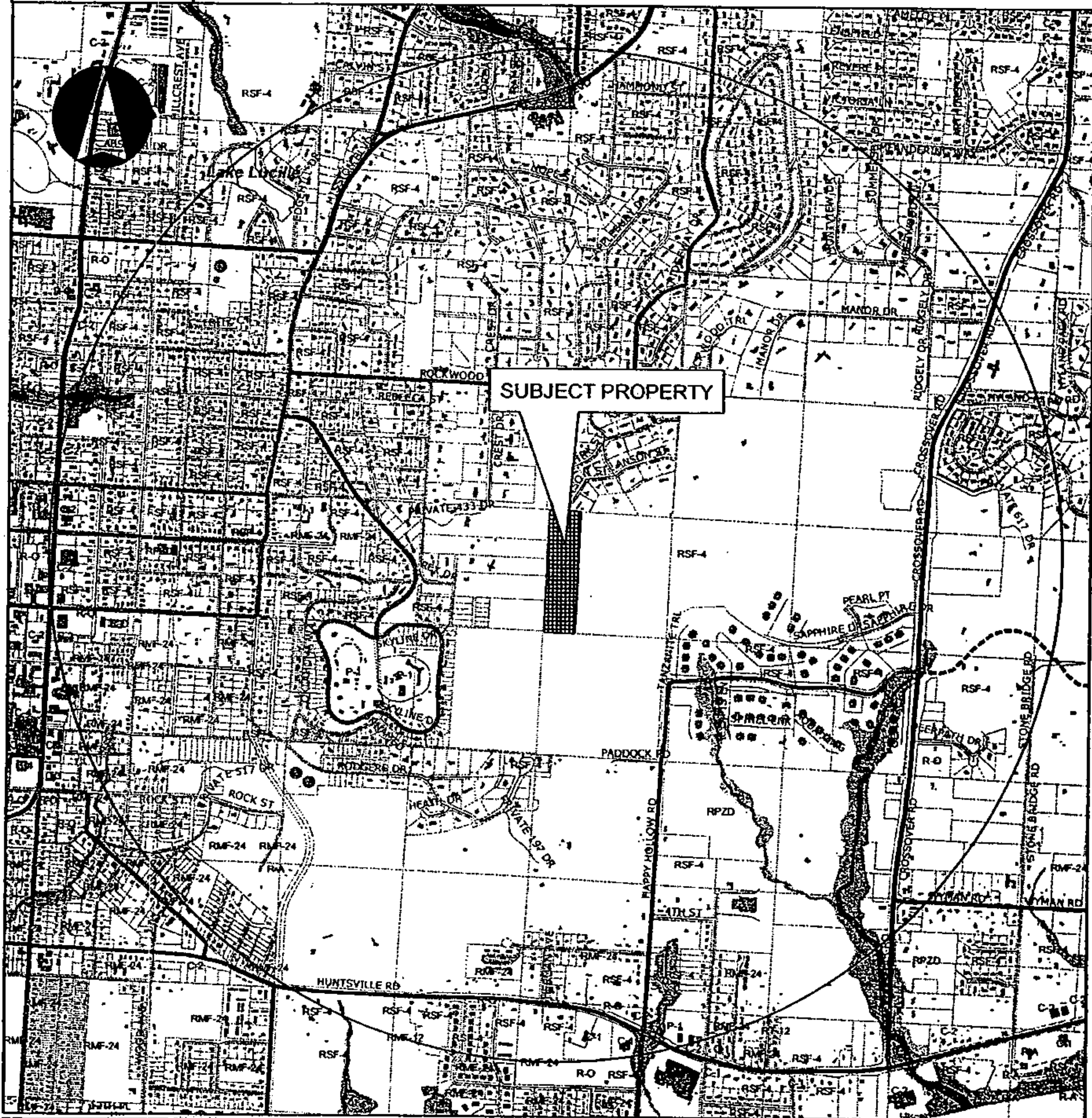
If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department

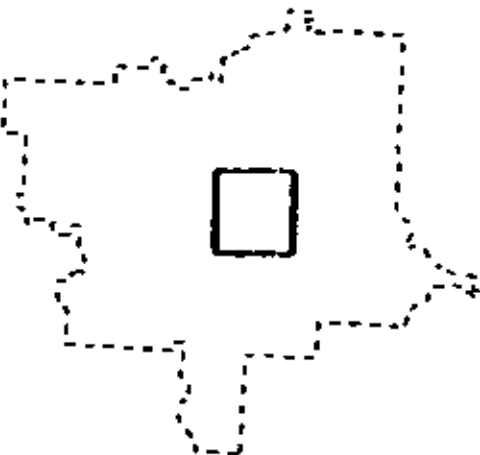
RPZD05-1798

One Mile View

DEPALMA ADDITION



Overview



Legend

Subject Property

RPZD05-1798

Boundary

Planning Area

Overlay District

Outside City

Legend

Building (2004)

0 0.125 0.25

0.5

0.75

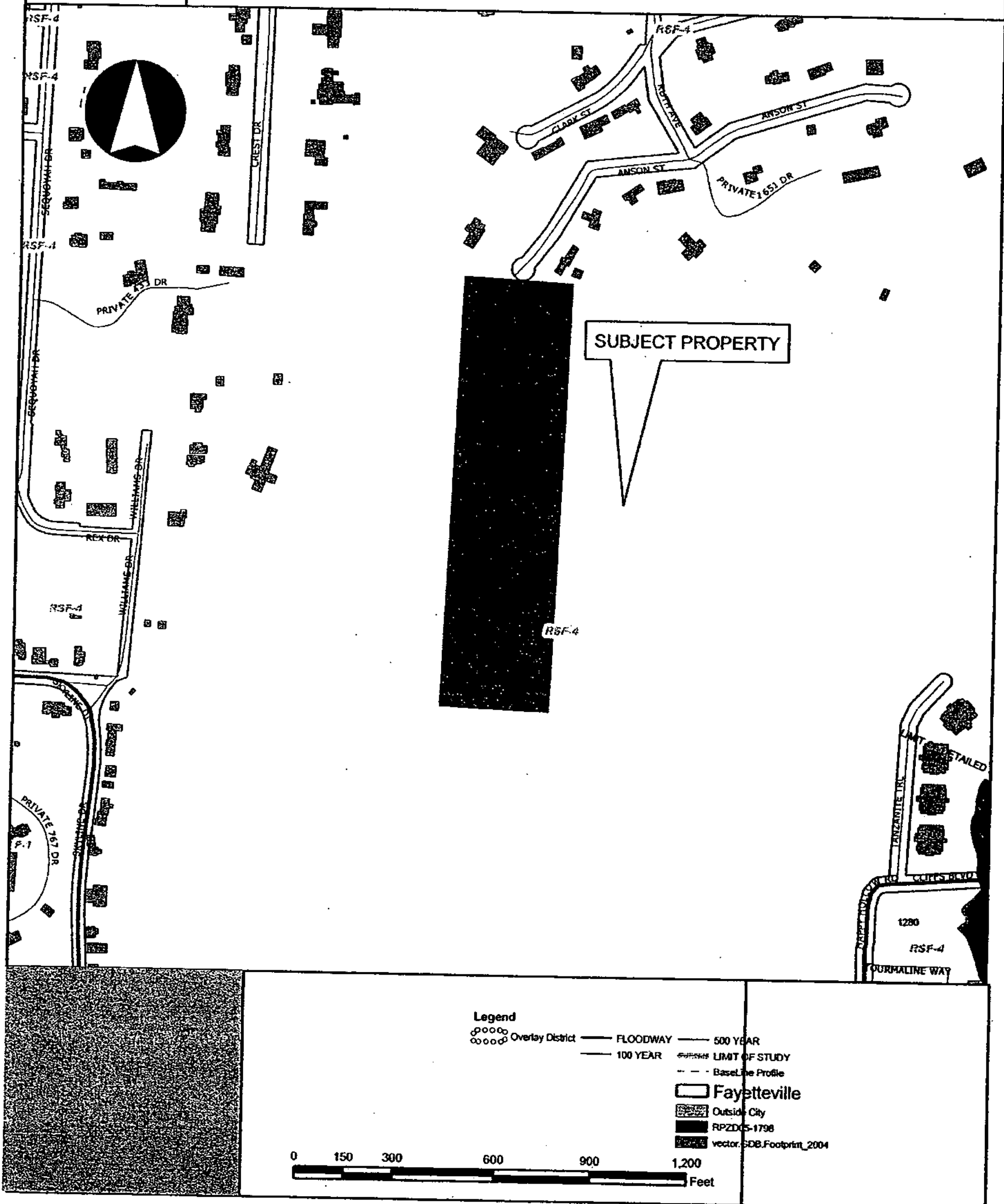
1

Miles

RPZD05-1798

Close Up View

DEPALMA ADDITION





December 1, 2005

Planning Division
City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701

RE: DePalma Addition – MASTER DEVELOPMENT PLAN

Applicant: The Barber Group
2921 South Old Missouri Road
Suite 5
Springdale, AR 72764

Representative: H2 Engineering
2758 Millennium Dr.
Suite 1
Fayetteville, AR 72703

Dear Planning,

Please review this letter and the attached plan sheets for our initial submittal of the Conceptual PZD for The DePalma Addition.

Summary

The DePalma Addition is an R-PZD located in east Fayetteville just south of the western end of Anson Street. We are proposing a 10 acre tract, currently zoned RSF-4, be zoned so it may be split into a maximum of 5-2 acre lots.

General Project Concept

- **Street and Lot Layout** – This R-PZD consists of a maximum of 5 – 2 acre residential lots accessed by a 20 foot wide private drive.
- **Site Plan** – See Master Development Plan Sheet
- **Buffer Areas** – There are no buffer areas proposed for this development although the size of the lots and the allowable bulk and area regulations will effectively buffer these lots from neighboring properties. Fifty foot building setbacks are being proposed on all sides of the lots to ensure sufficient buffer from adjacent property.
- **Tree Preservation Areas** – This property is 100 percent wooded and any significant trees will be located prior to the submittal of the development to

Planning Commission. The only impact this develop will have on the existing canopy is in the proximity of the proposed access and utility easements. No live tree removal will be allowed from the building setbacks, other than for the construction of a driveway, without the prior authorization of the City of Fayetteville Tree and Landscape Administrator.

- Storm Water Detention Areas and Drainage – Runoff from this site is in an easterly direction. The increase in runoff from this property, due to the low impact development, is negligible. No detention is anticipated for this project.
- Undisturbed Natural Areas – This property, even after development will remain largely undisturbed. The developer is proposing 50' front, side and rear building setbacks. This will leave nearly 50 percent of the property undisturbed.
- Existing and Proposed Utility Connections and Extensions – There are no existing utilities located on this property. We are proposing that low pressure sewer, with individual grinder pumps, be located on each lot and be discharged into the existing 8" sanitary sewer on the back lot corner of lots 24 and 25 of the Valley View Addition to the north. Gravity sewer is not practical for this development, due to the low density and the lack of downhill gravity mains in the vicinity. An existing 2 ¼ " cast iron waterline on the east side of Anson Street shall be extended with new P.V.C. pipe conforming to current City of Fayetteville water line standards at the time of installation.
- Development and Architectural Design Standards – This project will consist of large (2 ac. Lots) with a minimum square footage of 3500 for new homes.
- Building Elevations are not being provided at this time.

Proposed Development Phasing and Time Frame

This project consists of 1 phase. This zoning approval is intended for perpetuity. Once a preliminary plat has been submitted for Planning Commission review, the approval of said preliminary plat shall be good for 1 year.

Proposed Planning Areas with Proposed Zoning and Development Standards

This project has only 1 planning area. The project will consist of five new, 2 acre residential lots accessed by a dead end private drive. The private drive shall be a minimum of 18 feet wide with a 50' radius off-set cul-de-sac on the southern end. The drive shall be located in a minimum 20' access easement. The drive shall be constructed of 6" of class 7 base under 2" of Type II or III ACHM. The sub-grade requirements for this street shall be the same as for a city street.

Permitted uses will be single family dwellings and home occupations. The residential unit density will be ½ units per acre. Front, side, and rear setbacks will be a minimum of 50 feet. There will not be any height restrictions.

Materials proposed for the building are brick, hardy-board siding, metal, asphalt shingle, or wood roofing, and stone.

LAND USE TABLE

Symbol	Land use	Density	Units	Acres	%
Res	Residential	0.5	5	10.04	100

PERMITTED USES

Unit	Description
Unit 1	City wide uses by right
Unit 8	Single family dwellings

CONDITIONAL USES

Unit	Description
Unit 24	Home occupations

LAND AREA PER DWELLING UNIT

Lot number	Area
1	2.04
2	2.00
3	2.00
4	2.00
5	2.00

Analysis of the Site Characteristics

No environmentally hazardous, sensitive, or natural resource areas have been found on this site.

Recreational Facilities

This property is adjacent to The Sequoyah Preserve on two sides. No recreational Facilities are planned on this site.

Reason for Zoning Change Request:

To ensure, for perpetuity, the approval of a low density, low impact residential development which promotes the preservation of Mount Sequoyah.

Comparison of the Proposed Master Development Plan to the Current Zoning District Requirements

Description	Current Zoning Requirements	Proposed Zoning Requirements
Permitted Use Units Allowed	Use Unit 1 Use Unit 8	Use Unit 1 Use Unit 8
Conditional Uses	Use Unit 2 Use Unit 3 Use Unit 4 Use Unit 9 Use Unit 24 Use Unit 36	Use Unit 24
Description	Current Zoning Requirements	Proposed Zoning Requirements
Front Setback	25 Ft.	50 Ft.
Side Setbacks	8 Ft.	50 Ft.
Rear Setbacks	20 Ft.	50 Ft.
Maximum Height	None	None

Note: The existing zoning of this property is RSF-4.

Relationship to the Existing and Adjacent Land Uses

The property is bounded on all sides by RSF-4 zoned property. This project will be similar in nature to the surrounding areas. The addition of five lots will add an anticipated fifty vehicle trips per day to the local traffic counts. Land use and appearance will be similar to the existing properties.

Compliance with Fayetteville General Plan 2020

This development does comply with the Fayetteville General Plan 2020 designation of the site as residential. This proposed PZD is consistent with the General Plan 2020 residential designation.

Traffic Study

No traffic study has yet been required for this project and we do not anticipate one being required, due to the small impact this project will have on Anson St.

Impacts on City Services

There are no significant impacts to city services associated with this project.

Statement of Commitments:

Dedication and On or Off-site Improvements

No right of way dedication is being proposed with this development. Utility easements for water, sanitary sewer, electric, gas, telephone and cable T.V. are being proposed. A 20 foot access easement will be dedicated for the private drive.

Natural Resources and Environmental Sensitive Areas

There are no known natural resources or environmentally sensitive areas on this site. This property contains steep topography that is completely covered with tree canopy. It lies adjacent to the Mount Sequoyah preserve.

Project Phasing Restrictions

The phases and estimated completion dates have been established as presented previously herein the master plan for the project. As phasing has been identified, described and approved as part of the PZD master development plan, process phasing may vary from the requirements of Chapter 166 of the UDC with regard to expiration of permits and plans.

Fire Protection

The DePalma Addition will be served by the Fayetteville Fire Department. Station 5 is located approximately 0.8 miles away from the property as the crow flies. This fire department could service this area via an emergency access lane located in the recently approved Biella Subdivision. The next nearest fire station is the Central Station located on Center Street which is 1.46 miles from the property, as the crow flies.

Other Commitments Imposed by the City

There are currently no other commitments imposed by the City.

Parks, Trails and Open Space Commitments

Tree preservation and protection will be implemented in accordance with the City of Fayetteville code of Ordinances Title XV Unified Development Code: Chapter 167 Tree Preservation & Protection.

Proposed Preliminary Building Elevations

No building elevations are being provided with this submittal.

Development Standards, Conditions and Review Guidelines

Screening and Landscaping

No screening or landscaping requirements are being proposed with this development.

Traffic and Circulation

Design of the traffic and circulation on the project will be in accordance with Section 166 of the Unified Development Code. A private drive with a cul-de-sac on the southern end will be designed at the time of preliminary plat submittal.

Parking Standards

No parking lots are being proposed with this development.

Perimeter Treatment

No perimeter treatment is being proposed with this development.

Sidewalks

No Sidewalks are being proposed with this development.

Street Lights

No street lights are being proposed with this development.

Water

Water lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. A 2 ½ " water line is located on the east side of Anson Street, north of the property.

Sewer

Sewer lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. We are proposing pressure sewer be constructed in conjunction with individual grinder pumps at each house. An 8" sanitary sewer line is located at the rear lot corner of lots 24 and 25 of the Valley View Addition which we propose to connect the pressure sewer to.

Streets and Drainage

The private drive shall be constructed of 6" of Class 7 base under 2" of Type II or III ACHM. Engineered sub-grade material may have to be imported depending on existing soil conditions. A minimum of 2' of red hillside shall be required if any under cutting of streets is warranted. A geotechnical study of existing conditions will be performed prior to design. Drainage improvements will be installed as necessary.

Construction of Nonresidential Facilities

Other than the previously stated utilities, no nonresidential facilities are being proposed.

Tree Preservation

Tree preservation and protection will be implemented in accordance with Section 167 of the Unified Development Code. Additionally, no live tree removal will be allowed from the 50-foot building setbacks, other than for the construction of a driveway, without the prior authorization of the City of Fayetteville Urban Forester.

Architectural Design Standards

Architectural design standards shall be as follows:

Exterior shall consist of brick, stone or hardy-board. Roofing materials shall consist of metal, wood, or architectural asphalt shingles.

Signage

No signage is proposed for this development.

View Protection

The low density, low impact nature of this development, coupled with the large building setbacks will protect the view of this development from adjacent and surrounding properties.

Revocations

The developer understands causes for revocation and will take all measures necessary to avoid revocation.

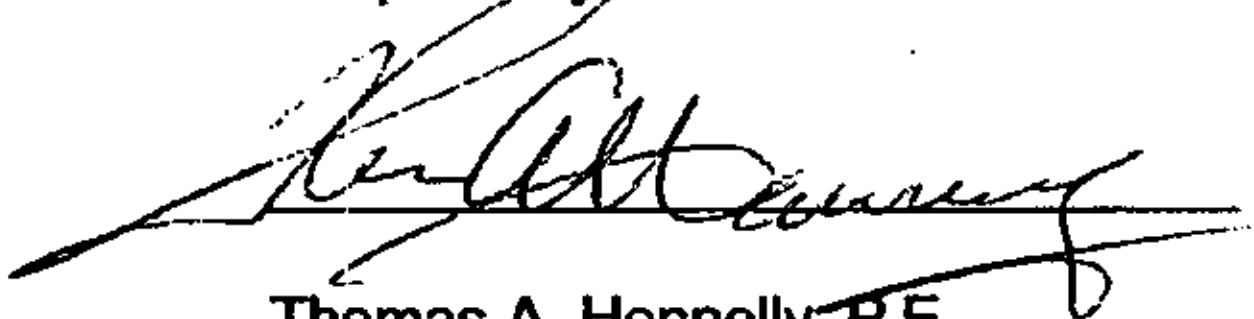
Covenants, Trusts, and Homeowner Associations

There are no covenants, or trusts associated with this project at this time. A home owners association will be formed and will collect annual dues for the maintenance and up keep of the private drive.

In summary, this development fulfills the intent and purpose of the Planned Zoning District ordinance by allowing for large lots with large building setbacks to ensure the preservation of the existing hillside and extensive tree canopy in a low density development.

Thank you for your consideration of our submittal. We look forward to working towards a successful project with you. Please feel free to call if you have any questions or comments.

Respectfully,



Thomas A. Hennelly, P.E.
President
H2 Engineering, Inc.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

20

18-Dec-05

City Council Meeting Date

Connie Edmonston *Coe*
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

Revision of Ordinance 4707 (Code 97.070 - B 1, B 2), clarifying lake recreation fees.

n/a
Cost of this request
n/a
Account Number
n/a
Project Number

n/a
Category/Project Budget
n/a
Funds Used to Date
n/a
Remaining Balance

n/a
Program Category / Project Name
n/a
Program / Project Category Name
n/a
Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

[Signature]
Department Director
12-2-05
Date

Previous Ordinance or Resolution #

Original Contract Date: 97.070

Original Contract Number:

[Signature]
City Attorney
12/7/05
Date

Received in City Clerk's Office



[Signature]
Finance and Internal Service Director
12/7/05
Date

Received in Mayor's Office

[Signature]
Mayor
12/7/05
Date

Comments:

City Council Meeting of

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
From: Connie Edmonston, Parks and Recreation Director *CE*
Date: December 1, 2005
Subject: An admendment to Ordinance 4707 - Lake Recreation

RECOMMENDATION

Parks and Recreation Staff recommends City Council to admend Ordinance 4707, clarifying lake recreation fees at Lake Fayetteville and Lake Sequoyah.

BACKGROUND

On May 17, 2005, City Council approved an increase in the Lake Recreation Fees for Lake Fayetteville and Lake Sequoyah. The new increase is effective January 1, 2006; however, the lakes are closed from December 24 – January 14. When preparing for the 2006 calendar year, Parks and Recreation Staff discovered an inconsistancy in the wording of the ordiance that presented a major problem to Parks and Recreation Staff and a unfair price for citizens of Fayetteville. Under the current ordiance, if three (3) family members were to take a boat onto the lake for an afternoon of fishing, a total fee of \$18 would be charged.

This excessive fee was created by combining the fishing and boating catagories. These catagories were combined for a good reason. Having a separate fishing and boating catagorey presented an opportunity for a citizen to pay only a boating fee, only to decide to fish once they were on the lake, out of view of the Lake Operators. Combining this fee cleans up what could become an unfortunate misuse of the lake.

The other problem with the wording of the ordiance is an inconsistency of the wording in Section B, items 2(a) and 2(b). Section 2(a) states, "Each person 16 years of age or older is required to purchase a *fishing* permit for fishing on each lake or any stream within the city owned lake property." Section 2(b) states, "A *boating* permit applies to the boat rather than the occupants thereof." Under 2(a) a person is required to purchase a fishing permit. However, under 2(b), the occupants are covered under the boating permit.

DISCUSSION

This problem is easily resolved by changing and defining the terminology of the current ordinance. Parks and Recreation recommends City Council to approve the new proposed ordinance that replaces the term "fishing" with "fishing/use". In Section 2(a), the ordinance should read, "Each person 16 years of age or older is required to purchase a *fishing/use* permit for fishing on each lake or any stream within the city owned lake property." Finally, changes in 2(b) should read, "A boating permit applies to the boat

City Council Meeting of

Agenda Item Number

rather than the occupants thereof, *however, all occupants of a boat, 16 years or older must purchase a fishing/use permit.*

By deleting "bank and dock" fishing and adding "fishing/use", the opportunity for a person to go onto the lake for free is eliminated. This was one of the primary goals for the current wording of the ordinance. More importantly, it cleans up the inconsistent wording of the ordinance that overcharges our citizens for use of the lake. Under the revision, the owner/driver of the boat must pay a daily boating/fishing permit of \$6.00. Every other occupant of the boat will be required to pay the fishing/use fee of \$3.00 as opposed charging \$6 per boat occupant. This is not a change in the fees, but in the interpretation of the wording of the ordinance.

Parks and Recreation Staff met with Lake Fayetteville and Sequoyah Boatdock Operators and they both agree that this new wording provides a fair and consistent ordinance to govern our lakes.

BUDGET IMPACT

These permit prices are necessary to maintain the cost of maintaining and operating Lake Fayetteville and Lake Sequoyah. Revising this ordinance should not affect any expenses of the lake. Instead, having a cost that is reasonable to our citizens will prevent current permit sales from declining.

Attachments:

Current Ordinance

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING §97.070 OF THE CODE OF FAYETTEVILLE TO CLARIFY PERMITTING REQUIREMENTS FOR THE RECREATIONAL USE OF CITY-OWNED LAKES.

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

Section 1. That §97.070 (B), City of Fayetteville Code of Ordinances is hereby repealed, and Exhibit "A" attached hereto and made a part hereof, is inserted in its stead.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

EXHIBIT "A"

(B) *Permits for fishing and boating.*

(1) *Permits:*

(a) Season boating and fishing permit (65 and older)	\$40.00
(b) Season boating and fishing permit (16-64)	\$50.00
(c) Daily boating and fishing permit (65 and older)	\$ 5.00
(d) Daily boating and fishing permit (16-64)	\$ 6.00
(e) Season fishing/use permit (65 and older)	\$20.00
(f) Season fishing/use permit (16-64)	\$30.00
(g) Daily fishing/use permit (65 and older)	\$ 2.00
(h) Daily fishing/use permit (16-64)	\$ 3.00
(i) Daily fishing/use permit (under 16 with permitted adult)	Free

(2) *Miscellaneous.*

- (a) Each person 16 years of age or older is required to purchase a fishing/use permit for fishing on each lake or any stream within the city owned lake property.
- (b) A boating permit applies to the boat rather than the occupants thereof; however, all occupants of a boat, 16 years of age or older must purchase a fishing/use permit.
- (c) Daily permits are valid only for use on the date of purchase.

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

Cross reference(s)--Penalty, §97.999.

97.068 Camping Prohibited

No person in a park shall set up or use tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person bring in or leave in a city park after closing hours any structure or vehicle to be used or that could be used for such purpose, such as house trailer, camp trailer, camp wagon or the like.

(Code 1965, §17A-20; Ord. No. 1594, 4-1-68; Code 1991, §97.068)

Cross reference(s)--Penalty, §97.999.

97.069 Horseback Riding

No person in a park shall ride a horse except in Combs Park or on designated bridle trails. Where permitted, horses shall be thoroughly broken and properly restrained and ridden with due care, and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree, or shrub.

(Code 1965, §17A-22; Ord. No. 1594, 4-1-68; Code 1991, §97.069)

Cross reference(s)--Penalty, §97.999.

97.070 Recreational Activities At Lakes Fayetteville, Sequoyah And Wilson

(A) *Hours.* Lake Fayetteville, Lake Sequoyah, and Lake Wilson shall be open to the general public throughout the year from sunrise to sunset daily and shall be closed each day from sunset to sunrise; provided, each lake shall be closed Thanksgiving Day. The boat docks shall be closed on December 24th and shall remain closed through January 14th.

(B) *Permits for fishing and boating.*

(1) *Permits:*

- (a) Season boating and fishing permit (65 and older) \$40.00
- (b) Season boating and fishing permit (16-64) \$50.00
- (c) Daily boating and fishing permit (65 and older) \$5.00
- (d) Daily boating and fishing permit (16-64) \$6.00

- (e) Season bank or dock fishing permit (65 and older) \$20.00
- (f) Season bank or dock fishing permit (16-64) \$30.00
- (g) Daily bank or dock fishing permit (65 and older) \$ 2.00
- (h) Daily bank or dock fishing permit (16-64) \$3.00
- (i) Daily fishing permit (under 16 with permitted adult) Free

(2) *Miscellaneous.*

- (a) Each person 16 years of age or older is required to purchase a fishing permit for fishing on each lake or any stream within the city owned lake property.
- (b) A boating permit applies to the boat rather than the occupants thereof.
- (c) All daily permits are only good during the day of purchase.

(C) *Boat docking.* Boat docking shall be permitted at the boat docks at Lake Sequoyah and Lake Fayetteville on a space available basis to season boating and fishing permit holders for the following per boat annual fees:

(1) Lake Fayetteville

- (a) City resident \$250.00
- (b) Non-resident \$325.00

(2) Lake Sequoyah \$100.00

(D) *Fishing.* All fishing shall be done only from the lake bank or boat. No wading, swimming, or belly boats shall be permitted. Arkansas Game and Fish regulations shall control the number and size of fish which may be caught, however, the Fayetteville Parks and Recreation Division may provide additional requirements necessary to manage the fish population. All persons should check with the boat dock operator before fishing. It shall be unlawful for any person fishing to use trot lines, set lines, limb lines, cast nets, yo-yo's or jug fishing.

(E) *Boating.* A boating permit for each boat must be purchased before its use on the lake. All boats must be docked at the boat

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

landing at lake closing time. No boats except those used by lake employees will be docked at any other location on the lake.

(F) *Place of entry.* All persons are warned to enter the lake for boating or fishing only through the entrance at the lake office. Persons entering the lake property from any other location shall be considered trespassing and subject to prosecution.

(G) *Use of motors on boats.*

(1) In the event that motors are used on boats, the boats shall be operated in such a manner that they will not endanger other boats or the occupants thereof and shall not be operated in such a manner as to create heavy waves causing undue erosion of the shoreline.

(2) No boats shall be permitted within 500 feet of the spillway of Lake Sequoyah.

(3) No houseboats, water skiing, or jet skis allowed. Speeding and boat racing is not permitted and each outboard motor operator is cautioned to operate his motor in a safe and cautious manner. Failure to abide by this requirement will cause loss of boating permit. The dock operator shall revoke the boating permit of any boat which in his judgment is unsafe, overloaded, or operated in a careless manner.

(4) All state laws governing boats must be complied with before using a boat on any city lake. Facilities for docking or landing of boats will be provided, however, the city will not be responsible for any damage or theft of boats, motors or equipment left in boats at docks.

(H) *Picnicking or other recreational activities.* Picnicking is permitted on any part of Lake Fayetteville, Lake Sequoyah, or Lake Wilson or land surrounding said lakes, except within restricted nature areas, which are controlled by the city. Overnight camping is allowed only by special group permit.

(I) *Committing nuisances.* No person shall commit any nuisance while on Lake Fayetteville, Lake Sequoyah, and Lake Wilson or any of the land surrounding the lakes belonging to the city, nor shall any trash or other materials be thrown into the lakes or left about the shore line or on the premises of any lake.

(J) *Fishing and boating prohibited near intake tower.* No one shall climb upon, enter, or fish from the intake towers of the lakes.

(K) *Fishing on stream below dam.* State laws governing fishing below dams shall be applicable on city property. Fishing permits are required to fish in the stream on city property below the dams.

(L) *Firearms and hunting.* No firearms, hunting or trapping will be permitted on city owned property at any time.

(M) *Use of motor vehicles.* No person at Lake Fayetteville, Lake Sequoyah, or Lake Wilson shall drive a motor vehicle or ride a motorcycle, ATV or bicycle on other than a paved vehicular road or path designated for that purpose.

(N) *Revoking permits.* The city shall have the right to revoke any permit issued under this section if it is determined that the permittee willfully violated any of the provisions of this section. When a permit is revoked, there will be no refunds.

(Code 1965, §13-12; Ord. No. 2274, 9-7-76; Ord. No. 2903, 3-1-83; Ord. No. 3164, 1-21-86; Ord. No. 3203, 8-5-86; Ord. No. 3437, 7-5-89; Ord. No. 3533, 2-19-91; Ord. No. 4168, 6-1-99; Code 1991, §97.070; Ord. 4707, 06-07-05)

Cross reference(s)—Penalty, §97.999.

97.071-97.079 Reserved

ARTICLE VI
CONDUCT IN PARKS

**97.080 Gambling Prohibited;
Recreational Activities To Take Place
Only In Suitable Areas**

No person in a park shall gamble, or participate in, or abet any game of chance. Nor shall any person take part in or abet the playing of other forms of recreation except in areas set apart for or conducive to the particular form of recreation.

(Code 1965, §17A-21; Ord. No. 1594, 4-1-68; Code 1991, §97.080)

Cross reference(s)—Penalty, §97.999.

97.081 Intoxicating Beverages

No person in a park shall bring into or consume alcoholic beverages within a city park, nor shall any person enter a park when under the influence of intoxicating beverages.

(Code 1965, §17A-23; Ord. No. 1594, 4-1-68; Code

Lake Recreation Ordinance Revision Proposal

NOTE: Proposed revisions are marked in **bold**.

97.070 Recreational Activities At Lakes Fayetteville, Sequoyah And Wilson

(B) Permits for fishing and boating.

(1) Permits:

- | | |
|---|---------|
| (e) Season fishing/use permit (65 and older) | \$20.00 |
| (f) Season fishing/use permit (16-64) | \$30.00 |
| (g) Daily fishing/use permit (65 and older) | \$ 2.00 |
| (h) Daily fishing/use permit (16-64) | \$ 3.00 |
| (i) Daily fishing/use permit (under 16 with permitted adult) | Free |

(2) Miscellaneous.

- (a) Each person 16 years of age or older is required to purchase a **fishing/use** permit for fishing on each lake or any stream within the city owned lake property.
- (b) A boating permit applies to the boat rather than the occupants thereof; **however, all occupants of a boat, 16 years of age or older must purchase a fishing/use permit.**

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

D. 14
2005 Re-Budgeting Request
Page 1 of 10

December 20, 2005
City Council Meeting Date

Kevin Springer
Submitted By

Budget & Research
Division

Finance & Internal Services
Department

Action Required:

Approve a resolution rebudgeting remaining capital project budgets from 2005 into the 2006 Budget year.

Cost of this request

\$ -
Category / Project Budget

Program Category / Project Name

Account Number

\$ -
Funds Used to Date

Program / Project Category Name

Project Number

\$ -
Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

12/7/05
Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

12/7/05
Date

Original Contract Number:

Finance and Internal Service Director

12/7/05
Date

Received in City Clerk's Office



Mayor

12/7/05
Date

Received in Mayor's Office

Comments:



DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Stephen Davis, Finance & Internal Services Director

FROM: Kevin Springer, Budget Manager 

DATE: December 7, 2005

SUBJECT: **2005 Re-Budgeting Request**

Recommendation

Because of the need for project continuation, staff recommends approval of the re-authorization request at the December 20, 2005 City Council meeting. In addition, staff is recommending approval of any changes to this request that may arise due to finalizing the 2005 year end. Any administrative changes will not increase the use of fund balance for 2005 and 2006. City Council is requested to amend the 2006 Adopted Budget by re-authorizing \$51,313,520 for on-going capital improvements.

A finalized listing of the capital project rebudgets will be submitted to City Council as part of the 2006 Quarterly Management Report for the First Quarter.

Background

At the close of each budget year, City Staff routinely requests re-authorization of on-going capital projects and re-authorization of some operational funding that was not committed during the prior budget year.

Discussion

This request retains project funding for identified and scheduled capital improvements for the current fiscal year. Currently, all uncommitted capital projects are placed on hold until City Council can re-authorize the unexpended funds into 2006.

For 2005, no operational funds were included in this re-authorization proposal. Please find attached a schedule of capital projects by Improvement Type which were included in the 2005 Budget but did not incur a financial obligation during the 2005 fiscal year. The 2005 estimated unreserved fund balance/retained earnings for the respective funds reflect the cost of the requested re-budgets. Therefore approval for these items, to be made part of the 2006 authorization, will not impact the City's budgeted financial position.

The re-authorization of prior year's appropriated projects and items is a normal operating procedure and is generally for one-time expenses. Approval of this request will allow the 2006 Budget to be increased to reflect the attached information. Several of the requested re-authorizations include revenue offset in the form of grant revenues.

RESOLUTION NO. _____

A RESOLUTION AMENDING THE ADOPTED 2006 BUDGET TO RE-AUTHORIZE \$51,313,520.00 FROM 2005, IN ORDER TO RETAIN PROJECT FUNDING FOR IDENTIFIED, SCHEDULED AND ON-GOING CAPITAL IMPROVEMENTS.

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 amends the Adopted 2006 Budget to re-authorize \$51,313,520.00 from 2005, in order to retain project funding for identified, scheduled and on-going Capital Improvements.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

Total requested re-budgets for all funds are \$51,313,520 as reflected in the following worksheet. These amounts will require City Council action. For your information, a summary by Funding Source and Improvement Type is included in the table below.

City of Fayetteville, Arkansas

- Summary of 2005 Capital Project Rebudgets

<u>Funding Source</u>	<u>Project Category</u>	<u>2005 Rebudget</u>
General Fund:	Parks & Recreation Improvements	\$ 500,000
	Other Capital Improvements	31,380
		<u>531,380</u>
Off-Street Parking Fund:	Transportation Improvements	68,272
		<u>68,272</u>
Parks Development Fund:	Parks & Recreation Improvements	1,237,339
		<u>1,237,339</u>
Impact Fee Fund:	Water & Sewer Improvements	909,170
		<u>909,170</u>
Sales Tax Capital Improvements Fund:	Street Improvements	5,354,723
	Bridge & Drainage Improvements	1,376,813
	Water & Sewer Improvements	106,215
	Parks & Recreation Improvements	1,324,968
	Vehicles & Equipment Improvements	20,780
	Aviation & Economic Development Improvements	60,000
	Library Improvements	23,000
	Fire Improvements	3,100,151
	Transportation Improvements	270,586
	Information Technology Improvements	209,473
	Other Capital Improvements	149,924
	Police Improvements	21,131
		<u>12,017,764</u>
Wastewater System Improvements Project Fund:	Wastewater Treatment Improvements	27,110,180
		<u>27,110,180</u>
TIF Fund:	Other Capital Improvements	180,000
		<u>180,000</u>
Water & Sewer Fund:	Water & Sewer Improvements	7,762,593
	Water & Sewer Services Improvements	249,097
	Wastewater Treatment Improvements	138,580
		<u>8,150,270</u>
Solid Waste Fund:	Solid Waste Improvements	170,101
		<u>170,101</u>
Airport Fund:	Aviation & Economic Development Improvements	402,391
		<u>402,391</u>
Shop Fund:	Vehicles & Equipment Improvements	536,653
		<u>536,653</u>
Total - All Funding Sources		<u>\$ 51,313,520</u>

Below is a table that shows the past history of re-appropriations for the last five years.

	2001	2002	2003	2004	2005
Operational	\$ 2,100,384	\$ 908,919	\$ 88,515	\$ -	\$ -
Capital	20,196,507	25,839,987	23,907,707	19,442,449	24,203,340
Wastewater Project	-	13,200,000	34,575,984	110,892,005	27,110,180
	<u>\$ 22,296,891</u>	<u>\$ 39,948,906</u>	<u>\$ 58,572,206</u>	<u>\$ 130,334,454</u>	<u>\$ 51,313,520</u>

Budget Impact & Closing

All of the funds requested in this re-authorization come from unexpended funds. They do not increase the use of reserves over what was approved in the 2006 Annual Budget. This request just simply retains project funding for identified and scheduled capital improvements for the current fiscal year.

If you have any questions concerning the attachment or the procedure, please feel free to contact either Kevin Springer (575-8226) or Stephen Davis (575-8330) Thank you for your attention to this request.

City of Fayetteville, Arkansas

- Detail Listing of 2005 Capital Project Rebudgets

Funding Source	Project Category	Project Description	Rebudget
General:	Other Capital Improvements	Hillside Preservation Ordinance Develop	1,500
		Land Sale/Sewer Improvements IPark 15WX	29,880
		Scul Creek Trail Corridor	500,000
		Parking Deck Rehabilitation	13,444
		Parking Garage(s)	30,000
		Parking Lot Equipment Improvements	24,828
		Community Park Development	986,371
		Gordon Long/Red Oak Improvements	10,476
		Gulley Park Improvements	29,000
		Lake Fayetteville Trails - Grant	(20,000)
		Lake Fayetteville Trails	60,801
		Lake Fayetteville/Sequoyah Improvements	33,341
		Other Park & Safety Improvements	2,579
		Park Beautifications	29,931
		Park Beautifications - Grant	(35,000)
		Skate Park	23,831
		Trail Development	36,338
		West Mudd Creek Trail Expansion - Revenue	(114,587)
		West Mudd Creek Trail Expansion	192,530
		White River Baseball Complex Improvement	1,728
		Mount Sequoyah Pressure Plane Impvs	850,000
		Water Impact Fee Cost Sharing Projects	59,170
		Cleveland Street Imp - Leverett to Hall	18,528
		Gregg - Fulbright to Township ROW	28,824
		Highway 265 ROW, Mission to City Limits	1,000,000
		Huntsville & Happy Hollow - Intersection	548,799
		Kings Drive Improvements	8,222
		Mission & Maple - Signalization	140,832
		Morningside Dr & 15th St - Signalization	220,530
		Mount Comfort & Shiloh - Right-of-Way	400,000
		Mount Comfort Road - Widening & Turn Lan	550,000
		Old Missourl - Rolling Hills to Old Wire	76,462
		Other Intersection Improvements	200,000
		School & Archibald Yell - Intersection	26,826
		Shiloh, Gregg, & Fulbright - Turn Lanes	157,473
		Street ROW / Intersection / Cost Sharing	221,511
		Township Widening - Gregg to N College	1,000,811
		Van Asche Boulevard - Cost Sharing	(1,032,788)
		Van Asche Boulevard - Cost Sharing	1,757,588
		West Avenue & Maple Street - Signalizati	31,105
Impact Fee:	Water & Sewer Improvements		
Sales Tax Capital Improvements:	Street Improvements		

City of Fayetteville, Arkansas

- Detail Listing of 2005 Capital Project Rebudgets

Funding Source	Project Category	Project Description	Rebudget
	Fire Improvements	Fire Apparatus Lease Payments - BoA	55,784
		Fire Apparatus Purchase Leasing Program	21,605
		Fire Facility Maintenance	6,545
		Fire Station #3 - Expansion	842,000
		Fire Station #3/#5 - Lease Payment	325,000
		Fire Station #5 - Relocation	1,849,217
	Transportation Improvements	CMN Development - Traffic Signals	10,537
		CMN Development - Traffic Signals	(10,537)
		In-House Pavement Improvements	90,318
		M.U.T.C.D. Sign Material	36,717
		Sidewalk Improvements	127,775
		Sidewalk Improvements	4,897
		Traffic Signal Improvements	10,879
	Information Technology Improvements	Accessfayetteville Technical Improvements	5,201
		District Court Software Improvements	100,000
		Document Imaging System	21,253
		Geographic Information System	16,252
		Microcomputer Replacements	4,395
		Municipal Management System	23,346
		New World Systems Supplemental Software	12,834
		Printer Replacements	26,192
	Other Capital Improvements	Building Improvements - Leased Buildings	15,751
		Copier Purchase Replacements	12,305
		Copier Purchase Replacements	20,003
		P.E.G. Television Center - Equipment	81,397
		Shelter Quarantine Upgrade	11,768
		Telecommunication Systems Upgrades	1,254
		TIF District Feasibility Cost Study	7,446
	Police Improvements	Joint Public Safety Command Center	4,803
		Police Building Improvements	8,227
		Specialized Police Equipment	8,101
	Bridge & Drainage Improvements	Amber Drive Drainage Improvements	20,715
		AHTD Bridge Cost Sharing Program	543,000
		Drainage Study/Phase II Stormwater Mgt	203,288
		Holly & Vista Dr Drainage Improvements	69,095
		Other Drainage Improvements	324,135
		Shenandoah Drainage Improvements	216,580
	Water & Sewer Improvements	Broyles Road Extension Improvements	87,068
		Water System Master Plan Study	19,147

City of Fayetteville, Arkansas

- Detail Listing of 2005 Capital Project Rebudgets

Funding Source	Project Category	Project Description	Rebudget
	Parks & Recreation Improvements	Center Prairie Trail	6,951
		Community Park Development	616,599
		Fayetteville Multi Use Trail	95,702
		Forestry, Safety, & ADA Compliance	54,445
		Gordon Long/Red Oak Improvements	135,478
		Gulley Park Improvements	50,000
		Lake Fayetteville/Sequoyah Improvements	101,728
		Lights of the Ozarks	45,150
		Lights of the Ozarks	14,895
		Neighborhood Park Development	10,683
		Neighborhood Park Development	(51,165)
		Other Park & Safety Improvements	22,525
		Park Beautifications	34,349
		Park Beautifications	(1,601)
		Playground & Picnic Improvements	6,700
		Playground & Picnic Improvements	(6,700)
		Trail Development	140,175
		Walker Park Senior Complex	24,707
		Walker Park Trails	24,347
		Police Expansion Vehicles	20,780
		Economic Development Matches	60,000
		Library Computer Replacements	23,000
		Wastewater System Improvements Project	27,110,180
		Hwy 71 East Square Redevelop Dist. No. 1	180,000
		Plant Pumps and Equipment - W.W.T.P.	39,740
		Testing Equipment - W.W.T.P.	1,320
		Upgrade/Replace Lift Stations - W.W.T.P.	67,562
		W.W.T.P. Building Improvements	20,000
		Wastewater Treatment Plant Generator	9,958
		Broyles Road Extension Improvements	18,829
		Farmington Sewer Rehabilitation	480,556
		Gregg - Waterline Relocation	81,659
		Gregg Street Lift Station Remediation	55,000
		HWY 62 Waterline Relocation Farmington	242,658
		Mount Sequoyah Pressure Plane Impvs	128,549
		Mount Sequoyah W&S System Upgrade	1,922,614
		North College Waterline - Maple to North	120,362
		Razorback Road Utility W/S Relocation	624,819
		Razorback Road Utility W/S Relocation	960,219
		Razorback Road Utility W/S Relocation	(1,390,800)
		S.C.A.D.A. System Upgrade	13,925
Wastewater System Improvements:			
TIF			
Water & Sewer:			
	Vehicles & Equipment Improvements		
	Aviation & Economic Development Improvements		
	Library Improvements		
	Wastewater Treatment Improvements		
	Other Capital Improvements		
	Wastewater Treatment Improvements		
	Water & Sewer Improvements		

City of Fayetteville, Arkansas

- Detail Listing of 2005 Capital Project Rebudgets

Funding Source	Project Category	Project Description	Rebudget
		Sanitary Sewer Rehabilitation	(1,541,700)
		Sanitary Sewer Rehabilitation	4,780,100
		Water and Sewer Cost Sharing	230,026
		Water Line Projects as Needed	97,900
		Wedington Utility W/S Relocations	1,248,963
		Wedington Utility W/S Relocations	(1,233,500)
		Wedington Utility W/S Relocations	268,168
		36" Waterline Replacement & Protection	654,246
		Business Office Improvements	49,261
		Water & Sewer Rate/Operations Study	2,569
		Water & Sewer Rate/Operations Study	9,791
		Water Meters	187,476
		Collection Bins - Curbside Recycling	29,605
		Composter/Mulcher ADEQ Grant Purchase	5,481
		Composter/Mulcher ADEQ Grant Purchase	(8,029)
		Composting Site Improvements	36,374
		On-Board Scale	10,000
		Recycling Improvements	22,620
		Residential Carts - Volume Based Program	75,749
		Roll-Off Recycling Boxes ADEQ Grant	5,266
		Roll-Off Recycling Boxes ADEQ Grant	(11,965)
		Solid Waste - Loader	(37,661)
		Solid Waste - Loader	37,661
		Solid Waste Radios	5,000
		Airport Expansion Equipment (AIP#21 REV)	52,494
		East Corporate Hangars 60' x 60'	43,835
		East Corporate Hangars - Phase II,III,IV	(100,000)
		East Corporate Hangars - Phase II,III,IV	166,985
		East Taxiway and Hangar Apron Extensions	23,130
		East Taxiway and Hangar Apron Extensions	(17,234)
		Fire Sprinkler System - Air Museum	(33,750)
		Fire Sprinkler System - Air Museum	43,380
		NW Ark Aviation Tech Center Funding	54,000
		Roof Maintenance Program	16,088
		T-Hangar Wiring Maintenance	5,764
		Taxiway A Extension Phase I	(72,266)
		Taxiway A Extension Phase I	72,266
		Terminal Building Rehabilitation	260,650
		Terminal Building Rehabilitation	(100,000)
		West General Aviation Apron	91,902
		West General Aviation Apron	(218,226)

City of Fayetteville, Arkansas

- Detail Listing of 2005 Capital Project Rebudgets

Funding Source	Project Category	Project Description	Rebudget
Shop:	Vehicles & Equipment Improvements	8 Bay T-Hangars	13,373
		8 Bay T-Hangars	100,000
		Wash Bay & Covered Storage Improvements	38,347
		Fleet - Back Hoe/Loaders	(52,999)
		Fleet - Back Hoe/Loaders	47,000
		Fleet - Construction Equipment	90,000
		Fleet - Light/Medium Utility Vehicles	1,858
		Fleet - Light/Medium Utility Vehicles	(53,892)
		Fleet - Medium/Heavy Utility Vehicles	107,240
		Fleet - Other Vehicles/Equipment	172,959
		Fleet - Other Vehicles/Equipment	(35,000)
		Fleet - Police/Passenger Vehicles	75,790
		Fleet - Sanitation Vehicles/Equipment	(134,972)
		Fleet - Sanitation Vehicles/Equipment	323,868
		Fuel Storage Improvements - Replacement	16,913
		Police Expansion Vehicles	99,541
		Police Expansion Vehicles	(160,000)
			51,313,520

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
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D.15.
Bond Purchase Agreement
Page 1 of 14

20-Dec-05

City Council Meeting Date

Stephen Davis

Submitted By

FIS Director

Division

Finance & Internal Services

Department

Action Required:

Approval of a bond ordinance authorizing the Mayor to execute a bond purchase agreement with the Arkansas Natural Resources Commission and the Arkansas Development Finance Authority for \$20 million to be used to fund a portion of the costs associated with the Wastewater System Improvements Project (West-side Treatment Plant and associated Lines/Lift Stations) and authorize City Staff to prepare the required budget amendments/payments to implement the bond purchase agreement.

Debt Service Funded By a Dedicated

3/4% Sales & Use Tax

Cost of this request

Category/Project Budget

WSIP

Program Category / Project Name

Account Number

Funds Used to Date

Program / Project Category Name

\$

Remaining Balance

Wastewater Construction Improvement

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

4624, 4389 &
4327

Original Contract Date:

Original Contract Number:

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office

Mayor

Date

Received in Mayor's Office

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and Fayetteville City Council

FROM: Stephen Davis, Finance & Internal Services Director 

DATE: December 2, 2005

SUBJECT: **Bond Ordinance – Arkansas Natural Resources Commission**

Recommendation

Approval of a bond ordinance authorizing the Mayor to execute a bond purchase agreement with the Arkansas Soil and Water Conservation Commission and the Arkansas Development Finance Authority for \$20 million to be used to fund a portion of the costs associated with the Wastewater System Improvements Project (West-side Treatment Plant and associated Lines/Lift Stations) and authorize City Staff to prepare the required budget amendments/payments to implement the bond purchase agreement.

Background/Discussion

Fayetteville citizens by public vote authorized the issuance of up-to \$125 million in sales tax backed bonds to fund the projects costs associated with the WSIP improvements. This request will utilize the remaining voter authorization for the sales tax backed bond issues. City Council previously approved utilizing market bonds to complete the voter approved sales tax backed debt for the WSIP. However, the interest rates increased prohibiting the City from issuing the full amount authorized. A copy of the financing presentation to the Fayetteville Sewer Committee is attached for review.

This bond (loan) is for \$20 million and functions as a draw-down loan. The loan interest rate is 3% fixed interest. The Bond Purchase Agreement also contains mandatory redemption requirements for any sales taxes collected that are in excess of the scheduled payment. The excess sales tax collections first go to redeem the 2005B (\$45 million) Series Bonds and then will apply ANRC Loan (\$20 million) this loan with the 2005A (\$27 million) redeemed no-later-than 2009. The 2002 bonds have been paid off. The City and the Arkansas Natural Resources Commission are committing to a disbursement cut-off date of October 15, 2008. This contract provision means that the City must request or draw-down all of the funds before October 15, 2008. Any cost for the project that is in excess of the \$125 million or is after October 15, 2008 will have to be funded from other City sources.

Budget Impact

The annual debt service cost is included in the City's Adopted Budget.



THE CITY OF FAYETTEVILLE, ARKANSAS

Wastewater System Comprehensive Plan of Finance

November 29, 2005



Table of Contents

Wastewater System Improvements

Section

1

Analysis of Sales and Use Tax Financing

2

Overview of Water & Sewer System Debt

Outstanding Debt

Debt Service Requirements

Additional Bonds Test

Coverage Analysis

Coverage Calculations

3

Recommended Approach for System Revenue Financing

City of Fayetteville
Wastewater System Financing

Sales Tax Analysis

\$20,000,000 in Additional Obligations

Sales Tax Financing Objectives

- **Provide flexibility in construction contract procurement.**
- **Maximize the funds available for project construction.**
- **Minimize the term of the financing in order to structure a cost effective approach to fund capital projects.**

Coverage Analysis

Projected Sales Tax Receipts			
Date	Revenue	Date	Revenue
12/1/2005	\$11,334,802.96	12/1/2010	14,125,225.52
12/1/2006	11,844,868.09	12/1/2011	14,760,860.67
12/1/2007	12,377,887.15	12/1/2012	15,425,099.40
12/1/2008	12,934,892.08	12/1/2013	16,119,228.46
12/1/2009	13,516,962.22		

- Additional Bonds Test for Series 2005 Sales and Use Tax Bonds – 125% of average outstanding debt service and proposed additional bonds.
- Average annual debt service on outstanding debt and Revolving Loan Fund (RLF) \$4,158,095.97.
- Coverage 2.73X

Arkansas Soil & Water Revolving Loan Fund (RLF)

City of Fayetteville, Arkansas

Sales and Use Tax Refunding & Construction Bonds

Combined Debt Service

DATE	Series 2005 Final	Series 2007 S&W	TOTAL
12/1/2006	9,337,255.11		9,337,255.11
12/1/2007	9,345,102.50		9,441,437.56
12/1/2008	9,351,502.50	96,335.06	9,934,248.11
12/1/2009	9,356,952.50	582,745.61	10,006,952.50
12/1/2010	9,358,652.50	650,000.00	10,703,046.25
12/1/2011	9,363,690.00	1,344,393.75	10,710,090.00
12/1/2012	9,364,200.00	1,346,400.00	10,706,875.00
12/1/2013	9,366,200.00	1,342,675.00	10,709,500.00
12/1/2014	9,365,000.00	1,343,300.00	10,708,031.25
12/1/2015	3,645,200.00	1,343,031.25	4,992,150.00
12/1/2016		1,346,950.00	1,344,975.00
12/1/2017		1,344,975.00	1,342,106.25
12/1/2018		1,342,106.25	1,343,425.00
12/1/2019		1,343,425.00	1,343,768.75
12/1/2020		1,343,768.75	1,343,137.50
12/1/2021		1,343,137.50	1,346,531.25
12/1/2022		1,346,531.25	1,343,787.50
12/1/2023		1,343,787.50	1,344,987.50
12/1/2024		1,344,987.50	1,345,131.25
12/1/2025		1,345,131.25	1,344,056.25
12/1/2026		1,344,056.25	1,341,925.00
12/1/2027		1,341,925.00	1,343,575.00
12/1/2028		1,343,575.00	1,343,925.00
12/1/2029		1,343,925.00	1,342,975.00
12/1/2030		1,342,975.00	670,725.00
Total	\$87,853,755.11	\$28,880,861.92	\$116,734,617.03

Par Amounts Of Selected Issues

Series 2005 Final	72,000,000.00
Series 2007 S&W	20,000,000.00
TOTAL	92,000,000.00

File | FAYETTEVILLE (S&U).sl | 11/4/2005 | 3:08 PM

Stephens Inc.
Public Finance

**Fayetteville Sales and Use Tax Bonds
Series 2005 Revolving Loan Fund (RLF)**

Call Report

(Assumes 4.5% sales tax growth.)

Date	Revenue	Series 2005 Debt Service	RLF Debt Service	Available for Redemption	Series 2005 Calls	RLF Calls	Balance
11/29/2005	0.00	0.00	0.00	0.00	0.00	0.00	109,738.22
12/1/2006	11,844,868.09	9,337,255.11	0.00	2,617,351.20	1,665,000.00	0.00	952,351.20
12/1/2007	12,377,887.15	9,278,497.00	96,335.06	3,955,406.29	3,005,000.00	0.00	950,406.29
12/1/2008	12,934,892.08	9,164,695.60	582,745.61	4,137,857.16	3,185,000.00	0.00	952,857.16
12/1/2009	13,516,962.22	9,042,713.90	650,000.00	4,777,105.48	3,825,000.00	0.00	952,105.48
12/1/2010	14,125,225.52	8,891,394.40	1,344,393.75	4,841,542.85	3,890,000.00	0.00	951,542.85
12/1/2011	14,760,860.67	8,740,853.80	1,346,400.00	5,625,149.72	4,675,000.00	0.00	950,149.72
12/1/2012	15,425,099.40	8,554,400.00	1,342,675.00	6,478,174.11	660,000.00	4,865,000.00	953,174.11
10/1/2013	13,432,690.87	0.00	1,185,187.50	13,200,671.43	0.00	12,195,000.00	1,005,671.43
TOTALS		\$63,009,809.81	\$6,547,736.92		\$20,905,000.00	\$17,060,000.00	\$7,777,996.46

*Anticipated date sales tax revenues are available to pay off these obligations.

Note: Total Series 2005 Principal and Interest - \$83,914,809.81

Total Revolving Loan Fund Principal and Interest - \$23,607,736.92

OVERVIEW

of the

City of Fayetteville
Water & Sewer System Debt

Outstanding System Debt

Issues	Outstanding Debt	Final Maturity
• Water & Sewer System Refunding Revenue Bonds, Series 2002 A	\$1,385,000	August 15, 2008
• Water & Sewer System Refunding Revenue Bonds, Series 2002 B	\$5,855,000	August 15, 2017
• Water & Sewer System Refunding Revenue Bonds, Series 2004	\$5,375,000	August 15, 2012
Total	\$12,615,000	

Debt Service Requirements

- Maximum Annual Debt \$2,376,105
- Average Annual Debt \$1,319,573

Additional Bonds Test

- 130% of Average Annual Debt on all outstanding and proposed debt

Coverage Analysis

Revenue Available for Debt Service (RADS) based on 2004 Audit

Net operating revenues (excluding depreciation expense)	\$3,933,495
Interest income	\$1,014,579
Operating revenues	<u>\$388,313</u>
Total	\$5,336,387

Coverage Calculations

RADS (÷)	\$5,336,387.00
Average Annual Debt Service	<u>\$1,319,573.00</u>
	4.044X

Recommended Approach for System Revenue Financing

- Recommendation – Obtain a loan from the Arkansas Soil and Water Commission's Revolving Loan Fund to produce \$50,000,000 in project funds at an interest rate of 3.25%.
- Requested Action – The Committee's authorization for Staff and Stephens Inc. to proceed with implementing this Comprehensive Plan of Finance.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Dan Nelson as Trustee of the Dan Nelson Revocable Trust Agreement dated May 8, 1998, and located at parcel Nos. 001-11405-000 and 001-11407-002, located within the Frl. NW-1-16-31 and Frl. NE-2-16-31. Location 9 on attached list and map.

\$13,800.00

Cost of this request

4480-9480-5805.00

Account Number

02133.0305

Project Number

\$ 113,011,587.00

Category/Project Budget

\$ 85,742,915.94

Funds Used to Date

\$ 27,268,671.06

Remaining Balance

Wastewater System Imp Project

Program Category / Project Name

Water and Wastewater

Program / Project Category Name

Water/Sewer

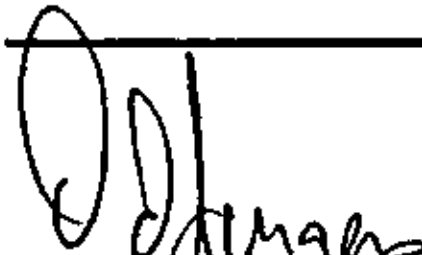
Fund Name

Budgeted Item

☒ XX

Budget Adjustment Attached

☐

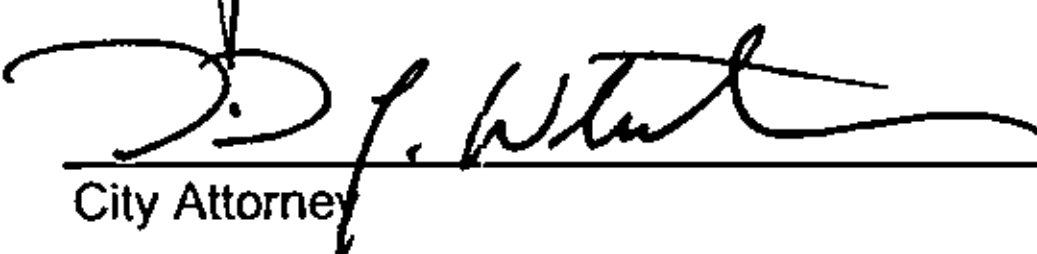

Department Director

2 Dec 05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

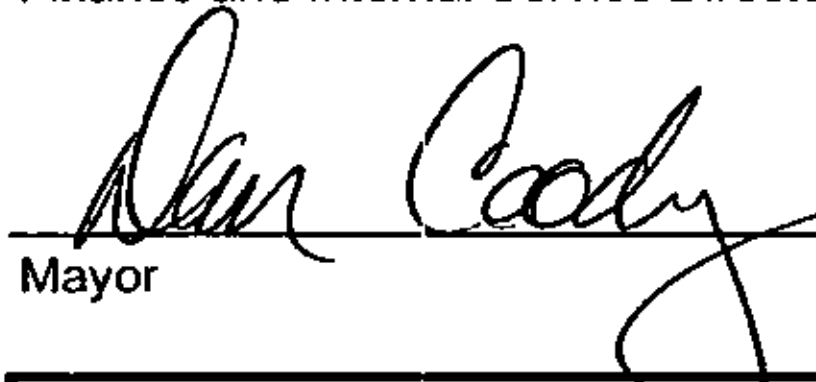
12/5/05
Date


Finance and Internal Service Director

12/5/05
Date

Received in City Clerk's Office

ENTERED
12/21/05
40


Mayor

12/5/05
Date

Received in Mayor's Office

ENTERED
12/5/05
F.H.

Comments:

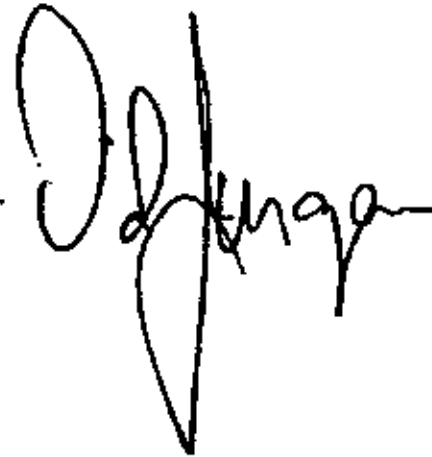
City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 1, 2005

Subject: Approval of nine resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of nine related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. Ninety-one tracts were required; 79 have been acquired. The owners of the remaining 12 tracts have all been contacted via mail, telephone, and in person. We have verbal agreement on two, which are not on the proposed condemnation list. The owners of the remaining 10 tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on December 1, 2005 and are included in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the previous twelve months. Given that we are only obtaining an easement, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, and every other utility. It also significantly exceeds that which the City has paid in the past for water/sewer easements. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Others are waiting for their own appraisal information in order to make a counter offer.

Counter offers have included negotiated agreements pertaining to land restoration, sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are already approved within the 2005 WSIP budget.

Attachments: List of Potential Condemnation
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY THE DAN NELSON REVOCABLE TRUST.

WHEREAS, the City of Fayetteville and the Trustee of the Dan Nelson Revocable Trust have been unable to agree on a fair price for the property owned by them, that is needed for permanent utility and temporary construction easements across Parcel Nos. 765-11405-000 and 765-11407-002; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on the sewer lines that will carry wastewater flows to the new Westside Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel Nos. 765-11405-000 and 765-11407-002, and owned by the Dan Nelson Revocable Trust, that is needed for permanent utility and temporary construction easements, and to pay into the Registry of the Circuit Court the sum of \$13,800.00 as just compensation therefor.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED

By

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

WSIP West Line Easement Condemnation List

E.1.
Dan Nelson Revocable Trust Condemnation
Page 4 of 6

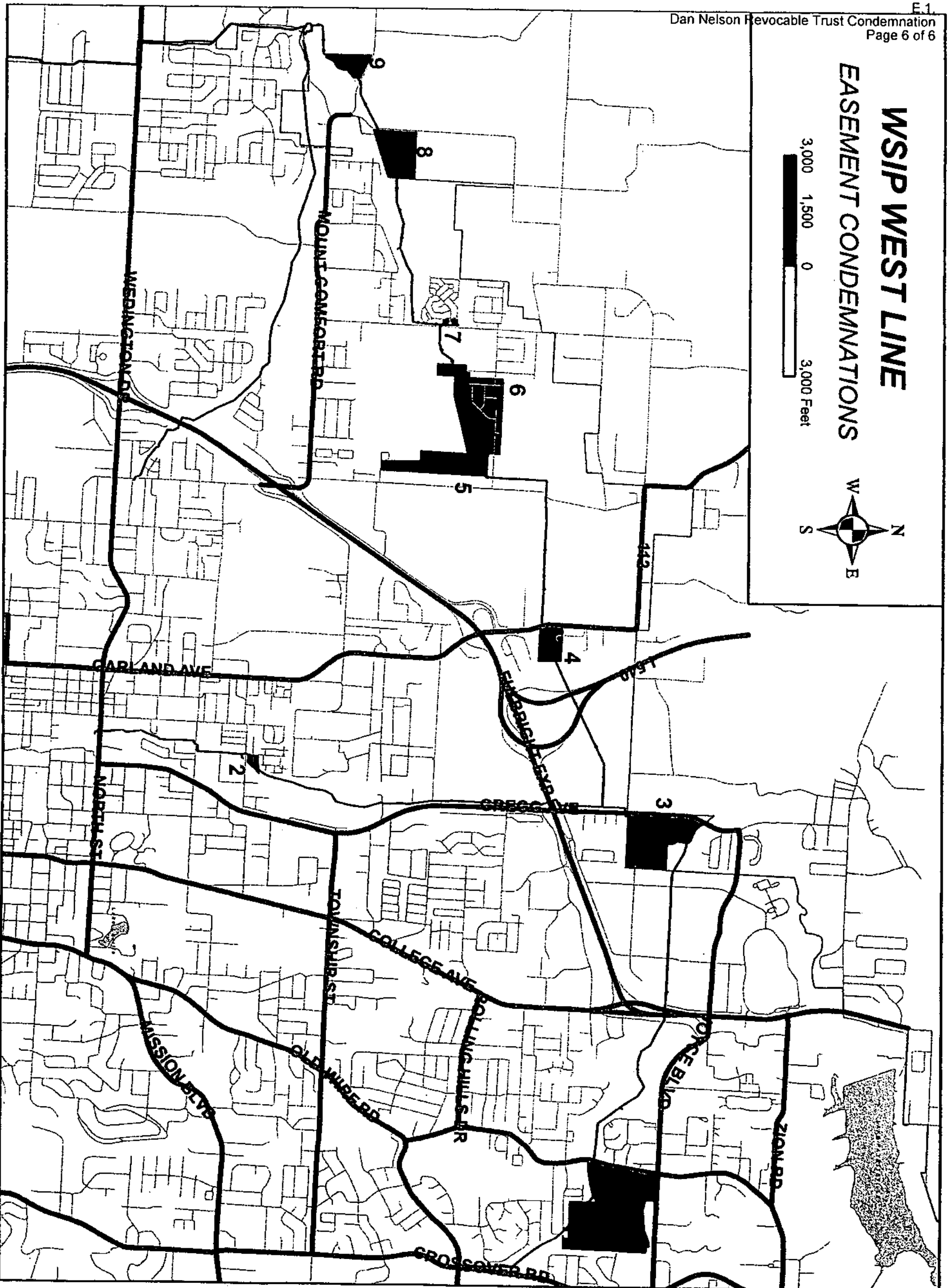
Map Reference	Description
1.	WL1 – Tract 7 Owner: James E. Lindsey & Nita V. Lindsey, husband and wife; Giles A. Sexton & Elsie D. Sexton, husband and wife; and J. W. Reynolds Lumber Company, a Partnership; all as tenants in common (AKA: Paradise Valley Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-15690-000 and 765-15688-000, Located within SE-25-17-30. Offer Amount: \$24,115 (PUE: \$21,900 for 31,715 sq. ft.; TCE: \$2,215 for 32,013 sq. ft.)
2.	WL2 – Tract 10 Owner: John D. Lindsey, LLC (AKA: Chestnut Apartments) Permanent and Temporary Easements across: Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000 Located within Block 4, Parker's Plat of Valley View Acres Offer Amount: \$9,500 (PUE: \$8,750 for 0.35 acre; TCE: \$750 for 0.30 acre)
3.	WL4 – Tract 1 Owner: MSB Properties LLC (1/3 interest) and Nanchar, Inc. (2/3 interest) Permanent Easement (only) across: Parcel No. 765-15773-010, located within E/2-27-17-30. Offer Amount: \$35,600 (PUE only: 0.89 acre)
4.	WL4 – Tract 4 Owner: Commonwealth-Ghosen Theatre Corporation Permanent and Temporary Easements across: Parcel Nos. 765-15813-000 and 765-15815-000, Located within SE-SE-28-17-30 Offer Amount: \$24,400 (PUE: \$22,800 for 0.76 acre; TCE: \$1,600 for 0.52 acre)
5.	WL4 – Tract 6 Owner: Lori S. Taylor (AKA: Razorback Park Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-16658-011 and 765-24095-000 Located within S/2-NE-32-17-30. Offer Amount: \$24,600 (PUE: \$22,400 for 1.12 acres; TCE: \$2,200 for 1.10 acres)
6.	WL4 – Tract 7 Owner: Crystal Springs Limited Partnership Permanent and Temporary Easements across: Parcel Nos. 765-16658-010 and 765-16658-030 Located within N/2-32-17-30 Offer Amount: \$6,900 (PUE: \$6,400 for 0.64 acre; TCE: \$500 for 0.47 acre)
7.	WL4 – Tracts 9 & 10 Owner: SCB Investments LLC Permanent Easements across: Tract 9: Parcel No. 765-21137-000, Tract 1, Salem Village PUD Tract 10: Parcel No. 765-21138-000, Tract 2, Salem Village PUD Offer Amount – Tract 9: \$6,600 (PUE only: 2,200 sq. ft.) Offer Amount – Tract 10: \$7,500 (PUE only: 2,501 sq. ft.)

WSIP West Line Easement Condemnation List

E.1.
Dan Nelson Revocable Trust Condemnation
Page 5 of 6

Map Reference	Description
8.	WL4 – Tract 15 Owner: Barbara J. Heyliger, Trustee of the Barbara J. Heyliger Trust U/T/D March 8, 1994 Permanent and Temporary Easements across: Parcel No. 001-16808-000, located within SE-SW-31-17-30 Offer Amount: \$11,300 (PUE: \$10,700 for 1.07 acres; TCE: \$600 for 0.58 acre)
9.	WL4 – Tract 17 Owner: Dan Nelson as Trustee of the Dan Nelson Revocable Trust Agreement dated May 8, 1998 Permanent and Temporary Easements across: Parcel Nos. 001-11405-000 and 001-11407-002 Located within the Frl. NW-1-16-31 and Frl. NE-2-16-31 Offer Amount: \$13,800 (PUE: \$12,900 for 0.86 acre; TCE: \$900 for 0.58 acre)

WSIP WEST LINE EASEMENT CONDEMNATIONS



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Barbara J. Heyliger, Trustee of the Barbara J. Heyliger Trust U/T/D March 8, 1994, and located at parcel No. 001-16808-000, located within SE-SW-31-17-30. Location 8 on attached list and map.

\$ 11,300.00
Cost of this request
4480-9480-5805.00
Account Number
02133.0305
Project Number

\$ 113,011,587.00
Category/Project Budget
\$ 85,742,915.94
Funds Used to Date
\$ 27,268,671.06
Remaining Balance

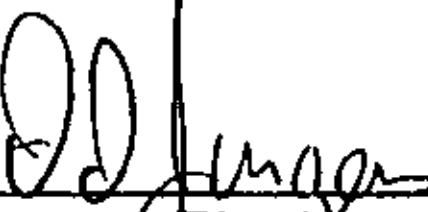
Wastewater System Imp Project
Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item

☒ XX

Budget Adjustment Attached

☐


Department Director

20 Dec 05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

12/5/05
Date


Finance and Internal Service Director

12/5/05
Date

Received in City Clerk's Office




Mayor

12/5/05
Date

Received in Mayor's Office



Comments:

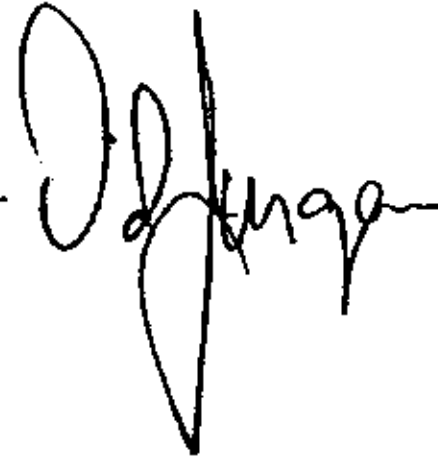
City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 1, 2005

Subject: Approval of nine resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of nine related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. Ninety-one tracts were required; 79 have been acquired. The owners of the remaining 12 tracts have all been contacted via mail, telephone, and in person. We have verbal agreement on two, which are not on the proposed condemnation list. The owners of the remaining 10 tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on December 1, 2005 and are included in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the previous twelve months. Given that we are only obtaining an easement, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, and every other utility. It also significantly exceeds that which the City has paid in the past for water/sewer easements. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Others are waiting for their own appraisal information in order to make a counter offer.

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BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are already approved within the 2005 WSIP budget.

Attachments: List of Potential Condemnation
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY THE BARBARA J. HEYLIGER TRUST.

WHEREAS, the City of Fayetteville and the Trustee of the Barbara J. Heyliger Trust have been unable to agree on a fair price for the property owned by the Barbara J. Heyliger Trust, that is needed for permanent utility and temporary construction easements across Parcel No. 001-16808-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on the sewer lines that will carry wastewater flows to the new Westside Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel No. 001-16808-000, and owned by the Barbara J. Heyliger Trust, that is needed for permanent utility and temporary construction easements, and to pay into the Registry of the Circuit Court the sum of \$11,300.00 as just compensation therefor.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED

By

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

WSIP West Line Easement Condemnation List

E.2.
Barbara J. Heyliger Trust Condemnation
Page 4 of 6

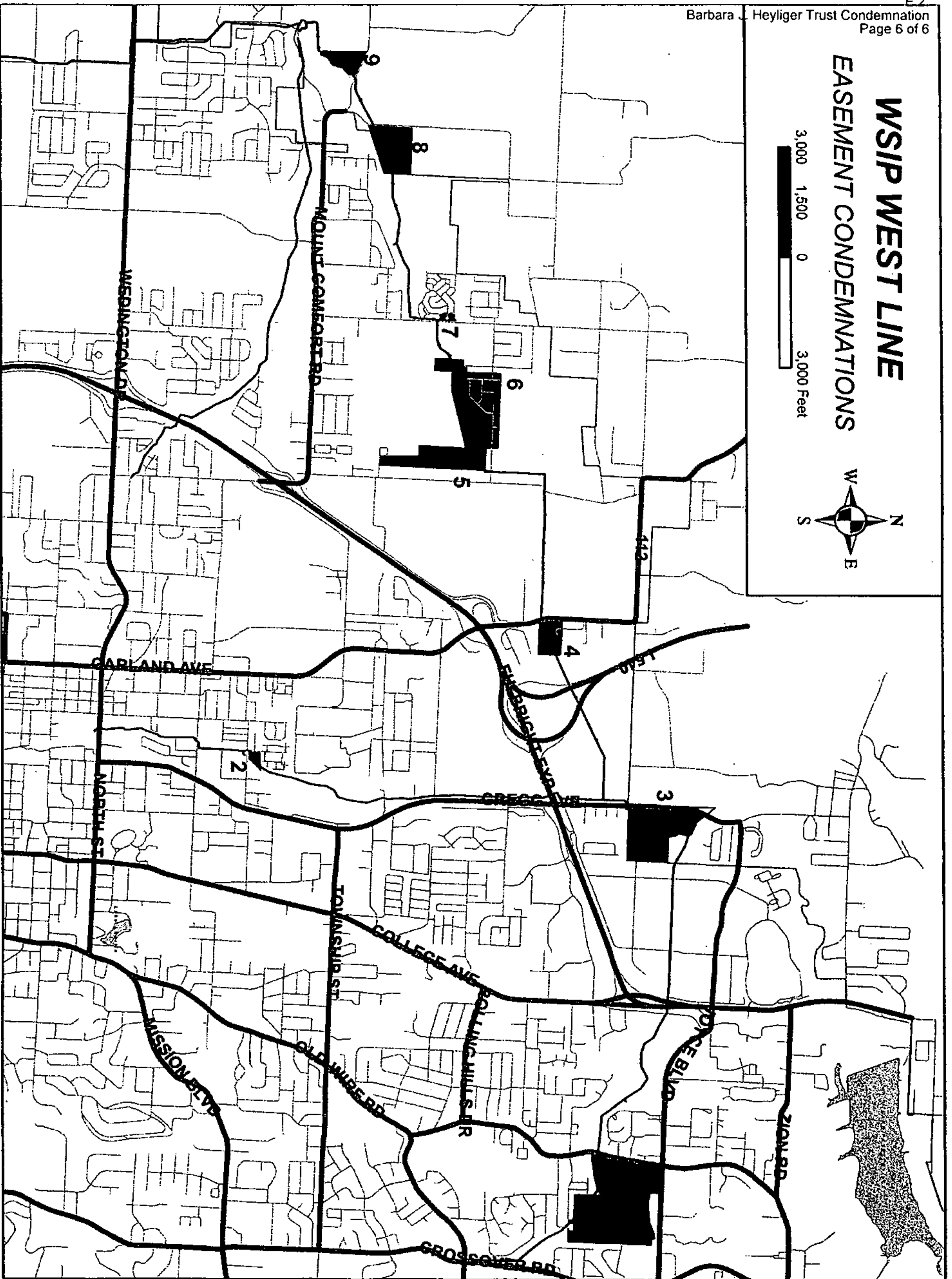
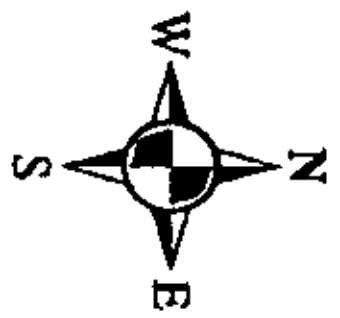
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WSIP West Line Easement Condemnation List

E.2.
Barbara J. Heyliger Trust Condemnation
Page 5 of 6

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WSIP WEST LINE EASEMENT CONDEMNATIONS



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Lori S. Taylor (AKA: Razorback Park Golf Course), and located at parcel Nos. 765-16658-011 and 765-24095-000, located within S/2-NE-32-17-30. Location 5 on attached list and map.

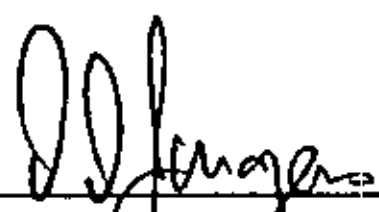
\$24,600.00
Cost of this request
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Account Number
02133.0305
Project Number

\$ 113,011,587.00
Category/Project Budget
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Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item ☒

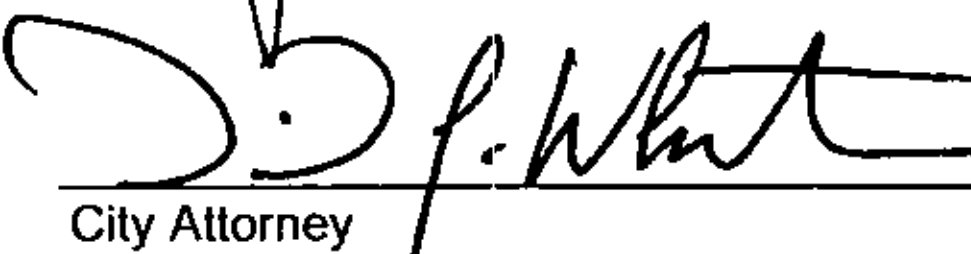
Budget Adjustment Attached ☐


Department Director 2 Dec 05
Date

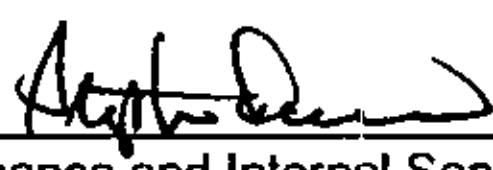
Previous Ordinance or Resolution # _____

Original Contract Date: _____

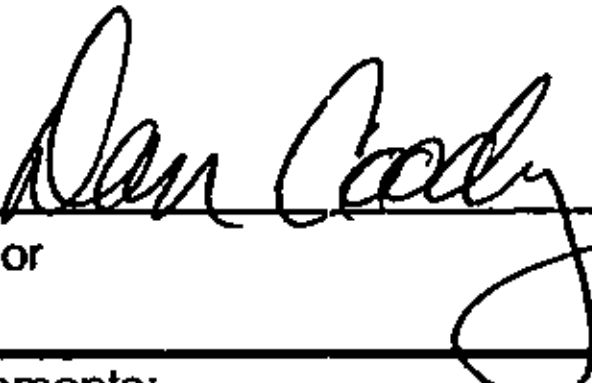
Original Contract Number: _____


City Attorney 12/5/05
Date

Received in City Clerk's Office
ENTERED 12/24/05
90


Finance and Internal Service Director 12/5/05
Date

Received in Mayor's Office 12/5/05
P.H.


Mayor 12/5/05
Date

Comments:

City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 1, 2005

Subject: Approval of nine resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of nine related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. Ninety-one tracts were required; 79 have been acquired. The owners of the remaining 12 tracts have all been contacted via mail, telephone, and in person. We have verbal agreement on two, which are not on the proposed condemnation list. The owners of the remaining 10 tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on December 1, 2005 and are included in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the previous twelve months. Given that we are only obtaining an easement, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, and every other utility. It also significantly exceeds that which the City has paid in the past for water/sewer easements. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Others are waiting for their own appraisal information in order to make a counter offer.

Counter offers have included negotiated agreements pertaining to land restoration, sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are already approved within the 2005 WSIP budget.

Attachments: List of Potential Condemnation
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY LORI S. TAYLOR.

WHEREAS, the City of Fayetteville and Lori S. Taylor have been unable
to agree on a fair price for the property owned by Lori S. Taylor that is needed
for permanent utility and temporary construction easements across Parcel Nos.
765-16658-011 and 765-24095-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this
property promptly to begin work on the sewer lines that will carry wastewater
flows to the new Westside Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas
hereby authorizes the City Attorney to file suit to seek court ordered possession
of property located on Parcel Nos. 765-16658-011 and 765-24095-000 and owned
by Lori S. Taylor, that is needed for permanent utility and temporary
construction easements, and to pay into the Registry of the Circuit Court the sum
of \$24,600.00 as just compensation therefor.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

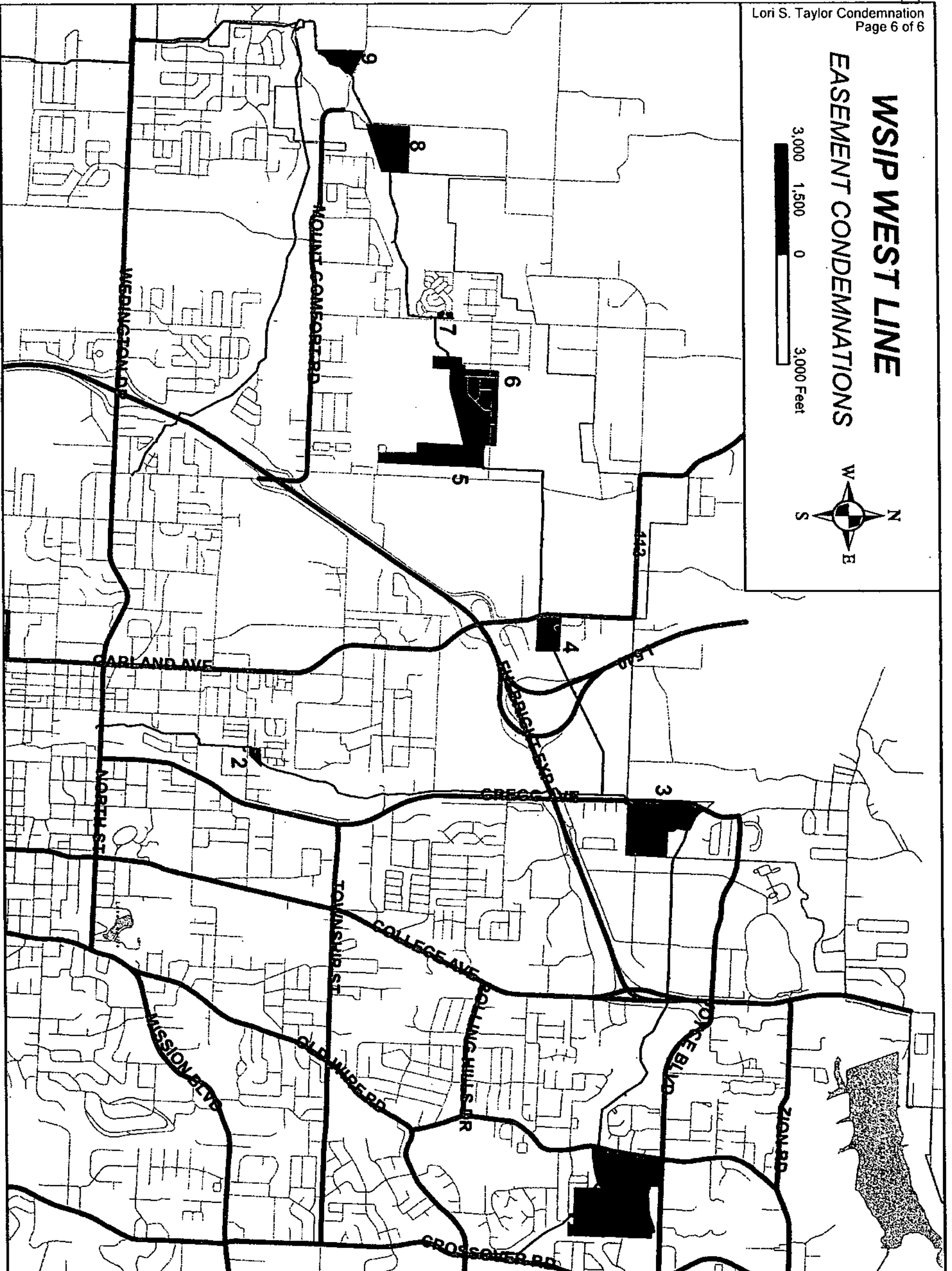
WSIP West Line Easement Condemnation List

Map Reference	Description
1.	WL1 – Tract 7 Owner: James E. Lindsey & Nita V. Lindsey, husband and wife; Giles A. Sexton & Elsie D. Sexton, husband and wife; and J. W. Reynolds Lumber Company, a Partnership; all as tenants in common (AKA: Paradise Valley Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-15690-000 and 765-15688-000, Located within SE-25-17-30. Offer Amount: \$24,115 (PUE: \$21,900 for 31,715 sq. ft.; TCE: \$2,215 for 32,013 sq. ft.)
2.	WL2 – Tract 10 Owner: John D. Lindsey, LLC (AKA: Chestnut Apartments) Permanent and Temporary Easements across: Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000 Located within Block 4, Parker's Plat of Valley View Acres Offer Amount: \$9,500 (PUE: \$8,750 for 0.35 acre; TCE: \$750 for 0.30 acre)
3.	WL4 – Tract 1 Owner: MSB Properties LLC (1/3 interest) and Nanchar, Inc. (2/3 interest) Permanent Easement (only) across: Parcel No. 765-15773-010, located within E/2-27-17-30. Offer Amount: \$35,600 (PUE only: 0.89 acre)
4.	WL4 – Tract 4 Owner: Commonwealth-Ghosen Theatre Corporation Permanent and Temporary Easements across: Parcel Nos. 765-15813-000 and 765-15815-000, Located within SE-SE-28-17-30 Offer Amount: \$24,400 (PUE: \$22,800 for 0.76 acre; TCE: \$1,600 for 0.52 acre)
5.	WL4 – Tract 6 Owner: Lori S. Taylor (AKA: Razorback Park Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-16658-011 and 765-24095-000 Located within S/2-NE-32-17-30. Offer Amount: \$24,600 (PUE: \$22,400 for 1.12 acres; TCE: \$2,200 for 1.10 acres)
6.	WL4 – Tract 7 Owner: Crystal Springs Limited Partnership Permanent and Temporary Easements across: Parcel Nos. 765-16658-010 and 765-16658-030 Located within N/2-32-17-30 Offer Amount: \$6,900 (PUE: \$6,400 for 0.64 acre; TCE: \$500 for 0.47 acre)
7.	WL4 – Tracts 9 & 10 Owner: SCB Investments LLC Permanent Easements across: Tract 9: Parcel No. 765-21137-000, Tract 1, Salem Village PUD Tract 10: Parcel No. 765-21138-000, Tract 2, Salem Village PUD Offer Amount – Tract 9: \$6,600 (PUE only: 2,200 sq. ft.) Offer Amount – Tract 10: \$7,500 (PUE only: 2,501 sq. ft.)

WSIP West Line Easement Condemnation List

<u>Map Reference</u>	<u>Description</u>
8.	WL4 – Tract 15 Owner: Barbara J. Heyliger, Trustee of the Barbara J. Heyliger Trust U/T/D March 8, 1994 Permanent and Temporary Easements across: Parcel No. 001-16808-000, located within SE-SW-31-17-30 Offer Amount: \$11,300 (PUE: \$10,700 for 1.07 acres; TCE: \$600 for 0.58 acre)
9.	WL4 – Tract 17 Owner: Dan Nelson as Trustee of the Dan Nelson Revocable Trust Agreement dated May 8, 1998 Permanent and Temporary Easements across: Parcel Nos. 001-11405-000 and 001-11407-002 Located within the Frl. NW-1-16-31 and Frl. NE-2-16-31 Offer Amount: \$13,800 (PUE: \$12,900 for 0.86 acre; TCE: \$900 for 0.58 acre)

WSIP WEST LINE EASEMENT CONDEMNATIONS



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by MSB Properties LLC (1/3 interest) and Nanchar, Inc. (2/3 interest), and located at parcel No. 765-15773-010, located within E/2-27-17-30. Location 3 on attached list and map.

\$35,600.00

Cost of this request

4480-9480-5805.00

Account Number

02133.0305

Project Number

\$ 113,011,587.00

Category/Project Budget

\$ 85,742,915.94

Funds Used to Date

\$ 27,268,671.06

Remaining Balance

Wastewater System Imp Project

Program Category / Project Name

Water and Wastewater

Program / Project Category Name

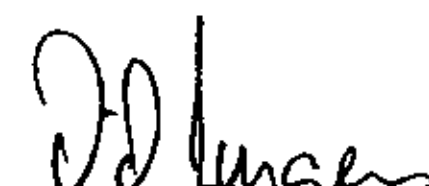
Water/Sewer

Fund Name

Budgeted Item

XX

Budget Adjustment Attached


Department Director

2 Dec 05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

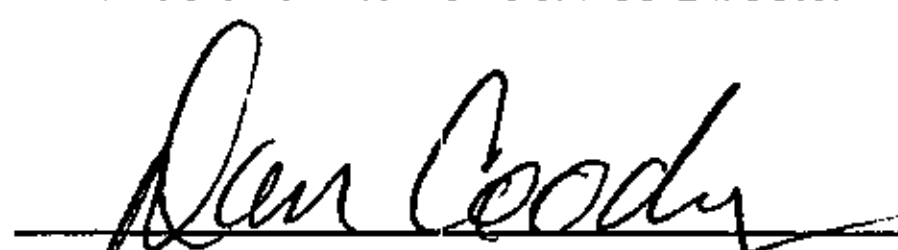
12/5/05
Date


Finance and Internal Service Director

12/5/05
Date

Received in City Clerk's Office

ENTERED
12/12/05
ED


Mayor

12/6/05
Date

Received in Mayor's Office

ENTERED
12/5/05
MS

Comments:

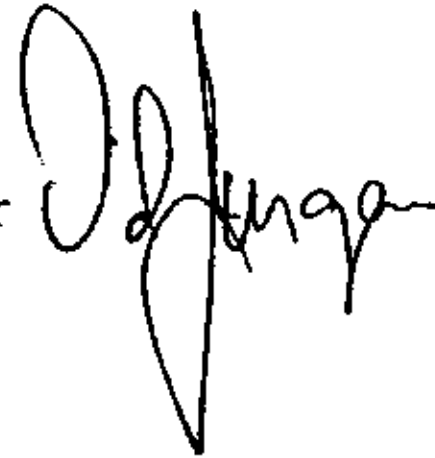
City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 1, 2005

Subject: Approval of nine resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of nine related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. Ninety-one tracts were required; 79 have been acquired. The owners of the remaining 12 tracts have all been contacted via mail, telephone, and in person. We have verbal agreement on two, which are not on the proposed condemnation list. The owners of the remaining 10 tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on December 1, 2005 and are included in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the previous twelve months. Given that we are only obtaining an easement, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, and every other utility. It also significantly exceeds that which the City has paid in the past for water/sewer easements. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Others are waiting for their own appraisal information in order to make a counter offer.

Counter offers have included negotiated agreements pertaining to land restoration; sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are already approved within the 2005 WSIP budget.

Attachments: List of Potential Condemnation
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY MSB PROPERTIES, LLC AND NANCHAR, INC.

WHEREAS, the City of Fayetteville and MSB Properties, LLC and Nanchar, Inc. have been unable to agree on a fair price for the property owned by MSB Properties, LLC and Nanchar, Inc. that is needed for a permanent utility easement across Parcel No. 765-15773-010; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on the sewer lines that will carry wastewater flows to the new Westside Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel No. 765-15773-010, and owned by MSB Properties, LLC and Nanchar, Inc., that is needed for a permanent utility easement and to pay into the Registry of the Circuit Court the sum of \$35,600.00 as just compensation therefor.

PASSED and APPROVED this 20th day of December, 2005.

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

WSIP West Line Easement Condemnation List

E.4.
MSB Properties, LLC and Nanchar, Inc.
Condemnation
Page 4 of 6

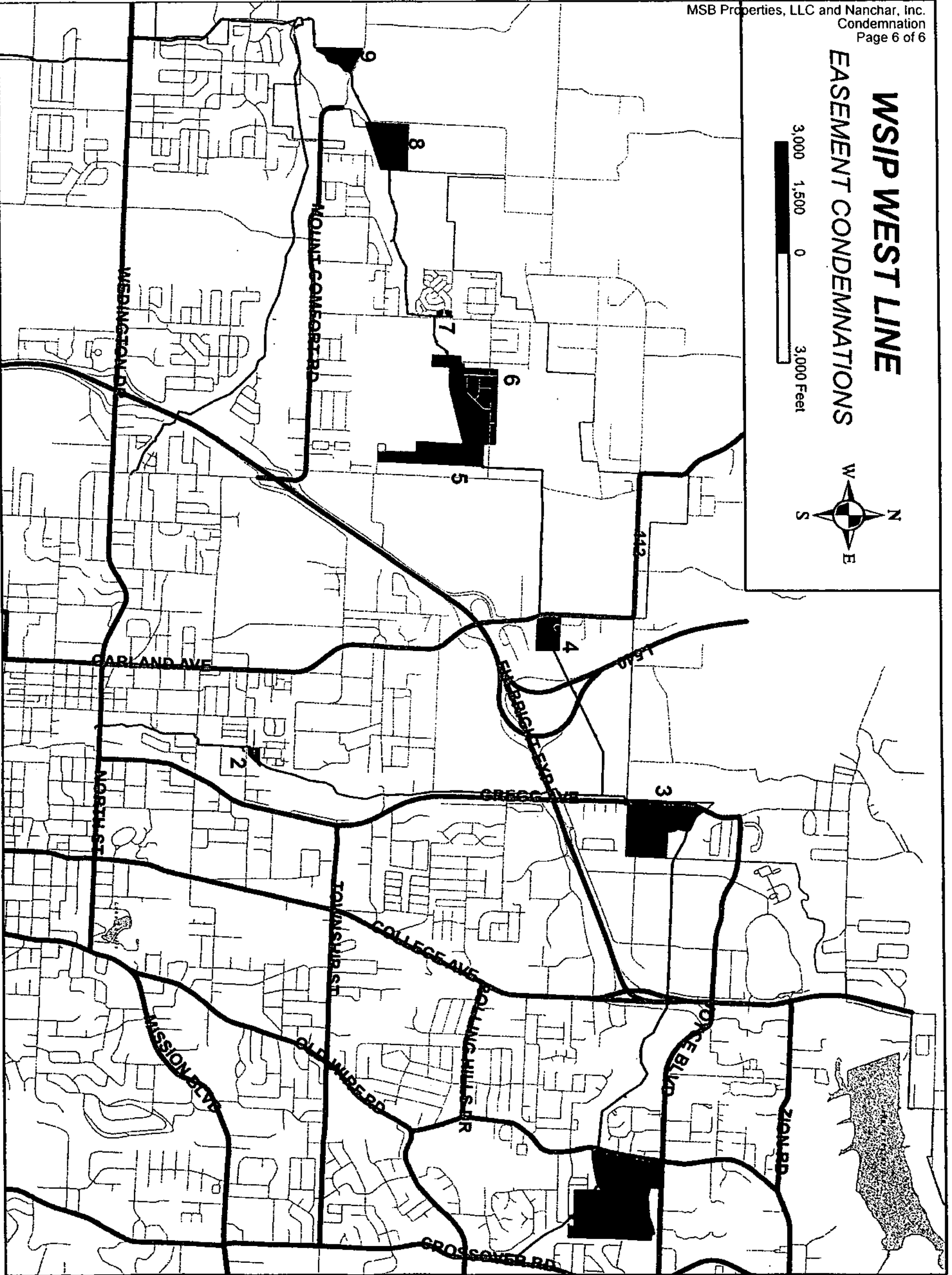
Map Reference	Description
1.	WL1 – Tract 7 Owner: James E. Lindsey & Nita V. Lindsey, husband and wife; Giles A. Sexton & Elsie D. Sexton, husband and wife; and J. W. Reynolds Lumber Company, a Partnership; all as tenants in common (AKA: Paradise Valley Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-15690-000 and 765-15688-000, Located within SE-25-17-30. Offer Amount: \$24,115 (PUE: \$21,900 for 31,715 sq. ft.; TCE: \$2,215 for 32,013 sq. ft.)
2.	WL2 – Tract 10 Owner: John D. Lindsey, LLC (AKA: Chestnut Apartments) Permanent and Temporary Easements across: Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000 Located within Block 4, Parker's Plat of Valley View Acres Offer Amount: \$9,500 (PUE: \$8,750 for 0.35 acre; TCE: \$750 for 0.30 acre)
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4.	WL4 – Tract 4 Owner: Commonwealth-Ghosen Theatre Corporation Permanent and Temporary Easements across: Parcel Nos. 765-15813-000 and 765-15815-000, Located within SE-SE-28-17-30 Offer Amount: \$24,400 (PUE: \$22,800 for 0.76 acre; TCE: \$1,600 for 0.52 acre)
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7.	WL4 – Tracts 9 & 10 Owner: SCB Investments LLC Permanent Easements across: Tract 9: Parcel No. 765-21137-000, Tract 1, Salem Village PUD Tract 10: Parcel No. 765-21138-000, Tract 2, Salem Village PUD Offer Amount – Tract 9: \$6,600 (PUE only: 2,200 sq. ft.) Offer Amount – Tract 10: \$7,500 (PUE only: 2,501 sq. ft.)

WSIP West Line Easement Condemnation List

E.4.
MSB Properties, LLC and Nanchar, Inc.
Condemnation
Page 5 of 6

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WSIP WEST LINE EASEMENT CONDEMNATIONS



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

E.5.
Lindsey, Sexton, and J.W. Reynolds
Lumber Company Condemnation
Page 1 of 6

20-Dec-05
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by James E. Lindsey & Nita V. Lindsey, husband and wife; Giles A. Sexton & Elsie D. Sexton, husband and wife; and J. W. Reynolds Lumber Company, a Partnership; all as tenants in common (AKA: Paradise Valley Golf Course) and located at Parcel Nos. 765-15690-000 and 765-15688-000, located within SE-25-17-30. Location 1 on attached list and map.

\$24,115.00
Cost of this request
4480-9480-5805.00
Account Number
02133.0305
Project Number

\$ 113,011,587.00
Category/Project Budget
\$ 85,742,915.94
Funds Used to Date
\$ 27,268,671.06
Remaining Balance

Wastewater System Imp Project
Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item

XX

Budget Adjustment Attached


Department Director

2 Dec 05
Date

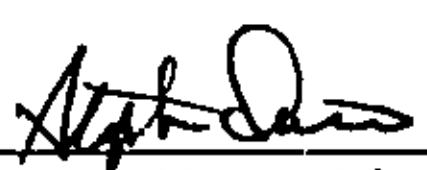
Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

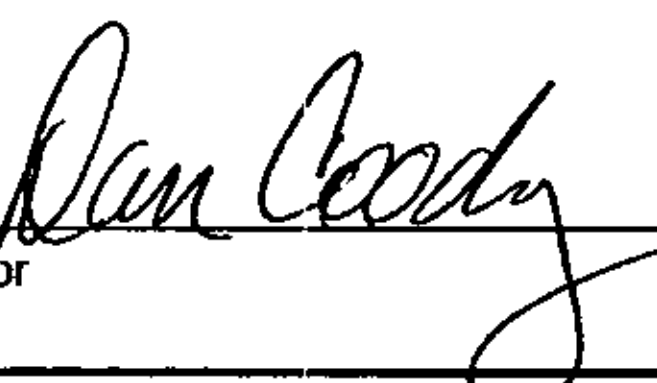
12/5/05
Date


Finance and Internal Service Director

12/5/05
Date

Received in City Clerk's Office

ENTERED
12/2/05
ED


Mayor

12/6/05
Date

Received in Mayor's Office

ENTERED
12/5/05
JH

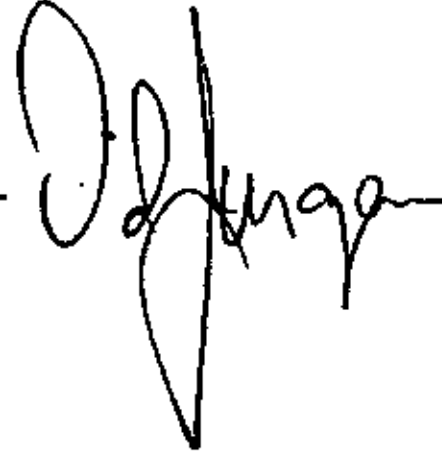
Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 1, 2005

Subject: Approval of nine resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of nine related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. Ninety-one tracts were required; 79 have been acquired. The owners of the remaining 12 tracts have all been contacted via mail, telephone, and in person. We have verbal agreement on two, which are not on the proposed condemnation list. The owners of the remaining 10 tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on December 1, 2005 and are included in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the previous twelve months. Given that we are only obtaining an easement, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, and every other utility. It also significantly exceeds that which the City has paid in the past for water/sewer easements. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Others are waiting for their own appraisal information in order to make a counter offer.

Counter offers have included negotiated agreements pertaining to land restoration, sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are already approved within the 2005 WSIP budget.

Attachments: List of Potential Condemnation
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY JAMES E. LINDSEY AND NITA V. LINDSEY; GILES A. SEXTON AND ELSIE D. SEXTON; AND J.W. REYNOLDS LUMBER COMPANY; ALL AS TENANTS IN COMMON.

WHEREAS, the City of Fayetteville and the above-named property owners have been unable to agree on a fair price for the property owned by them, that is needed for permanent utility and temporary construction easements across Parcel Nos. 765-15690-000 and 765-15688-000-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on the sewer lines that will carry wastewater flows to the new Westside Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel Nos. 765-15690-000 and 765-15688-000-000, and owned by James E. Lindsey and Nita V. Lindsey; Giles A. Sexton and Elsie D. Sexton; and J.W. Reynolds Lumber Company; all as tenants in common; that is needed for permanent utility and temporary construction easements, and to pay into the Registry of the Circuit Court the sum of \$24,115.00 as just compensation therefor.

PASSED and APPROVED this 20th day of December, 2005.

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

WSIP West Line Easement Condemnation List

E.5.
Lindsey, Sexton, and J.W. Reynolds
Lumber Company Condemnation
Page 4 of 6

Map Reference	Description
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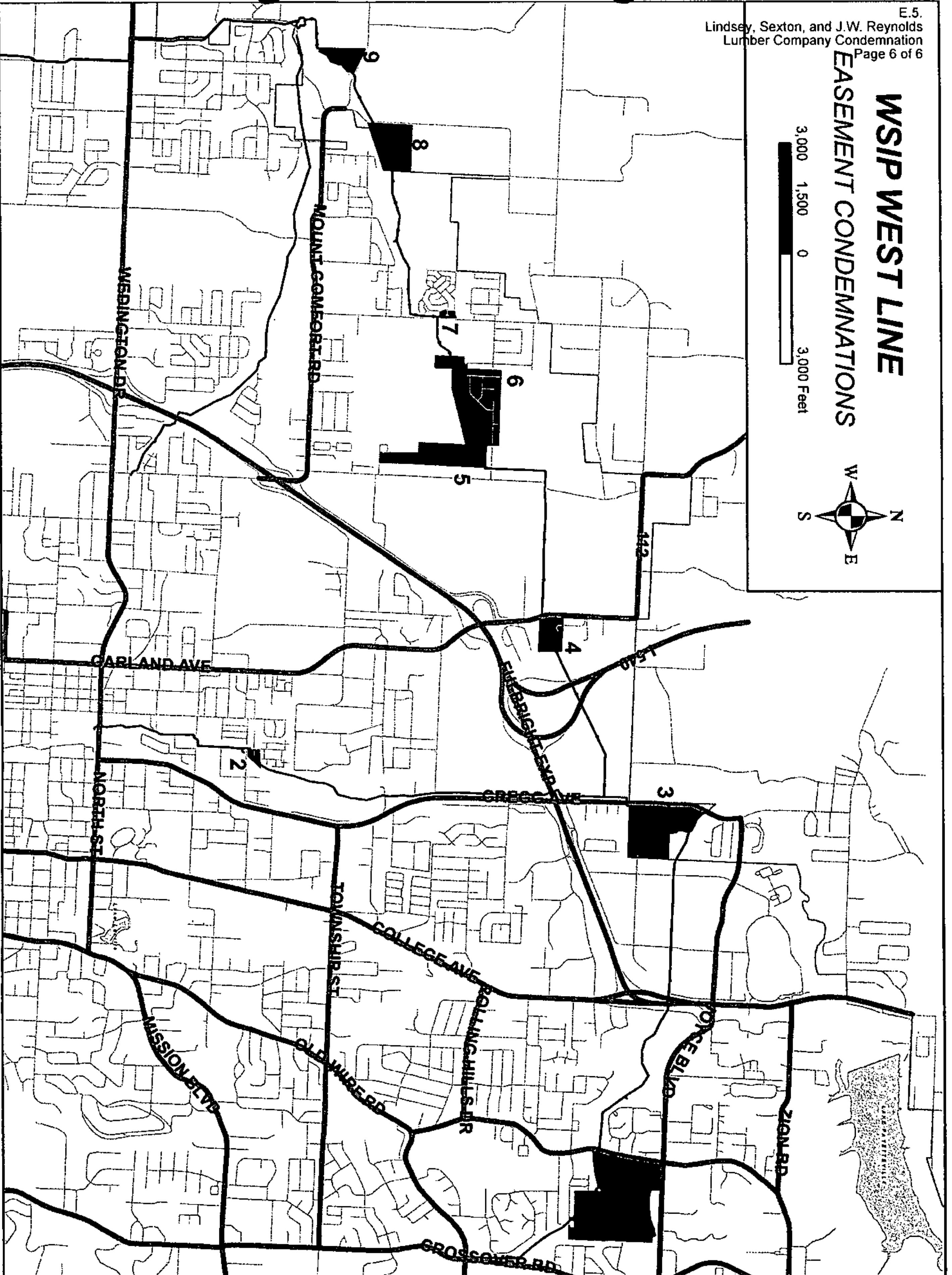
WSIP West Line Easement Condemnation List

E.5.
Lindsey, Sexton, and J.W. Reynolds
Lumber Company Condemnation
Page 5 of 6

Map Reference	Description
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WSIP WEST LINE EASEMENT CONDEMNATIONS

3,000 1,500 0 3,000 Feet



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Commonwealth-Goshen Theatre Corporation, and located at parcel Nos. 765-15813-000 and 765-15815-000, located within SE-SE-28-17-30. Location 4 on attached list and map.

\$24,400.00

Cost of this request

4480-9480-5805.00

Account Number

02133.0305

Project Number

\$ 113,011,587.00

Category/Project Budget

\$ 85,742,915.94

Funds Used to Date

\$ 27,268,671.06

Remaining Balance

Wastewater System Imp Project

Program Category / Project Name

Water and Wastewater

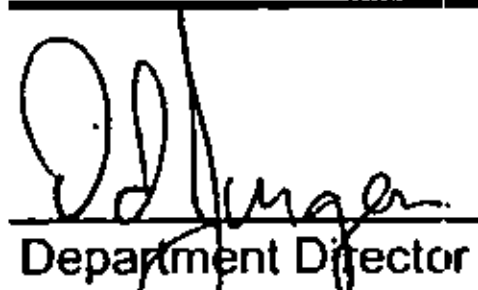
Program / Project Category Name

Water/Sewer

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

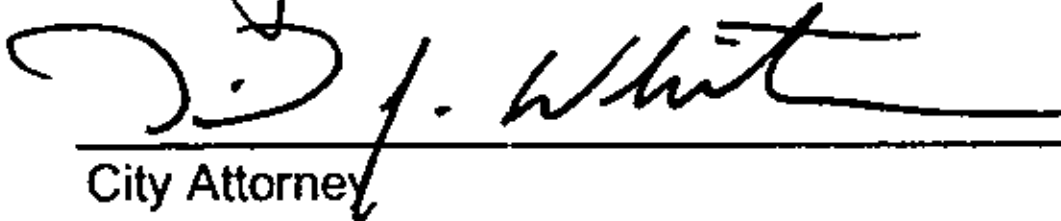

Department Director

20 Dec 05
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

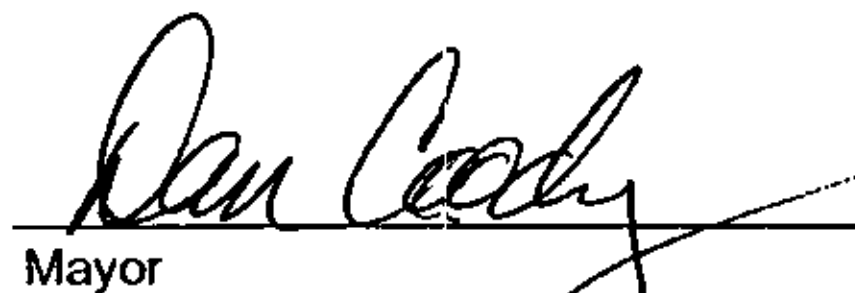

City Attorney

12/5/05
Date


Finance and Internal Service Director

12/5/05
Date

Received in City Clerk's Office



Mayor

12/5/05
Date

Received in Mayor's Office


Comments:

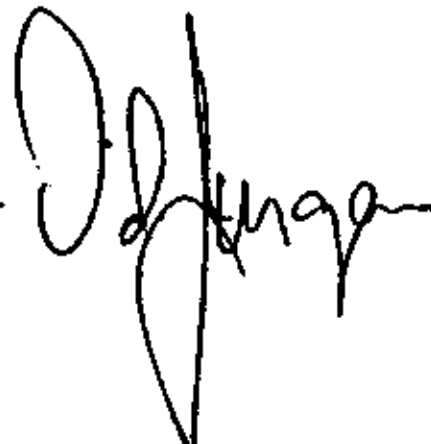
City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 1, 2005

Subject: Approval of nine resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of nine related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. Ninety-one tracts were required; 79 have been acquired. The owners of the remaining 12 tracts have all been contacted via mail, telephone, and in person. We have verbal agreement on two, which are not on the proposed condemnation list. The owners of the remaining 10 tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on December 1, 2005 and are included in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the previous twelve months. Given that we are only obtaining an easement, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, and every other utility. It also significantly exceeds that which the City has paid in the past for water/sewer easements. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Others are waiting for their own appraisal information in order to make a counter offer.

Counter offers have included negotiated agreements pertaining to land restoration, sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are already approved within the 2005 WSIP budget.

Attachments: List of Potential Condemnation
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY COMMONWEALTH-GHOSEN THEATRE CORPORATION.

WHEREAS, the City of Fayetteville and Commonwealth-Ghosen Theatre Corporation have been unable to agree on a fair price for the property owned by Commonwealth-Ghosen Theatre Corporation that is needed for permanent utility and temporary construction easements across Parcel Nos. 765-15813-000 and 765-15815-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on the sewer lines that will carry wastewater flows to the new Westside Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel Nos. 765-15813-000 and 765-15815-000 and owned by Commonwealth-Ghosen Theatre Corporation, that is needed for permanent utility and temporary construction easements, and to pay into the Registry of the Circuit Court the sum of \$24,400.00 as just compensation therefor.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

WSIP West Line Easement Condemnation List

E.6.
Commonwealth-Goshen Theatre
Corporation Condemnation
Page 4 of 6

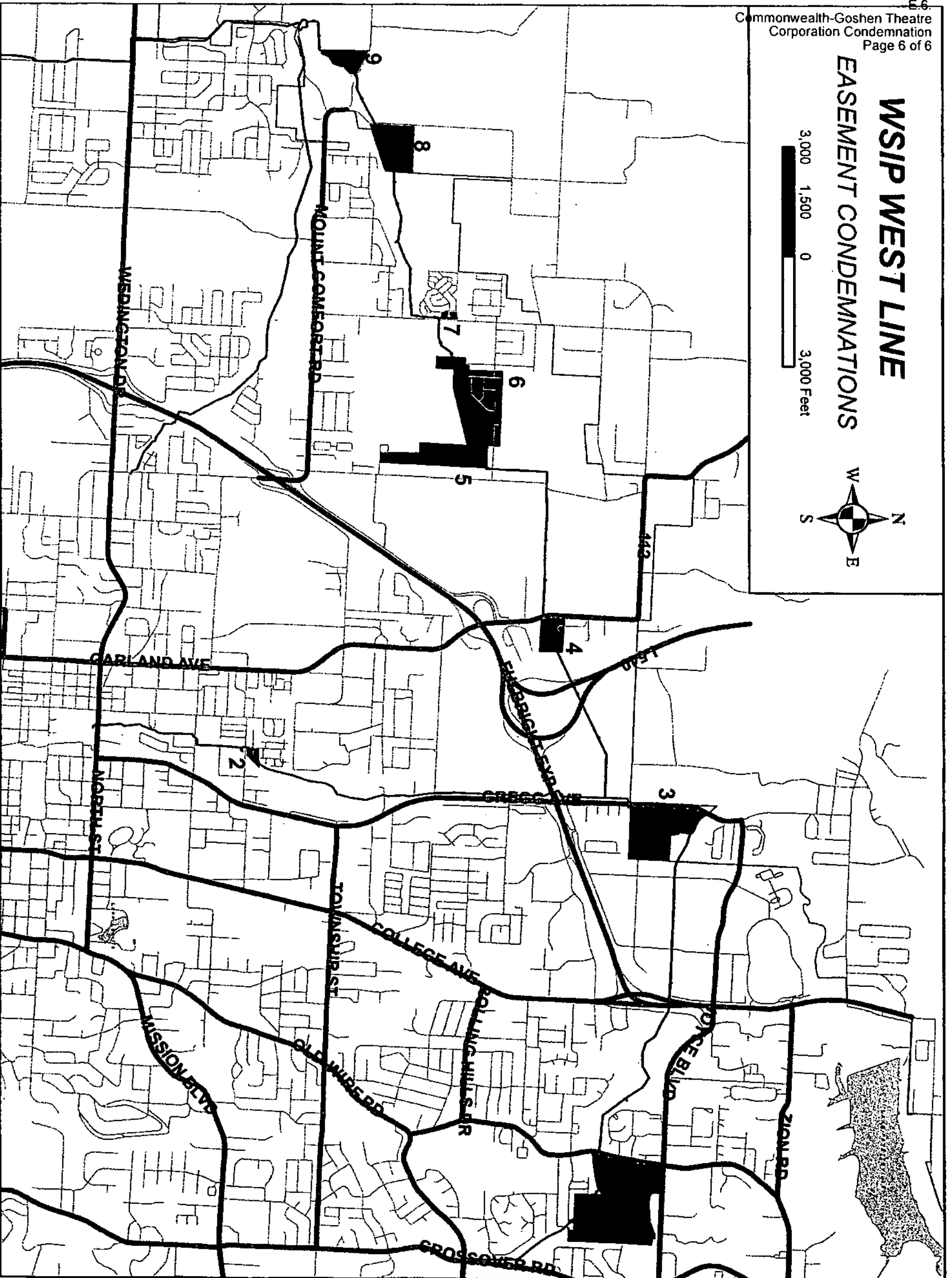
Map Reference	Description
1.	WL1 – Tract 7 Owner: James E. Lindsey & Nita V. Lindsey, husband and wife; Giles A. Sexton & Elsie D. Sexton, husband and wife; and J. W. Reynolds Lumber Company, a Partnership; all as tenants in common (AKA: Paradise Valley Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-15690-000 and 765-15688-000, Located within SE-25-17-30. Offer Amount: \$24,115 (PUE: \$21,900 for 31,715 sq. ft.; TCE: \$2,215 for 32,013 sq. ft.)
2.	WL2 – Tract 10 Owner: John D. Lindsey, LLC (AKA: Chestnut Apartments) Permanent and Temporary Easements across: Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000 Located within Block 4, Parker's Plat of Valley View Acres Offer Amount: \$9,500 (PUE: \$8,750 for 0.35 acre; TCE: \$750 for 0.30 acre)
3.	WL4 – Tract 1 Owner: MSB Properties LLC (1/3 interest) and Nanchar, Inc. (2/3 interest) Permanent Easement (only) across: Parcel No. 765-15773-010, located within E/2-27-17-30. Offer Amount: \$35,600 (PUE only: 0.89 acre)
4.	WL4 – Tract 4 Owner: Commonwealth-Goshen Theatre Corporation Permanent and Temporary Easements across: Parcel Nos. 765-15813-000 and 765-15815-000, Located within SE-SE-28-17-30 Offer Amount: \$24,400 (PUE: \$22,800 for 0.76 acre; TCE: \$1,600 for 0.52 acre)
5.	WL4 – Tract 6 Owner: Lori S. Taylor (AKA: Razorback Park Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-16658-011 and 765-24095-000 Located within S/2-NE-32-17-30. Offer Amount: \$24,600 (PUE: \$22,400 for 1.12 acres; TCE: \$2,200 for 1.10 acres)
6.	WL4 – Tract 7 Owner: Crystal Springs Limited Partnership Permanent and Temporary Easements across: Parcel Nos. 765-16658-010 and 765-16658-030 Located within N/2-32-17-30 Offer Amount: \$6,900 (PUE: \$6,400 for 0.64 acre; TCE: \$500 for 0.47 acre)
7.	WL4 – Tracts 9 & 10 Owner: SCB Investments LLC Permanent Easements across: Tract 9: Parcel No. 765-21137-000, Tract 1, Salem Village PUD Tract 10: Parcel No. 765-21138-000, Tract 2, Salem Village PUD Offer Amount – Tract 9: \$6,600 (PUE only: 2,200 sq. ft.) Offer Amount – Tract 10: \$7,500 (PUE only: 2,501 sq. ft.)

WSIP West Line Easement Condemnation List

E.6.
Commonwealth-Goshen Theatre
Corporation Condemnation
Page 5 of 6

<u>Map Reference</u>	<u>Description</u>
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9.	WL4 – Tract 17 Owner: Dan Nelson as Trustee of the Dan Nelson Revocable Trust Agreement dated May 8, 1998 Permanent and Temporary Easements across: Parcel Nos. 001-11405-000 and 001-11407-002 Located within the Frl. NW-1-16-31 and Frl. NE-2-16-31 Offer Amount: \$13,800 (PUE: \$12,900 for 0.86 acre; TCE: \$900 for 0.58 acre)

WSIP WEST LINE EASEMENT CONDEMNATIONS



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC (AKA: Chestnut Apartments), and located at Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000, located within Block 4, Parker's Plat of Valley View Acres.
Location 2 on attached list and map.

\$9,500.00
Cost of this request
4480-9480-5805.00
Account Number
02133.0305
Project Number

\$ 113,011,587.00
Category/Project Budget
\$ 85,742,915.94
Funds Used to Date
\$ 27,268,671.06
Remaining Balance

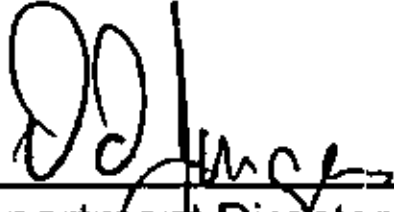
Wastewater System Imp Project
Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item

☒ XX

Budget Adjustment Attached

☐


Department Director

2 Dec 05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

12/5/05
Date


Finance and Internal Service Director

12/5/05
Date

Received in City Clerk's Office




Mayor

12/6/05
Date

Received in Mayor's Office



Comments:

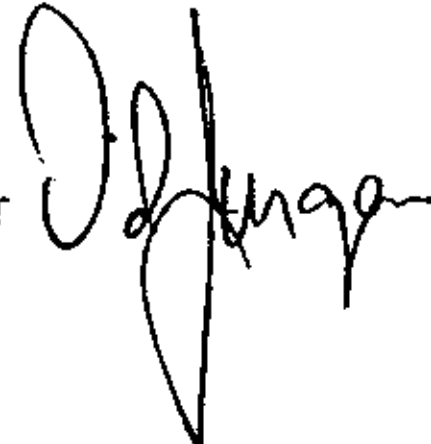
City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 1, 2005

Subject: Approval of nine resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of nine related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. Ninety-one tracts were required; 79 have been acquired. The owners of the remaining 12 tracts have all been contacted via mail, telephone, and in person. We have verbal agreement on two, which are not on the proposed condemnation list. The owners of the remaining 10 tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on December 1, 2005 and are included in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the previous twelve months. Given that we are only obtaining an easement, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, and every other utility. It also significantly exceeds that which the City has paid in the past for water/sewer easements. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Others are waiting for their own appraisal information in order to make a counter offer.

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BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are already approved within the 2005 WSIP budget.

Attachments: List of Potential Condemnation
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY JOHN D. LINDSEY, LLC.

WHEREAS, the City of Fayetteville and John D. Lindsey, LLC have been
unable to agree on a fair price for the property owned by John D. Lindsey, LLC
that is needed for permanent utility and temporary construction easements
across Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this
property promptly to begin work on the sewer lines that will carry wastewater
flows to the new Westside Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas
hereby authorizes the City Attorney to file suit to seek court ordered possession
of property located on Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-
000-000, and owned by John D. Lindsey, LLC, that is needed for permanent
utility and temporary construction easements, and to pay into the Registry of the
Circuit Court the sum of \$9,500.00 as just compensation therefor.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

WSIP West Line Easement Condemnation List

E.7.
John D. Lindsey, LLC Codemnation
Page 4 of 6

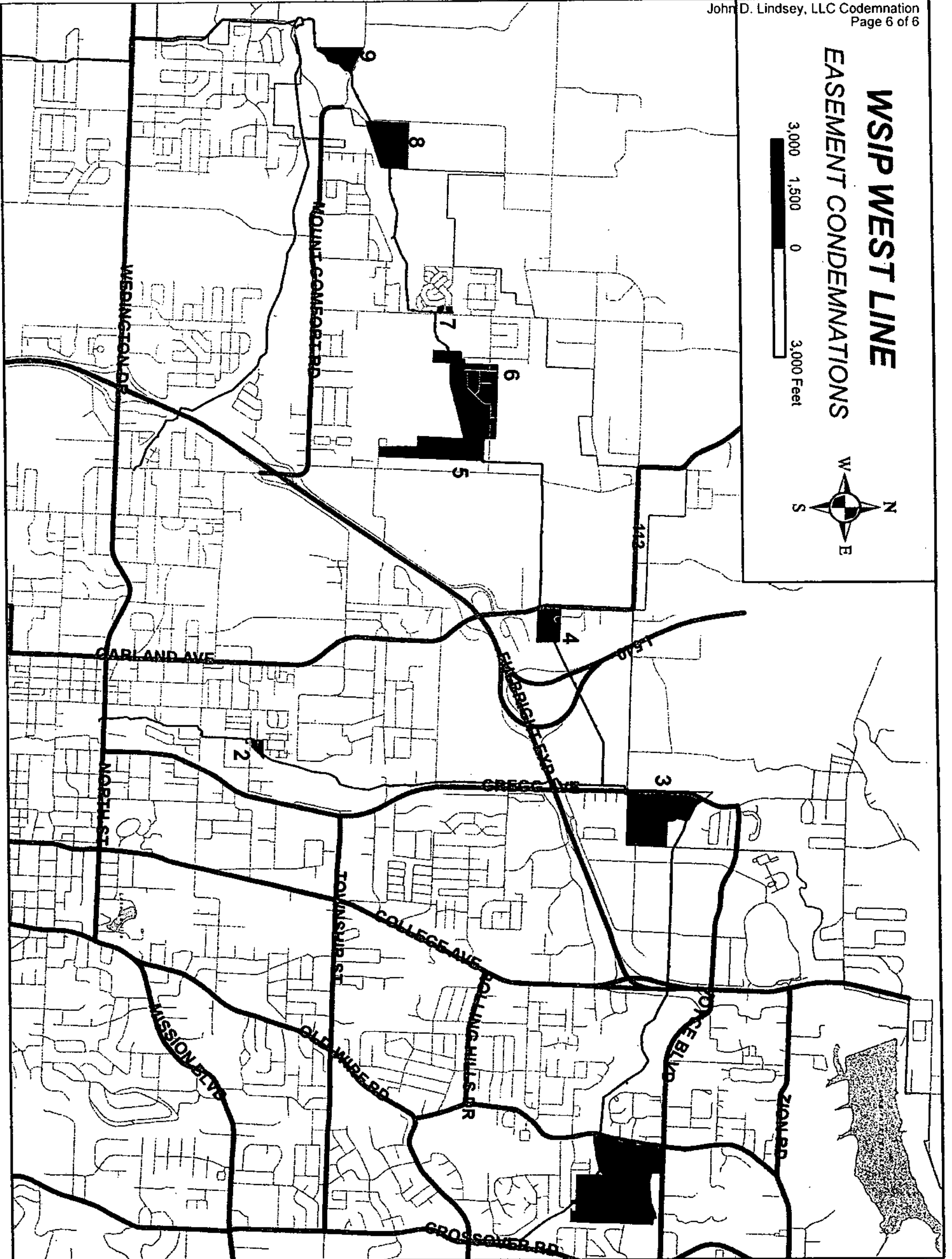
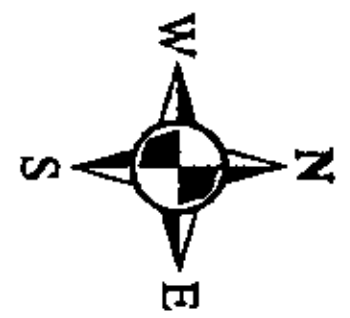
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WSIP West Line Easement Condemnation List

E.7.
John D. Lindsey, LLC Codemnation
Page 5 of 6

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WSIP WEST LINE EASEMENT CONDEMNATIONS



Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



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 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 20, 2005**

A meeting of the Fayetteville City Council will be held on December 20, 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

~~2006~~ **Community Development Block Grant Action Plan Report – Agenda Session Only**

~~Presentation on Availability of the Adjacent GCM Building – Agenda Session Only~~

Consider bringing off the table the City of Elkins Sewer Agreement

- Nominating Committee Report

A. CONSENT:

- 1. Approval of the October 20, 2005 and October 27, 2005 Special City Council meeting minutes and the November 1, 2005 City Council meeting minutes.**
- 2. Airport SAAG Grant:** A resolution authorizing Airport Staff to apply for and accept a SAAG Grant in the amount of \$100,000.00 from the Arkansas Department of Aeronautics to fund a portion of the cost to remodel the Terminal Building at the Fayetteville Municipal Airport; and approving a budget adjustment recognizing the grant revenue.
- 3. Arkansas American Roofing Bid Award #05-83:** A resolution awarding Bid #05-83 to Northwest Roofing Company D/B/A Arkansas American Roofing in the amount of \$30,977.89 for replacement of the roof of the Arkansas Air Museum Hanger Building; approving a project contingency in the amount of \$3,098.11 and approving a budget adjustment in the amount of \$18,012.00.

4. **Equipment Resource Management - Asphalt Roller Equipment:** A resolution approving the purchase of one (1) Medium Double Drum Vibratory Asphalt Roller from Equipment Resource Management in the amount of \$78,692.00 for use by the Transportation Division (Trails); and approving a budget adjustment.

5. **North Point Ford - Police Patrol Sedans:** A resolution authorizing the purchase of eight (8) Police Patrol Sedans from North Point Ford of North Little Rock at a total cost of \$164,928.00; and authorizing the Mayor and City Clerk to execute a waiver with the Ford Motor Company.

6. **Washington County Emergency Operations Center:** A resolution approving an Inter-Local Agreement and authorizing payment not to exceed \$30,000.00 to Washington County as the City of Fayetteville's share of the cost of establishing an Emergency Operations Center in Washington County; and approving a budget adjustment.

Moved to #1 New Business
7. **Stephens Inc. Contract - WSIP:** A resolution approving an amendment to the Financial Advisory Services Agreement with Stephens, Inc., in an amount not to exceed \$20,000.00 to assist with the financing of the Wastewater System Improvements Project.

8. **Hansen Software Maintenance:** A resolution to authorize payment of \$57,987.04 to Hansen for 2006 Software Maintenance Fees.

9. **New World Systems, Inc. Software Maintenance:** A resolution to approve a three year Software Maintenance Contract with New World Systems, Inc. in an amount of \$64,777.40 for 2006.

Add to Agenda
10. **ESRI Software Maintenance Fees:** A resolution to approve the purchase of the 2006 ESRI Software Maintenance Fees in the amount of \$31,073.38.

11. - *Lubkin Trailers; Need resolution from Kit.*

B. PUBLIC HEARINGS:

1. **Public Hearing for Monthly Sewer Rate Ordinance.**

C. UNFINISHED BUSINESS:

1. **Amend § 51.137 Monthly Sewer Rates:** An ordinance to amend § 51.137 of the Code of Fayetteville by lowering the sewer rate charged for Elkins, Arkansas and postponing the scheduled system wide rate increase for four months. *This ordinance was left on the Second Reading at the December 6, 2005 City Council meeting.*

2. **C-PZD 05-1610 (East Square Redevelopment):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1610, East Square Development, located at the north west corner of Mountain Street and College Avenue, containing approximately 1.01 acres; amending the Official Zoning Map of the City of Fayetteville; waiving any possibly conflicting development ordinances; and adopting the Associated Planned Zoning District. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting.*

D. NEW BUSINESS:

Move to
Consent

- ① **Fayetteville/Springdale Area Transit Authority Dissolution:** A resolution approving the dissolution of the Fayetteville/Springdale Area Transit Authority.
2. **Fayetteville Municipal Property Owners Improvement District #12 – Belclaire:** An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District #12 – Belclaire
3. **Amend Chapter 159: Fees, UDC:** An ordinance amending Chapter 159: Fees, Unified Development Code, Code of Fayetteville limiting certain building fee exemptions.
4. **Reserve LLC - Cost-Share Agreement:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development; and approving a budget adjustment in the amount of \$577,453.00.
5. **OMI Contract Approval:** A resolution approving Amendment No.13 to the contract with Operations Management International (OMI) in the amount of \$4,674,829.66 for the operation and management of Fayetteville Wastewater Treatment Facilities for 2006.
6. **Environmental Consulting Operations, Inc. Contract:** A resolution approving an amendment to the engineering contract with Environmental Consulting Operations, Inc. in the amount of \$579,343.00 for construction and post-construction phase services for the entire Wastewater System Improvement Project (WSIP); and approving a contingency of \$20,000.00.
7. **ADM 05-1848 Vacating A Utility Easement:** An ordinance approving ADM 05-1848 for property located at the southwest corner of St. Charles Avenue and Watson Street, vacating a utility easement as indicated on the attached map and legal description.
8. **ANX 05-1811 Summer Resources:** An ordinance annexing that property described in annexation petition ANX 05-1811 for property located north of Highway 16E, north of Deerfield Way, containing 3.75 acres.
9. **C-PZD 05-1704 First Baptist Church:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1704 First Baptist Church, located at 20 East Dickson Street, 325 and 321 North College Avenue, and 350 and 354 North Highland Avenue, containing approximately 4.08 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
10. **R-PZD 05-1734 Paradise Point:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1734, Paradise Point, located west of Crossover, south of Joyce Boulevard, containing approximately 1.55 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

11. **R-PZD 05-1797 Bungalows at Cato Springs Road and Cline Avenue:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1797, Bungalows at Cato Springs, located northwest of Cato Springs Road and Cline Avenue, west of 71 Business/South School Avenue, containing approximately 5.52 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
12. **R-PZD 05-1798 DePalma Addition:** A ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1798, DePalma Addition, located at the south end of Anson Street, containing approximately 10.04 acres, more of less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
13. **Amend § 97.070 Lake Recreation Fees:** An ordinance amending §97.070 of the Code of Fayetteville to clarify permitting requirements for the recreational use of city-owned lakes.
14. **2005 Re-Budgeting Request:** A resolution amending the adopted 2006 budget to re-authorize \$51,313,520.00 from 2005, in order to retain project funding for identified, scheduled and on-going Capital Improvements.
15. **Arkansas Development Authority Bond Purchase Agreement -Westside Plant:** Ordinance to follow.

E. PUBLIC HEARINGS:

1. **Dan Nelson Revocable Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Dan Nelson Revocable Trust.
2. **Barbara J. Heyliger Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Barbara J. Heyliger Trust.
3. **Lori S. Taylor Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Lori S. Taylor.
4. **MSB Properties, LLC and Nanchar, Inc. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by MSB Properties, LLC and Nanchar, Inc.
5. **Lindsey, Sexton, and J.W. Reynolds Lumber Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by James E. Lindsey and Nita V. Lindsey; Giles A. Sexton and Elsie D. Sexton; and J.W. Reynolds Lumber Company; all as tenants in common.
6. **Commonwealth-Goshen Theatre Corporation Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Commonwealth-Goshen Theatre Corporation.

7. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC.

F. INFORMATIONAL:

Council Tour: ~~December 19, 2005 - 4:30 PM~~

NONE

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



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 - Robert Ferrell
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**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 20, 2005**

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Call to Order

Roll Call

Pledge of Allegiance

2 Presentation ~~on~~ on Availability of the Adjacent (GCM) Building ^{Agenda Session}

1. 2006 Community Development Block Grant Action Plan Report - Agenda Session Only

Consider bringing off the table the City of Elkins Sewer agreement

A. CONSENT:

1. **Approval of the October 20, 2005 and October 27, 2005 Special City Council meeting minutes and the November 1, 2005 City Council meeting minutes.**
2. **Airport SAAG Grant:** A resolution authorizing Airport Staff to apply for and accept a SAAG Grant in the amount of \$100,000.00 from the Arkansas Department of Aeronautics to fund a portion of the cost to remodel the Terminal Building at the Fayetteville Municipal Airport; and approving a budget adjustment recognizing the grant revenue.
3. **Arkansas American Roofing Bid Award #05-83:** A resolution awarding Bid #05-83 to Northwest Roofing Company D/B/A Arkansas American Roofing in the amount of \$30,977.89 for replacement of the roof of the Arkansas Air Museum Hanger Building; approving a project contingency in the amount of \$3,098.11 and approving a budget adjustment in the amount of \$18,012.00.
4. **Equipment Resource Management - Asphalt Roller Equipment:** A resolution approving the purchase of one (1) Medium Double Drum Vibratory Asphalt Roller from

Equipment Resource Management in the amount of \$78,692.00 for use by the Transportation Division (Trails); and approving a budget adjustment.

5. **North Point Ford - Police Patrol Sedans:** A resolution authorizing the purchase of eight (8) Police Patrol Sedans from North Point Ford of North Little Rock at a total cost of \$164,928.00; and authorizing the Mayor and City Clerk to execute a waiver with the Ford Motor Company.

6. **Washington County Emergency Operations Center:** ^{approving} A resolution ~~authorizing~~ payment not to exceed \$30,000.00 to Washington County as the City of Fayetteville's share of the cost of establishing an Emergency Operations Center in Washington County; and approving a budget adjustment.
- an interlocal agreement and authorizing*

7. **Stephens Inc. Contract - WSIP:** A resolution approving an amendment to the Financial Advisory Services Agreement with Stephens, Inc., in an amount not to exceed \$20,000.00 to assist with the financing of the Wastewater System Improvements Project.

8. **Hansen Software Maintenance:** A resolution to authorize payment of \$57,987.04 to Hansen for 2006 Software Maintenance Fees.

9. **New World Systems, Inc. Software Maintenance:** A resolution to approve a three year Software Maintenance Contract with New World Systems, Inc. in an amount of \$64,777.40 for 2006.

10. **ESRI Software Maintenance Fees:** A resolution to approve the purchase of the 2006 ESRI Software Maintenance Fees in the amount of \$31,073.38.

B: Public Hearing:

CX **UNFINISHED BUSINESS:**

1. Public Hearing for Sewer Rate Ord

- 2.* **Amend § 51.137 Monthly Sewer Rates:** An ordinance to amend § 51.137 of the Code of Fayetteville by lowering the sewer rate charged for Elkins, Arkansas and postponing the scheduled system wide rate increase for four months. *This ordinance was left on the Second Reading at the December 6, 2005 City Council meeting.*

2. **C-PZD 05-1610 (East Square Redevelopment):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1610, East Square Development, located at the north west corner of Mountain Street and College Avenue, containing approximately 1.01 acres; amending the Official Zoning Map of the City of Fayetteville; waiving any possibly conflicting development ordinances; and adopting the Associated Planned Zoning District. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting.*

D X **NEW BUSINESS:**

1. **Fayetteville/Springdale Area Transit Authority Dissolution:** A resolution approving the dissolution of the Fayetteville/Springdale Area Transit Authority.
2. **Fayetteville Municipal Property Owners Improvement District #12 – Belclaire:** An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District #12 – Belclaire

3. **Amend Chapter 159: Fees, UDC:** An ordinance amending Chapter 159: Fees, Unified Development Code, Code of Fayetteville limiting certain building fee exemptions.
 4. **LLC Reserve - Cost-Share Agreement:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development; and approving a budget adjustment in the amount of \$577,453.00.
 5. **OMI Contract Approval:** A resolution approving Amendment No.13 to the contract with Operations Management International (OMI) in the amount of \$4,674,829.66 for the operation and management of Fayetteville Wastewater Treatment Facilities for 2006.
 6. **Environmental Consulting Operations, Inc. Contract:** A resolution approving an amendment to the engineering contract with Environmental Consulting Operations, Inc. in the amount of \$579,343.00 for construction and post-construction phase services for the entire Wastewater System Improvement Project (WSIP); and approving a contingency of \$20,000.00.
- D. Public Hearings:*
7. **Dan Nelson Revocable Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Dan Nelson Revocable Trust.
 8. **Barbara J. Heyliger Trust Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Barbara J. Heyliger Trust.
 9. **Lori S. Taylor Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Lori S. Taylor.
 10. **MSB Properties, LLC and Nanchar, Inc. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by MSB Properties, LLC and Nanchar, Inc.
 11. **Lindsey, Sexton, and J.W. Reynolds Lumber Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by James E. Lindsey and Nita V. Lindsey; Giles A. Sexton and Elsie D. Sexton; and J.W. Reynolds Lumber Company; all as tenants in common.
 12. **Commonwealth-Goshen Theatre Corporation Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Commonwealth-Goshen Theatre Corporation.
 13. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC.
 14. **ADM 05-1848 Vacating A Utility Easement:** An ordinance approving ADM 05-1848 for property located at the southwest corner of St. Charles Avenue and Watson Street, vacating a utility easement as indicated on the attached map and legal description.

15. **ANX 05-1811 Summer Resources:** An ordinance annexing that property described in annexation petition ANX 05-1811 for property located north of Highway 16E, north of Deerfield Way, containing 3.75 acres.

16. **C-PZD 05-1704 First Baptist Church:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1704 First Baptist Church, located at 20 East Dickson Street, 325 and 321 North College Avenue, and 350 and 354 North Highland Avenue, containing approximately 4.08 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

17. **R-PZD 05-1734 Paradise Point:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1734, Paradise Point, located west of Crossover, south of Joyce Boulevard, containing approximately 1.55 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

18. **R-PZD 05-1797 ^{Bungalows at} Cato Springs Road and Cline Avenue:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1797, Bungalows at Cato Springs, located northwest of Cato Springs Road and Cline Avenue, west of 71 Business/South School Avenue, containing approximately 5.52 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

19. **R-PZD 05-1798 DePalma Addition:** A ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1798, DePalma Addition, located at the south end of Anson Street, containing approximately 10.04 acres, more of less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

20. **Arkansas Development Authority Bond Purchase Agreement -Westside Plant:**
Ordinance to follow.

add two items: Rebudgeting - Code 97.070 - Lake Rec. fees
E. ~~X~~ INFORMATIONAL:

Council Tour: December 19, 2005 - 4:30 PM

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **Kit Williams, City Attorney**

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal flourish extending to the right.

DATE: **December 21, 2005**

RE: **Passed Ordinances and Resolutions from City Council meeting
of December 20, 2005**

1. **Airport SAAG Grant:** Resolution authorizing airport staff to apply for and accept SAAG Grant in amount of \$100,000.00 from Arkansas Department of Aeronautics to fund portion of cost to remodel terminal building at Fayetteville Municipal Airport; and approving budget adjustment recognizing grant revenue;
2. **AR American Roofing Bid Award #05-83:** Resolution awarding bid to Northwest Roofing Co., d/b/a/ Arkansas American Roofing in amount of \$30,977.89 for replacement of roof on Arkansas Air Museum Hangar building; approving project contingency in amount of \$3,098.11 and approving budget adjustment in amount of \$18,012.00;
3. **Equipment Resource Mgmt:** Resolution approving purchase of one medium double drum vibratory asphalt roller from Equipment Resource Mgmt. in amount of \$78,692.00 for use by Transportation Division (Trails) and approving budget adjustment;
4. **North Point Ford – Police Patrol Sedans:** Resolution authorizing purchase of eight police patrol sedans form North Point Ford of North Little Rock at total cost of \$164,928.00; authorizing Mayor and City Clerk to execute waiver w/Ford Motor Company;

5. **Washington Co. Emergency Operations Center:** Resolution authorizing payment not to exceed \$30,000.00 to Washington Co. as the City's share of cost of establishing Emergency Operations Center in Washington Co. and approving budget adjustment;
6. **Hansen Software Maintenance:** Resolution authorizing payment of \$57,987.04 to Hansen for 2006 software maintenance fees;
7. **New World Systems, Inc. Software Maintenance:** Resolution approving 3 year software maintenance contract w/New World Systems, Inc. in amount of \$64,777.40 for 2006;
8. **ESRI Software Maintenance Fees:** Resolution approving purchase of 2006 ESRI software maintenance fees in amount of \$31,073.38;
9. **Fayetteville/Springdale area transit authority dissolution:** Resolution approving dissolution of Fayetteville/Springdale area transit authority;
10. **Lufkin Trailers – Noland Wastewater Treatment Plant Trailer:** Resolution approving purchase of one trailer from Lufkin Trailers in amount of \$19,600.00 for hauling sludge form Noland Wastewater Treatment plant and approving budget adjustment in amount of \$20,851.00;
11. **Amend 51.137 Monthly Sewer Rates:** Ordinance amending \$51.137 of Code of Fayetteville to lower sewer rate charged to Elkins;
12. **C-PZD 05-1610:** Ordinance establishing Commercial Planned Zoning District, titled East Square Development, located at northwest corner of Mountain Street and College Avenue, containing approximately 1.01 acres; amending official zoning map of City of Fayetteville; waiving any possibly conflicting development ordinances and adopting Associated Planned Zoning District;
13. **Stephens Inc. Contract – WSIP:** Resolution approving amendment to financial advisory services agreement w/Stephens, Inc., in amount not to exceed \$20,000.00 to assist w/financing of Wastewater System Improvements Project;
14. **Fayetteville Municipal Property Owners Improvement District #12 – Belclaire:** Ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 12 – Belclaire;
15. **Amend Chapter 159: Fees, UDC:** Ordinance amending Chapter 159: Fees, Unified Development Code, Code of Fayetteville limiting certain building fee exemptions;

16. **OMI Contract Approval:** Resolution approving Amendment No. 13 to contract w/Operations Management International (OMI) in amount of \$4,674,829.66 for Operation and Management of Fayetteville Wastewater Treatment Facilities for 2006;
17. **Environmental Consulting Operations, Inc.:** Resolution approving amendment to engineering contract w/Environmental consulting Operations, Inc. in amount of \$579,343.00 for construction and post-construction phase services for entire Wastewater System Improvement Project (WSIP); and approving contingency of \$20,000.00;
18. **ADM 05-1848:** Ordinance approving ADM 05-1848 for property located at southwest corner of St. Charles Avenue and Watson Street, vacating drainage easement as indicated on attached map and legal description;
19. **ANX 05-1811:** Ordinance annexing property described in ANX 05-1811 for property located north of Hwy. 16E, north of Deerfield Way, containing 3.75 acres;
20. **R-PZD 05-1797:** Ordinance establishing Residential Planned Zoning District titled Bungalows at Cato Springs, located northwest of Cato Springs Road and Cline Avenue, west of 71Business/South School Avenue, containing approximately 5.52 acres, more or less; amending official zoning map of City of Fayetteville and adopting Associated Master Development Plan;
21. **R-PZD 05-1798** Ordinance establishing Residential Planned Zoning district titled DePalma Addition, located at south end of Anson Street, containing approximately 10.04 acres, more or less; amending official zoning map of City of Fayetteville and adopting Associated Master Development Plan;
22. **Amend §97.070 Lake Recreation fees:** Ordinance amending 97.070 of Code of Fayetteville to clarify permitting requirements for recreational use of city-owned lakes;
23. **2005 Rebudgeting Request:** Resolution amending adopted 2006 budget to re-authorize funding from 2005, in order to retain project funding for identified, scheduled and on-going capital improvements;
24. **Elkins Contract concerning sewer rates and other matters:** Resolution approving contract w/City of Elkins concerning their sewer rates and other matters;

25. **Dan Nelson Revocable Trust Condemnation:** Resolution authorizing City Attorney to seek condemnation and possession of certain lands owned by the Dan Nelson Revocable Trust;

26. **Barbara J. Heyliger Trust Condemnation:** Resolution authorizing City Attorney to seek condemnation and possession of certain lands owned by the Barbara J. Heyliger Trust;

27. **MSB Properties, LLC and Nanchar, Inc. Condemnation:** Resolution authorizing City Attorney to seek condemnation and possession of certain lands owned by MSB Properties, LLC and NanChar, Inc.;

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29. **Commonwealth-Goshen Theatre Corp. Condemnation:** Resolution authorizing city Attorney to seek condemnation and possession of certain lands owned by Commonwealth-Goshen Theatre Corp.

Steel
Cattaneo } 159.01 Fees
Building Permits
Two (2) items were
merged into one (1)
Ordinance, which is
attached.

Thanks,

D. J. Whitel
Asst. City Attorney