**Final Agenda**
**For**
**City Council Meeting**
**December 16, 2003**

A meeting of the Fayetteville City Council will be held on December 16, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Fayetteville Natural Heritage Committee Presentation.**

**Nominating Committee Report**

**A. CONSENT:**

1. **Approval Of The Minutes:** Approval of the October 21, 2003, November 18 and December 2, 2003 meeting minutes.

2. **Vanco Engineering Flash Mixer Purchase for the Noland Plant:** A resolution approving the purchase of a flash mixer for the Noland Wastewater Treatment Plant in the amount of $21,310.00 from the lowest qualified bidder, Vanco Engineering Company; and approving a budget adjustment in the amount of $55,000.00 for same.

3. **EDC Corporation Bid Award No. 03-68 and Contract Approval:** A resolution to approve a contract with EDC Corporation for the AIMS Parking Management System in the amount of $34,357.26, with a project contingency of $3,435.74, and approval of a budget adjustment in the amount of $37,793.00.

4. **Jim Black Contract - Operation of the Lake Fayetteville Boat Dock:** A resolution awarding a contract to Jim Black in the amount of $31,719.00 to operate the Lake Fayetteville Boat Dock for calendar year 2004, with five one-year renewal options.

5. **Green Anderson Contract Amendment – Installation of an Emergency Generator for City Administration Building:** A resolution to approve amendment # 1 of the agreement with Green Anderson Engineers, Inc. in the amount of $3,100.00 for engineering services related to design of a standby emergency generator system for the City Administration Building.

6. **Jerry Sweetser Construction Contract – Construction of Broyles Road:** A resolution approving a construction contract with Jerry D. Sweetser, Inc. in the amount of $397,868.25 for the construction of Broyles Road from Wedington Drive to Persimmon Place Subdivision; approving a 15% project contingency in the amount of $59,680.75; and approving a budget adjustment in the amount of $457,549.00 for same.

7. **Habitat for Humanity Waive of Building Permit Fees and Developmental Fees:** A resolution to waive the building permit fee and other developmental fees for homes to be constructed by Habitat for Humanity.

## B. OLD BUSINESS:

1. **ADM 03-29.00 Amend Master Street Plan – Cliffs Boulevard Eastern Extension:** A resolution approving an amendment to the Master Street Plan relocating Cliffs Boulevard and reducing it to a collector street between Highway 265 and Starr Drive as shown on Exhibit A.

2. **Hay Group Salary Survey: A resolution:** A resolution adopting the Hay Group's recommendation in the 2003 compensation practices update; implementing 50% of the recommendation in January 2004 and the remaining 50% in January 2005.

3. **2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.
   ***This Resolution was tabled at the November 18, 2003 City Council meeting until the December 2, 2003 City Council meeting.***
   ***This resolution was tabled at the December 2, 2003 City council meeting to the December 16, 2003 City Council meeting.***

## C. NEW BUSINESS:

1. **OMI Contract Amendment No. 10:** A resolution approving Amendment No. 10 to the contract with Operations Management International (OMI) in the amount of $4,373,573.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2004.

2. **Fayetteville Boys and Girls Club Agreement to Provide Public Recreation:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2004.

3. **Council on Aging Agreement and Bid Waiver to Provide Public Recreation for the Citizens of Fayetteville:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $32,900.00 to provide public recreation services for the senior citizens of Fayetteville for 2004.

4. **ANX 03-4.00 – Repeal Ordinance 4518 Carol Stephens Annexation:** An ordinance repealing Ordinance No. 4518 for the annexation to the City of Fayetteville, Arkansas, of 1.08 acres located north of Mt. Comfort Road and west of Rupple Road owned by Carol Stephens

5. **RZN 03-37.00 – Stonebridge Meadows:** An ordinance rezoning that property described in rezoning petition RZN 03-37.00 as submitted by the City of Fayetteville for property located south of Goff Farm Road and east of Stonebridge Meadows.

6. **Traffic and Transportation Study:** A resolution accepting the traffic and transportation study dated October, 2003 and prepared by Bucher, Willis & Ratliff.

7. **LEECO Fire Equipment:** A resolution approving the purchase of one Emergency One, Inc. (E-One) pumper apparatus from LEECO, Inc in the amount of $347,645.83; and approving a budget adjustment in the amount of $377,646.00 for same.

**D. INFORMATIONAL:**

**Citizen Survey Distribution**

Meeting Adjourned at 8:30 PM.

| Subject: | Roll Call | | | | |
|---|---|---|---|---|---|
| Motion To: | | | | | |
| Motion By:<br>Seconded: | | | | | |
| | Marr | ✓ | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | absent | | | |
| | Jordan | ✓ | | | |
| | Reynolds | ✓ | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Mayor Coody | ✓ | | | |

| Subject: | Nominating Committee Report. | | | | |
|---|---|---|---|---|---|
| Motion To: | | Accept report | | | |
| Motion By:<br>Seconded: | | Marr<br>Reynolds | | | |
| | Marr | ✓ | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | ~~Lucas~~ | absent | | | |
| | Jordan | ✓ | | | |
| | Reynolds | ✓ | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | ~~Mayor Coody~~ | | | | |

| Subject: | | Consent | | | |
|---|---|---|---|---|---|
| Motion To: | | Approve Consent | | | |
| Motion By: Seconded: | | Jordan Davis | | | |
| | Marr | ✓ | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | ~~Lucas~~ | Absent | | | |
| | Jordan | ✓ | | | |
| | Reynolds | ✓ | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | ~~Macdonald~~ | — | | | |

Consent

passed Res. 188-03 to Res. 193-03

| Subject: | | ADM 03-29.00 | | Amend Master Street Plan Cliffs Boulevard | |
|---|---|---|---|---|---|
| Motion To: | | Approve Amended to resolution | | Approve Amended Resolution | |
| Motion By: Seconded: | | Thiel Davis | | Davis Marr | |
| | Marr | ✓ | | ✓ | |
| | Rhoads | ✓ | | ✓ | |
| | Davis | ✓ | | ✓ | |
| | ~~Lucas~~ | absent | | absent | |
| | Jordan | ✓ | | — | |
| | Reynolds | ✓ | | ✓ | |
| | Thiel | ✓ | | ✓ | |
| | Cook | ✓ | | ✓ | |
| | Mayor Coody | — | | — | |

B.1
old Business

Passed Res. 194-03

| Subject: | | Hay Group Salary Survey | | | |
|---|---|---|---|---|---|
| Motion To: | Amend Resolution | Leave Matrix as is | | - the Dame for 2004 | |
| Motion By: Seconded: | | - Jordan Reynolds | | As Was | in 2003. |
| | Marr | ✓ | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | ~~Lucas~~ | Absent | | | |
| | Jordan | ✓ | | | |
| | Reynolds | ✓ | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Mayor Coody | — | | | |

B.2. Old Business

Approved Amendment #1 Leave Matrix as is passed

| Subject: | | Hay Group Salary Survey | | | |
|---|---|---|---|---|---|
| Motion To: | | | 50/50 Uniform 100 non-uniform | 50/50 Compensation | |
| Motion By: Seconded: | | | Marr / Jordan | 50/2004 50/2005 | |
| | Marr | | ✓ | | |
| | Rhoads | | ✓ | | |
| | Davis | | ✓ | | |
| | ~~Lucas~~ | | Absent | 2004 50% 2005 50% | |
| | Jordan | | ✓ | for Uniformed. | |
| | Reynolds | | ✓ | Fully implement Non- | |
| | Thiel | | ✓ | Uniform in 2004. | |
| | Cook | | ✓ | | |
| | Mayor Coody | | — | $164,000 Budget will | |

B.2. Old Business Amendment 2004 50% 2005 50% for Uniformed 100% 2004 non-uniform

be effected. $ 300,000 fully fund.

passed

| Subject: | | Hay Group Salary Survey. | | | |
|---|---|---|---|---|---|
| Motion To: | | Approve as Amended. | | | |
| Motion By:<br>Seconded: | | Rhoads<br>Reynolds | | | |
| | Marr | ✓ | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | ~~Lucas~~ | Absent | | | |
| | Jordan | ✓ | | | |
| | Reynolds | ✓ | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Mayor Coody | — | | | |

B. 2.
old Business

Approved
as Amended
Res.
195-03

| Subject: | | 2004 Annual Budget | | | |
|---|---|---|---|---|---|
| Motion To: | | Approve | | | |
| Motion By:<br>Seconded: | | Jordan<br>Cook | | | |
| | Marr | ✓ | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | ~~Lucas~~ | Absent | | | |
| | Jordan | ✓ | | | |
| | Reynolds | ✓ | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Mayor Coody | — | | | |

B. 3.
old Business

passed
Res.
196-03

| Subject: | | OMI Contract Amendment # 10 | | | |
|---|---|---|---|---|---|
| Motion To: | | Approve, | | | |
| Motion By:<br>Seconded: | | Reynolds<br>Jordan | | | |
| | Marr | ✓ | | | |
| | Rhoads | ✓ | | | |
| | Davis | Absent during Vote | | | |
| | ~~Lucas~~ | Absent | | | |
| | Jordan | ✓ | | | |
| | Reynolds | ✓ | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Mayor Coody | — | | | |

C.1
New Business

passed
6/0
Res.
197-03

| Subject: | | Fayetteville Boys & Girls Club | | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd read | 3rd read | Pass | |
| Motion By:<br>Seconded: | | Reynolds<br>Marr | Reynolds<br>Marr | | |
| | Marr | ✓ | ✓ | ✓ | |
| | Rhoads | ✓ | ✓ | ✓ | |
| | Davis | ✓ | ✓ | ✓ | |
| | ~~Lucas~~ | Absent | Absent | absent | |
| | Jordan | ✓ | ✓ | ✓ | |
| | Reynolds | ✓ | ✓ | ✓ | |
| | Thiel | ✓ | ✓ | ✓ | |
| | Cook | ✓ | ✓ | ✓ | |
| | Mayor Coody | — | — | — | |

C.2.
New Business

passed
7/0
Ord.
#5332

| Subject: | | Council on Aging Agreement & Bid Waiver | | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd read | 3rd read | Pass | |
| Motion By: Seconded: | | Jordan / Davis | Davis / Jordan | | |
| | Marr | ✓ | ✓ | ✓ | |
| | Rhoads | absent during vote | absent during vote | absent during vote | |
| | Davis | ✓ | ✓ | ✓ | |
| | ~~Lucas~~ | Absent | Absent | absent | |
| | Jordan | ✓ | ✓ | ✓ | |
| | Reynolds | ✓ | ✓ | ✓ | |
| | Thiel | ✓ | ✓ | ✓ | |
| | Cook | ✓ | ✓ | ✓ | |
| | Mayor Coody | — | — | — | |

C.3 New Business

Passed Ord. 4533

| Subject: | | ANX 03-4.00 | | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd Read | 3rd Read | Pass | |
| Motion By: Seconded: | | Jordan / Davis | Jordan / Davis | | |
| | Marr | ✓ | ✓ | ✓ | |
| | Rhoads | absent during vote. | ✓ | ✓ | |
| | Davis | ✓ | ✓ | ✓ | |
| | Lucas | absent | absent | absent | |
| | Jordan | ✓ | ✓ | ✓ | |
| | Reynolds | ✓ | ✓ | ✓ | |
| | Thiel | ✓ | ✓ | ✓ | |
| | Cook | ✓ | ✓ | ✓ | |
| | Mayor Coody | — | — | — | |

C.4. New Business

Passed Ord. 4534

| Subject: | | RZN 03-37.00 Stone Bridge Meadows | | | |
|---|---|---|---|---|---|
| Motion To: | | 2nd read | 3rd read | Pass | |
| Motion By:<br>Seconded: | | Reynolds<br>Jordan | Jordan<br>Reynolds | | |
| | Marr | ✓ | ✓ | ✓ | |
| | Rhoads | ✓ | ✓ | ✓ | |
| | Davis | ✓ | ✓ | ✓ | |
| | Lucas | absent | absent | absent | |
| | Jordan | ✓ | ✓ | ✓ | |
| | Reynolds | ✓ | ✓ | ✓ | |
| | Thiel | ✓ | ✓ | ✓ | |
| | Cook | ✓ | ✓ | ✓ | |
| | Mayor Coody | — | — | — | |

C.5. New Business

ord. 4535

| Subject: | | Traffic & Transportation Study | | | |
|---|---|---|---|---|---|
| Motion To: | | Approve | | | |
| Motion By:<br>Seconded: | | Marr<br>Jordan | | | |
| | Marr | ✓ | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | absent | | | |
| | Jordan | ✓ | | | |
| | Reynolds | N | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Mayor Coody | — | | | |

C.6. New Business

6/1

Passed Res. 198-03

| Subject: | | Leco Fire Equipment | | | |
|---|---|---|---|---|---|
| Motion To: | | Approve | | | |
| Motion By:<br>Seconded: | | Davis<br>Reynolds | | | |
| | Marr | ✓ | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | absent | | | |
| | Jordan | ✓ | | | |
| | Reynolds | ✓ | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Mayor Coody | — | | | |

C.7

New Business

passed

Res. 199-03

| Subject: | | Water & Sewer Ordinance. | | | |
|---|---|---|---|---|---|
| Motion To: | | Suspend rules add to Agenda | | | |
| Motion By:<br>Seconded: | | Marr<br>Jordan | | | |
| | Marr | ✓ | | | |
| | Rhoads | ✓ | | | |
| | Davis | ✓ | | | |
| | Lucas | Absent | | | |
| | Jordan | ✓ | | | |
| | Reynolds | ✓ | | | |
| | Thiel | ✓ | | | |
| | Cook | ✓ | | | |
| | Mayor Coody | — | | | |

Left on first read

Need to run ad in paper

Get with Kit

**From:** Amber Wood
**To:** Smith, Sondra
**Date:** 11/4/03 8:29AM
**Caller:** Margo Heinzelman
**Company:** Fayetteville Natural Heritage Committee
**Phone:** 521-8923
1

[*] Telephoned
[ ] Will call again
[ ] Wants to see you
[ ] Urgent

[*] Please call
[ ] Returned your call
[ ] Came to see you

She would like to be put on the December 9th Agenda. She is going to present the Mayor with a $15,000 check and she would like to be the first item on the Agenda.

December 16th 6:00

- FNHA is focused right now on fulfilling its commitment to the Mayor and City Council to raise $300,000 in cash over the next three years.

- FNHA is studying other areas around town that need conservation.

FNHA is a curious group.

- We are diverse in age, professions, background and interests.
- We are self-recruits who have melded together into an effective advocate group.
- We are committed to preserving the quality of life that attracted us to Fayetteville.
- We seek collaboration with the City Council, Mayor and city staff, with other groups and with the media to tell our story and conserve critical natural and native areas.
- We raise money to deliver on our promises.

# FAYETTEVILLE NATURAL HERITAGE ASSOCIATION
# 2003 - A YEAR OF ACCOMPLISHMENTS

- Until a broad based group of interested citizen founded and incorporated FNHA last December there was no local group actively working to conserve the urban forest and native habitat that differentiates Fayetteville locally and nationally.

- In less than a year a corps of dedicated volunteers have:

    - formed and incorporated the organization,
    - developed a board, technical advisory committee and committees,
    - gotten our IRS 501 (c) (3) tax status,
    - worked with the city to secure Mount Sequoyah woods,
    - recruited a membership of 465 individuals and families,
    - raised $105, 611 - $30,766 in cash and memberships and $74,845 in pledges from our membership base and board,
    - given the City Council two checks for $15,000 each and plan to present a third $20,000 check at the December 16 Council meeting and
    - obtained a $3000 Forestry Commission grant to label trees and features in Mount Sequoyah.

- Creative and dedicated people have come forward to help raise money. The Medders who were engaged in MSW chose to have their wedding presents donated to FNHA. Their dedication and outside-the-box thinking resulted in a $2003 gift. They are getting active in recruiting Generation Xers into FNHA. The Chamber Leadership Class adopted MSW.

- For the remainder of 2003 FNHA will ask its members to increase their support, will recruit a Fundraising Advisory Committee of opinion leaders to help us design our community appeal and plan the strategy to launch our "Pass It On" campaign in January 2004 to raise the remaining $200,000 in cash for our commitment to purchase the conservation easement to protect MSW in perpetuity. The community phase will approach individuals interested, businesses and community groups in conservation.

- In 2003 and 2004 FNHA volunteers continue to work with the city staff to identify and apply for grants to purchase and maintain MSW and other natural heritage sites in Fayetteville.

**Nominating Committee Report**
**Meeting: Wednesday, December 10, 2003**
**Room 326, City Hall 3:30 - 8:00 pm**
**Members Present – Kyle Cook, Shirley Lucas – Through 6:30 pm, Don Marr, Robert Rhoads**

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The Nominating Committee meeting was called to order at 3:30 pm. We reviewed the interview schedule for the afternoon. We determined because of the volume of applicants that when interviews for a specific committee were finished we would discuss appointment to that respective committee at that time, rather than waiting until the end.

After interviewing all applicants and discussion among the Nominating Committee, the following is being submitted to the entire City Council for consideration. The nominations are being submitted by the Nominating Committee with the committee's unanimous recommendation.

**Airport Board**
The Committee recommends the following candidates for appointment:

- ***David Hollman*** – The appointment is for One Pilot term ending 12/31/2008
- ***Janice Stanesic*** - The second appointment is for One unexpired Business term ending 12/31/2007

**Audit Committee**
The Committee recommends the following candidates for appointment:

- ***Adam Motherwell*** - *re-appointment,* One term ending 12/31/2006

**Environmental Concerns Committee**
The Committee only received one applicant for this committee. However, we did have one citizen that had applied for the Audit Committee express interest in serving on a committee for the City until their original committee interest became available. The Committee recommends the following candidates for appointment:

- ***Kathe Dyer*** - One Community Citizen at Large term ending 6/30/2006
- ***Judy Jacobs*** – One unexpired Community Citizen at Large term ending 6/30/2005
- One Local Industry term ending 12/31/2006 – **vacant (not enough applicants applied to fill all available slots)**
- One Community Citizen at Large term ending 6/30/2006 – **vacant (not enough applicants applied to fill all available slots)**

**Housing Authority Board of Commissioners**

The Committee interviewed each applicant that had applied, however because of State law; the Committee has referred all applicants to the Housing Authority Board for Interviews, and is awaiting the Boards recommendation prior to any selection being recommended to the full City Council.

**Parks and Recreation Advisory Board**

The Committee had some awesome applicants for this board, and we would like the City Clerk's office to retain these applicants in a separate file so that the Nominating Committee can call back those individuals not selected and encourage them to reapply again when future appointments become available. The Committee is recommending the re-appointment of four current Parks Board members. We felt there was not a compelling reason not to reappoint current members who were all eligible for the second and final terms. The Committee recommends the following candidates for appointment:

- ***Michael Hill*** – *re-appointment* – term ending 12/31/2005
- ***Kristen Holmes*** – *re-appointment* – term ending 12/31/2005
- ***Trey Marley*** – *re-appointment* – term ending 12/31/2005
- ***Craig Mauritson*** – *re-appointment* – term ending 12/31/2005

**Sidewalk and Trails Task Force**

The Committee recommends the following candidates for appointment:

- ***Sam Lafoy*** – term ending 12/31/2005
- ***Cindy Kalke*** – term ending 12/31/2005
- ***Laura Kelly*** – *re-appointment* – term ending 12/31/2005
- ***Scott Mashburn*** – *re-appointment* – term ending 12/31/2005

**Telecommunications Board**

The Committee recommends the appointment of One Term, with the term ending time to be determined when the Telecommunications Board convenes and draws for newly designated alternating term slots. The Committee recommends the following candidates for appointment:

- ***Gary Cochran*** – One term, term length TBD

**Tree and Landscape Advisory Committee**

The Committee again had good applicants for this committee; however we had more developers apply than positions available. Again, we would like the City Clerks office to retain the individuals not appointed so that they may be considered for future openings. The Committee recommends the following candidates for appointment:

- ***Bill Dollar*** – One Business term ending 12/31/2005
- ***Hank Broyles*** – One Land Development term ending 12/31/2005
- ***Melissa Evans*** – *re-appointment*, One Land Development term ending 12/31/2005
- ***Tommy Deweese*** – One Utility Representative term ending 12/31/2005
- One University Representative term ending 12/31/2005 – ***(No applicants received that would qualify for appointment to this position.)***
- ***Keith Roberts*** - One Service Organization term ending 12/31/2005

**Youth Activities Committee**

The Committee interviewed over 11 students from Woodland Junior High for this committee. While many individuals would be great candidates for this committee, we recommend the appointment of two individuals from Woodland Junior High to fill the one open position for Woodland Junior High and the one open position for West Campus. All other applicants will be forwarded to the Committee so that in the future, the Committee will have individuals to contact and request their assistance for planning and execution of youth activities. The Committee recommends the following candidates for appointment:

- ***Shay Hopper*** – One Teacher term ending 11/30/2005
- ***Haley Bradford*** – Student term ending 11/30/2004 - Woodland Junior High
- ***Michael Brown*** – Student term ending 11/30/2004 - Woodland Junior High
- ***John Green*** - One Citizen At-Large term ending 11/30/2005

Nominating Committee Meeting adjourned at 8:00 pm.

Housing Authority Call

Approved 12/16/03

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**Meeting: Wednesday, December 10, 2003**
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**Members Present – Kyle Cook, Shirley Lucas – Through 6:30 pm, Don Marr, Robert Rhoads**

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- ***Hank Broyles*** – One Land Development term ending 12/31/2005
- ***Melissa Evans*** – *re-appointment,* One Land Development term ending 12/31/2005
- ***Tommy Deweese*** – One Utility Representative term ending 12/31/2005
- One University Representative term ending 12/31/2005 – (***No applicants received that would qualify for appointment to this position.)***
- ***Keith Roberts*** - One Service Organization term ending 12/31/2005

**Youth Activities Committee**

Check to see if this is an ordinance or resolution

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- ***Michael Brown*** – Student term ending 11/30/2004 - Woodland Junior High
- ***John Green*** - One Citizen At-Large term ending 11/30/2005

Nominating Committee Meeting adjourned at 8:00 pm.

Approved
12/16/03

# Minutes
# Of The
# City Council Meeting
# October 21, 2003

A meeting of the Fayetteville City Council was held on October 21, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

**Mayor Coody acknowledged Louise Schaper as receiving the 2003 21st Century Librarian award.**

**CONSENT:**

**Approval Of The Minutes:** Approval of the September 2, 2003 meeting minutes.

**Narendra Krushiker Change Order # 1 Hampton Inn:** A resolution approving Change Order #1 to the cost-share agreement with Narendra Krushiker in the amount of $8,458.10 to install approximately 650 feet of 8-inch water main north from Sixth Street.

***Resolution 154-03 As Recorded In The Office Of The City Clerk.***

**Crossland Heavy Contactors, Inc. Accelerated Water Line Replacement Projects:** A resolution approving Change Order #1 to the contract with Crossland Heavy Contractors, Inc. in the amount of seventy thousand three hundred seventeen dollars and seventy cents ($70,317.70) to add the Locust Avenue Waterline Replacement to the accelerated waterline replacement project.

***Resolution 155-03 As Recorded In The Office Of The City Clerk.***

**ADM 03-24.00 Master Street Plan Amendment, Technology Blvd.:** A resolution amending the Master Street Plan to remove the portion of Technology Boulevard shown crossing the proposed springwoods Commercial-Planned Zoning District.

***Resolution 156-03 As Recorded In The Office Of The City Clerk.***

**ADM 03-25.00 Master Street Plan Amendment, Truckers Drive:** A resolution amending the Master Street Plan to remove the portion of Truckers Drive shown crossing the proposed springwoods Commercial-Planned Zoning District.

***Resolution 157-03 As Recorded In The Office Of The City Clerk.***

**AEP/Swepco Reimbursement of Burial of Utilities:** A resolution approving reimbursement in the amount of $101,806.00 to AEP/Swepco for burial of utilities along a portion of West Avenue near the New Fayetteville Public library.

***Resolution 158-03 As Recorded In The Office Of The City Clerk.***

**Crossland Construction Company Contract Adjustments New Fayetteville Public Library:** A resolution approving Change Order # 10 to the contract with Crossland Construction Company, Inc. in the amount of $206,701.00 to install low voltage equipment at the New Fayetteville Public Library.

***Resolution 159-03 As Recorded In The Office Of The City Clerk.***

**Alderman Jordan moved to approve the consent agenda as read. Alderman Marr seconded. Upon roll call the motion passed unanimously.**

**OLD BUSINESS:**

**Amend Chapter 51.136 Monthly Water Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study. ***This Ordinance was left on the second reading at the October 7, 2003 City Council meeting.***

**Alderman Cook moved to table this ordinance until the November 18, 2003 City Council meeting. Alderman Jordan seconded. Upon roll call the motion to table passed unanimously.**

**2003 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2003 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City library; and 1.0 mil for General Purposes and Operations of the City; and certifying the same to the County Clerk of Washington County, Arkansas ***This Ordinance was left on the first reading at the October 7, 2003 City Council meeting.***

Mayor Coody asked that this be deferred until November 12, 2003 and that a Special City Council meeting be held on that date so that the staff and the City Council can have further budget deliberations and come back with a more solid figure.

**Alderman Jordan moved to table this ordinance until the November 12, 2003 Special City Council meeting. Alderman Cook seconded. Upon roll call the motion to table passed unanimously.**

**NEW BUSINESS:**

**Houses Development Company, LLC:** An appeal of Large Scale Development proposal LSD02.29.10.

**Tim Conklin, Planning:** Mr. House is appealing the Planning Commission's decision to require that Center Street be extended. His appeal is about whether or not he has to construct Center Street from Olive to Walnut. We originally thought there was 30 feet of right of way but it is our opinion that only 15 feet of right of way exists between Olive and Walnut Street. This is a change that the city staff and the developer were unaware of. Mr. House would have to acquire additional right of way to allow the street connection to occur. If the City Council does not approve a cost share for this street improvement the developer would be required to construct the street. The property owners would have to sell right of way to allow the street connection to occur if that doesn't happen then the City Council would have to go forward and make a decision whether or not to condemn property to provide additional access in this area and make the street connection. The city could also participate in a cost share to help build that street. The preliminary estimates were around $100,000 for the project cost.

**Tim Conklin** explained the easements, right of ways, and the current ownership of property in the area of the proposed project. There was also discussion on how this would affect current property owners. Mr. Conklin said allowing this development without requiring additional street construction and connections would limit future development within this area.

**Alderman Thiel:** Was there a reduction on the improvements that were originally required on Olive?

**Tim Conklin:** Yes, staff did recommend a trade off with Mr. House, instead of developing Olive Street to a residential street standard; we recommended that it be improved to at least 20 feet and in exchange to building the street connecting Olive to Walnut, building a 20 foot street in that section and not a standard city street. The standard city street would only occur in front of his development which would allow some on street parking.

**Alderman Thiel:** If we approve this appeal is there any way to go back and acquire the things that were required before this trade off was made?

**Tim Conklin:** Yes.

**Alderman Marr:** We are asking a property owner to acquire right of way for off site improvements that do not adjoin his property, can we legally do that?

**Kit Williams:** There is some question about whether we legally can require that, constitutionality we can if we can prove the rational nexus in rough portionally of our demands. There is some question as to whether we can require him to go beyond his property limits to build infrastructure for the city.

**Alderman Rhoads:** The $100,000, did that include the purchase of right of way?

**Tim Conklin:** That did not include the purchase of right of way. A ball park figure for right of way would be around $2.30 per foot. The $100,000 is what the developer came up with; I have not had a chance to verify that.

**Greg House:** Mr. Conklin told us that improving Center Street to Walnut would be necessary for his support of our large scale development. We informed him that the project would not be economically feasible if we were required to do that so we would consider a smaller project that was less than an acre so that we would not have to go through large scale development. Mr. Conklin after some thought said if we would bring our project to large scale development he would back off of his request to improve Center Street and we would work to find an alternative means of ingress and regress by improving Olive. We went to large scale and then Mr. Conklin changed his mind; we objected but agreed we would go along provided that our company would not be forced to carry the whole burden of paying for these off site improvements. We would be improving traffic flow for developable property that is unimproved in the surrounding area that had nothing to do with our project. Mr. Conklin proposed that the city might be responsible for a certain portion of these improvements because they didn't completely benefit our property. We submitted our rational nexus cost sharing proposal as a means of trying to move this project forward. Our concern was provided the Planning Commission agreed and we were approved and we came before the City Council, we might not be approved for the cost share or if we were approved the city might not have funds immediately and then our project would be stalled until the city had funds. We felt the Planning Commission should look at this either or, if we get the cost share approved we go down Center Street, if not let us go out Olive and improve Olive to residential street standards. We submitted an alternative as to connecting with Center Street and that is by going out Olive, by improving Olive as a residential street. This is supported by an independent traffic engineer study that shows there is more than enough capacity on Olive to meet the demand that our development and existing homes will place on Olive. Should there be future development there may be a problem, but that is the time that we need to deal with someone buying right of way or putting in an extra street. Our development does not over burden the traffic on Olive, if it is improved to residential street standards. Now that it has been determined that there is not enough right-of-way to improve what use to be Center Street, Planning staff has suggested that we buy the right of way. That is economically unfeasible and from timing prospective, it is not feasible.

A discussion continued on the project.

**Mayor Coody:** What is the difference between the existing streets that is there now on Olive versus a residential street what is the difference between the two?

**Greg House:** Most of the street is already 20 feet wide in pavement; there are a few areas that are 18 feet wide which we could bring up to the 20 foot wide pavement portion. A residential street takes 24 feet back to back of curb. By us adding curb and gutter system it will bring it up to residential street standard as far as the street is concerned. We presented an independent study from a traffic engineer supporting the traffic loads. The city has yet to come up with why the engineer is wrong or some alternative study to show that our traffic is too much.

**Tim Conklin:** When we started this process there was a lot of unknowns as we progressed through the process and understood the issues that faced these neighborhoods, staff thought it was more important to try to provide additional access into these areas.

A discussion followed on this project.

**Alderman Marr:** I think the Planning Commission was very reasonable when looking at this request. The road should handle the number of units proposed.

**Alderman Marr moved to approve the request for appeal. Alderman Rhoads seconded.**

**Mayor Coody:** How do we deal with the storm water run off onto other property?

**Tim Conklin:** They would be required to meet our storm water ordinance and our city street standard ordinance.

**Alderman Davis:** I hate to see Olive Street extended to where it would connect with Center at a future date in this point in time. The land to the south of the area we do not know what is going to happen there, I would hate for someone else to latch onto your extension. I think we have to be careful of the length of the extension.

There was a discussion on future development in the area and the length of the extension of Olive Street. There was also a discussion on the drainage issue.

**Kit Williams:** Was your motion simply to eliminate the need for the Center Street right of way construction, but all other conditions as required by the Planning Commission would stand as approved?

**Alderman Marr:** It was that but also to get Olive Street built to the original residential street standard requirements.

**Kit Williams:** I thought there was some discussion at Planning Commission that with the driveways coming down into Olive that if they built a sidewalk, that might affect some of the property owners?

**Tim Conklin:** That is correct; there would be some transitional issues with driveways in order to get that sidewalk in, with regard to the sidewalk you would have to redo driveways also in most likely in those areas. I think the motion needs to state what the recommendation was by Planning Commission for Olive Street if Center Street wasn't constructed.

**Alderman Thiel:** If Center Street moves within a few feet of Mr. Bryant's home, are we obligated then to buy the entire property, we can't just destroy the property for the street and not go ahead and buy the whole property.

**Kit Williams:** If we acquire right of way on the Bryant side, certainly the impact on their property would be part of what we would have to pay. If we are acquiring right of way on the other side so that we are using existing right of way and then buying right of way farther away from their house I am not sure since we don't adjoin their property they would be entitled to the diminution in value to their home because of having a street right next to it.

**Alderman Marr:** Is the primary concern the property owners on Center, or is it the drainage to the west side of Olive.

**Alderman Thiel:** I am not concerned about the drainage so much. My concern is for the Bryant's and the Center Street condemnation possibly and the people that live on Olive.

**Kit Williams:** If this appeal is turned down we can not put on a developer an impossible condition, only the City Council has the power to condemn property. We can only require a developer to pay that amount off site work, his cost share, we can't require anything more.

**Alderman Marr: My motion was to grant the appeal not requiring Center Street and requiring Olive built to residential street standard and all other conditions of the Planning Commission.**

**Alderman Rhoads:** Is this the type of infill that we would be looking for?

**Tim Conklin:** You could develop multi-family within these areas, it would probably be built a little differently, maybe a little less dense in order to meet some of the standards they are looking at right now. This type of parking design does meet our current regulations.

**Alderman Jordan:** Mr. House would you consider less density on your property?

**Greg House:** I would consider that if we could make an agreement this evening and not have to start the process over. I have offered to reduce the bedrooms to 42 and change the configurations from mostly one bedrooms to two bedrooms, and have 26 units instead of 39 and keep the parking the same as we have it now. I think we are going to aggravate the problem on Olive if we have to curb and gutter it on the down hill side.

**Tim Conklin:** I do not approve development the Planning Commission does. What he is suggesting does not change what the Planning Commission looked at to the point that it would have to go back to the Planning Commission.

**Kit Williams:** Do you have enough from what Mr. House has described, that would be the final approval in this process.

**Tim Conklin:** Yes.

**Alderman Marr:** Do you still support curb and gutter on Olive?

**Tim Conklin:** Residential street standard does require curb and gutter. It would require additional work with regards to the driveways.

**Alderman Lucas:** Would it also include storm water control and drainage?

**Tim Conklin:** We would have to address that. It would have to meet our residential street standards because anything less without looking at it in detail, I am not prepared to make that recommendation.

**Alderman Marr: I would like to change my motion to reduce the density to 26 units, 42 bedrooms, eliminate the requirement for Center Street to be built and to have Olive Street evaluated by our City Engineering and Planning staff for the appropriate design that addresses traffic flow and drainage for this development. Alderman Davis seconded. Upon roll call the motion passed 7-1. Alderman Lucas, Jordan, Thiel, Cook, Marr, Rhoads and Davis voting yes. Alderman Reynolds voting no.**

***Resolution 160-03 As Recorded In The Office Of The City Clerk.***

**Use Of Skateboards And Skates Upon Sidewalks:** An ordinance to repeal § 74.08 of the Fayetteville Code and enact a replacement § 74.08 to clarify and expand the prohibition of using skateboards and skates upon sidewalks next to commercial, religious, governmental and industrial buildings and most City streets.

***Mr. Williams read the ordinance.***

**Larry Olsen, a Fayetteville resident** asked the council to reconsider the part of the ordinance that would not allow the skater to skate on the sidewalk or along the side of the road. He also asked the council to consider installing lights at the skate park to allow skating at night.

**Rob Sharp a Fayetteville resident:** It is already illegal for people to vandalize other people's property with a skate board or anything else. We just need more common courtesy between the skater, property owners and city officials. Skate boarding and roller skating should not be discouraged. I am concerned that if we pass this law people are not going to stop skating, they are going to go somewhere where they are not supervised. Streets belong to everyone. I really appreciate the new skate park. The skate park is great but it is not a substitute for skating on the streets it is just an extension of that.

**Brian Casino a resident:** Spoke against the ordinance.

**Alderman Reynolds:** We are not trying to discourage skateboarding. I am willing to drop section A from the ordinance and leave B, C and D.

**Kit Williams:** The current ordinance says no person upon roller skates or riding in or by means of any coaster, toy vehicle or similar devise shall do upon any roadway. That was passed in 1965. If you repeal this section and repeal Section A of the proposed ordinance you will be making a significant change in the law.

There was a discussion on Play Streets.

**Tim Conklin:** Our traffic superintendent said his authority to designate play streets was removed from his duties several years ago, because there are no play streets in Fayetteville.

**Kit Williams:** I would recommend that play street be deleted then.

**Alderman Marr:** I understood that it would be a significant policy change if we struck section A. I would support climating Section A from this.

**Alderman Reynolds moved to remove section A from the proposed ordinance. Alderman Thiel seconded. Upon roll call the motion to remove section A from the ordinance passed unanimously.**

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

***Mr. Williams read the ordinance.***

This ordinance was left on the second reading.

**Skyler Place Subdivision Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with M.P. Construction Inc. in the amount of $18, 900.00 to construct approximately 370 feet of 8" water main associated with the Skyler Place Subdivision.

***Mr. Williams read the ordinance.***

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

***Mr. Williams read the ordinance.***

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

***Mr. Williams read the ordinance.***

***Ordinance 4522 As Recorded In The Office Of The City Clerk.***

**C-PZD 03-8.00 Planned Zoning District (springwoods – Collins Haynes)**: An ordinance establishing a Commercial Planned Zoning District titled springwoods (C-PZD 03-8.00) located South of Highway 112 and West of I-540, containing 289.28 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and according to the Associated Commercial Development Project as approved by the Planning Commission.

***Mr. Williams read the ordinance.***

**Tim Conklin** gave a brief summary of the request, the proposed land uses, the density and acreage of each lot.

**Alderman Thiel:** Section 3 of this ordinance states this ordinance will not take effect and be in full force until the approval of the final plat of the subdivision.

**Alderman Cook:** We will not see this again at council. I always felt like the spirit of the PZD was to bring the entire review process through at once. I understand this section 3 that Brenda mentioned somewhat satisfies that to some degree, but we don't see that again.

**Tim Conklin:** That is correct. A final plat will be required to be filed.

**Alderman Thiel:** Permits have to be applied for from the state and Mr. Haynes cannot apply for those permits until he has ownership of the property. He really can not proceed with his final development until all that permitting process has been gone through.

**Kit Williams:** We have a final contract, you are probably asking when he has to pay the money and that would be when he gets final approval on his developmental process.

**Collins Haynes:** Our goal is to get approval of the PZD and to finalize the sale contract with the City of Fayetteville. It is a problematic situation for any developer or potential developer not to be the land owner of record of a piece of property and try to get federal, state or local approval of anything for the property. What we are asking for tonight is for you to grant approval of this PZD. That is all I need to consummate from my side the contract for the sale of property from the City of Fayetteville. I need to be owner of record on this property to move forward from this point.

**Alderman Cook:** What happens if we pass this ordinance and the 404 permit comes back and it potentially changes some of the items?

**Collins Haynes:** That would be my problem. I am not going to get a 404 permit until they are satisfied and if it does revise the layout that layout will go back to council and the council will review it. It's not me to design the 404 an agency will do that for me.

**Alderman Davis:** I think once we approve the PZD he has to go ahead and keep the districts as shown here unless there are some changes due to what we just discussed.

**Alderman Cook:** I have no qualms with Mr. Haynes, my problem is with the process the city has gone through. I thought we were going to see the rezoning and the development review come through at once.

Tim Conklin explained the reason that the PZD was recommended instead of regular zoning.

**Collins Haynes:** One of the reasons for doing this PZD was for me to determine the economic utility of the site and the ecological utility of the site; they have to be in balance. I do not want to buy this piece of property unless I know that it has some economic end result that I will at least get my money back. The PZD was the most reasonable vehicle for me to do that and to determine what I was going to donate to a non-profit, which was part of the contract that stands right now as 43% of the site.

**Manual Barnes with EGIS Environmental** explained the project, the wetlands, the ecological enhancements and what 43% of the land will be used for. He also stated that for Mr. Haynes to move forward he does need to own the property so the 404 permit can be completed in the name of this project.

**Collins Haynes:** This project means a lot to me it is a chance to do something that is totally out of the norm, to work on giving away as much property as possible at the inception of a project is definitely not where we normally start. We can still see an economic return and have a model project here. To develop the property and keep the ecological balance in tact and even improve it is a once in a life time opportunity. Thank you for allowing me this opportunity.

**Mayor Coody:** Thank you Mr. Haynes because I do not know of any other developers that would put this kind of effort into doing such a balanced program between environmental preservation, commercial development and residential development. This is a rare case when someone is willing to pay full price for a piece of land like this and then give so much of it away.

**Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Davis seconded. Upon roll call the motion passed 6-2. Alderman Lucas, Reynolds, Thiel, Marr, Rhoads and Davis voting yes. Alderman Jordan and Cook voting no.**

***Mr. Williams read the ordinance.***

**Alderman Davis:** There is only about 57 to 58 acres that is commercial and about 60 acres that is residential.

**Alderman Marr:** I understand why we are phasing it, Section 3 makes me feel comfortable but I feel impelled to say two things. On October 14, 2003 at the Planning Commission our Planning staff explained the PZD process as used to bring zoning and development review process together. I thought that Alderman Cook's explanation of a visual process was a great explanation of how I understood it to be when we brought forward and I realize that it doesn't make sense to do that. The reason I want this in the minutes we have this great ability to throw up a project that we dealt with differently for the next person that comes along and says well you did it for this so you need to do it for that. I can't speak for the rest of you, but I would like for there to be a sub-committee or someone look at how we deal with large units that requires you to do more phasing. The thing that came to my mind was St. Joseph's, if we had brought St Joseph's through this process and done it this way without having the visual review of it I can tell you that it would not have worked. There is a size that we need to stay committed to the spirit of the PZD process. I want to make it clear to people that go back and read minutes about what happened to this, it is the intent of what the PZD was that I think we need to maintain and I agree that we have identified a problem in our current ordinance about how to deal with extremely large pieces of land, but that doesn't waive what our original spirit was.

**Mayor Coody:** It does identify a problem. It was a catch 22, a developer could not spend millions of dollars in engineering on a piece of land that he didn't own and had no guarantee of owning. We had to find some middle ground.

**Alderman Marr:** I am not being critical of the route chosen, what I am saying is, I don't think it needs to be used as a future model of the PZD process. It is not what we intended the original PZD to be nor was it how it was presented to us or the Planning Commission.

**Alderman Jordan:** I agree with what Alderman Marr is saying. I think the planning Commission does a really good job.

**Alderman Thiel:** I understand the discussion about the PZD, but I am anxious to move on with this. I was a very strong proponent of having Audubon part of this and I really must commend Mr. Haynes, Don Nelms and Ken Smith for working together to bring the possibly of a national Audubon to Fayetteville. Their presence will not only enhance Mr. Haynes project but I think it will also help to preserve and protect the wet lands that are there. I feel this is probably the best thing that could happen to that property. That's why I am supporting moving forward. Section 3 states that this ordinance shall not take affect and be in full force until approval of the final plat for the subdivision.

**Jeff Erf:** After the city and Mr. Haynes close on the property when does the city make available to Mr. Haynes the $700,000 grant that was awarded by the Economic Development of Arkansas Fund?

**Kit Williams:** That grant can only be used to offset cost of construction of the streets and other infrastructure within that project. That money can only go to Mr. Haynes as he completes various infrastructures as required in the grant.

**Jeff Erf**: It is not going to be immediately after closing?

**Kit Williams:** No, it is to pay for completed infrastructure improvements.

**Jeff Erf:** The contract doesn't say completed infrastructure construction.

**Kit Williams:** The grant is for money to aid in construction of the water, sewer lines and streets. That is the only way the money can be used.

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

***Mr. Williams read the ordinance.***

**Don Nelms, Chairman of the Arkansas Audubon** spoke of the process to establish a center in the City of Fayetteville. He said this process has proven that people can work together in this city and he said that Mr. Haynes had been wonderful to work with.

**Ken Smith, Executive Director of Arkansas Audubon:** Don has brought the site to my attention and I would not be here today if it was not for Don Nelms. I think you need to give him a round of applause. The project has the key ingredients that we have looked for all along.

He spoke of the habitat at the site and that Northwest Arkansas was an area they wanted to be in. He said this site is a good visible site located off of I-540.

**Don Nelms:** Brenda Thiel has helped us from the very beginning on this and has been a big part of this, that is not to exclude anyone else on the Council you have all been helpful and we appreciate it very much.

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

***Ordinance 4523 As Recorded In The Office Of The City Clerk.***

**Collins Haynes** thanked the council for the opportunity.

**Covenant Presbyterian Church Cost Share Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Covenant Presbyterian Church in the amount of $77,570.00 to construct a concrete swale and drainage pipe from Wedington Drive to 46th Street; and approving a budget adjustment in the amount of $12,080.00 for same.

***Mr. Williams read the ordinance.***

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

***Mr. Williams read the ordinance.***

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

***Mr. Williams read the ordinance.***

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

***Ordinance 4524 As Recorded In The Office Of The City Clerk.***

**TCA Cable Partners Franchise/Cox Communications:** A resolution authorizing TCA Cable Partners, providing services as Cox Communications, to continue to operate the Cable Communications System.

**Hugh Earnest:** We are asking for an extension of this through December of 2005. There is now a consensus between representatives of the company and representatives of the city because of the rapidly changing nature of the telecommunications industry to look at this and think out of the box as how we can best position ourselves for the foreseeable future. They have began to exhibit a much better willingness to cooperate. They have completed the rebuild which they had not done to any level of satisfaction a year ago. They have now completed their installations across the city, we are only extending a franchise we are not approving a new franchise. We will establish a task force that will look at the broader issue of how we position ourselves for the future with telecommunications. We will discuss renewal or non-renewal of the franchise itself, we will continue negotiations on franchise terms, we will investigate a tie into a regional scope, we will look into identifying alternatives to Cox as a franchise holder and we will consider how the city positions itself with respect to rates. We certainly intend to protect the current PEG channels. We hope to get this completed well before December of 2005.

**Alderman Jordan:** I have had a lot of questions about what is going on and the change in the audit.

**Hugh Earnest:** We have asked our internal auditor to do a complete audit of the correct amount of money that the company is paying us. This is not an audit as to the satisfaction of customers but rather to make sure they are paying us appropriately and properly.

**Alderman Reynolds:** How many people live in the City of Fayetteville that do not have cable television?

**Hugh Earnest:** Within the limits of the city they have approximately 22,000 customers. There are approximately 3,000 to 4,000 customers that are probably not served. Cable service is not mandatory.

**Alderman Thiel:** They have run it to my area; they have not notified me that I can hook on. I have discussed this for many years the fact that they are always fine in going outside the city limits and covering areas, but they are a monopoly in the City of Fayetteville. They have never been required to furnish cable to everyone within the city limits of Fayetteville. I think it is very important that a task force be set up. Why are we continuing to extend this? Can we not just go ahead and appoint a task force and dedicate the funding or whatever is necessary to get that done and in place and just wait until we get something worked out with the franchise.

**Hugh Earnest:** We have changed on our side, we are using a different attorney, on their side they are using different negotiators and there is a recognization on their side to put this to bed. This is a competitive business for them; they have a high obligation to satisfy their customers. We are also benefiting from their more aggressive marketing because we get a higher rate of return from the right of ways that they use to deliver their services. It is a benefit for both parties for us to work aggressively to come to some agreement. I want to be able to suggest as part of this some mechanism so that if anyone wants cable within this city we can find a way to fund it or subsidize it so we can get cable to every possible part of this town.

**Jim Bemis:** Spoke on the lack of progress over the past seven years with Cox and the lack of access to the Cox data. The auditors were not even allowed access to the Cox data and he does not see any way a regional task force will help.

**Alderman Marr:** The establishment of a task force is it a regional task force or a city task force.

**Hugh Earnest:** I would like to call it a task force that is going to look at city issues related to telecommunications and also think out of the box to talk about those issues of regional interest that would allow us to tie together.

**Alderman Marr:** How is the task force being appointed, how many people will be on it, what will be the makeup of this task force?

**Hugh Earnest:** Mrs. Cromwell and I have been talking about that. We have not decided how to best form that task force.

**Alderman Marr:** If this extension is not passed is there a drop dead date?

**Hugh Earnest:** No, this gives us a drop dead date. I will never recommend another extension. There was a needs assessment in 1997 on this. The negotiations between Cox and other entities are not as complex as those that occur here in Fayetteville, because of the three channels that were assigned to the city, this complicates the whole relationship.

**Alderman Marr:** I am going to support this because I do think we need to support a drop dead date. I am most interested in identifying alternatives to Cox as a franchise holder if we can't get to an agreement, until they realize it is an open market and maybe there are other alternatives then maybe we will get an agreement.

**Alderman Lucas:** Do we need to extend it two years; if people have been working on this since 1997 do you think it is going to take two more years to reach an agreement. What if we set a sooner cut off date.

A discussion followed on a regional proposition.

**Alderman Thiel:** Do we have to extend this.

**Hugh Earnest:** No.

**Alderman Marr moved to approve the resolution approving an extension of the franchise agreement until December 31, 2005 as presented by staff. Alderman Davis seconded.**

**Cyrus Young:** Who is going to appoint this task force, Mrs. Cromwell or the City Council? Are the members of the task force going to be Fayetteville citizens?

**Alderman Davis:** Are you certain there are other cities coming up with franchises due in 2005.

**Hugh Earnest:** The franchises expire in subsequental order I don't have that with me. We have checked that.

**Alderman Reynolds:** It sounds like we need a regional task force.

**Mayor Coody asked shall the resolution pass. Upon roll call the resolution failed 3-5. Alderman Marr, Rhoads and Davis voting yes. Alderman Lucas, Jordan, Reynolds, Thiel and Cook voting no.**

**Kit Williams:** This is not a very detailed agreement but I did note in paragraph 1 that it is clear what the franchise agreement, our 5% fee is going to cover and continue to cover. I am somewhat concerned about the city having no franchise agreement and counting on over half a million dollars in revenue which might be questionable about enforcing if we have absolutely no agreement with Cox. This is not the kind of thing that any of us need, at one point we had a very detailed agreement, potential agreement with them that we don't have now. I am concerned about not having any franchise agreement to enforce the revenue stream that we currently have with the city.

**Alderman Thiel:** We are not under a franchise agreement right now.

**Kit Williams:** That concerns me. We should have a franchise agreement either extending our previous franchise agreement or some sort of franchise agreement even if it is a bare bones franchise agreement like what has been presented here.

**Alderman Thiel moved to reconsider the resolution. Alderman Rhoads seconded. Upon roll call the motion to reconsider passed unanimously.**

**Alderman Thiel moved that we amend the resolution to a one year extension, until December 31, 2004. Alderman Jordan seconded. Upon roll call the amendment to the resolution passed unanimously.**

**Alderman Davis moved to approve the resolution as amended. Alderman Thiel seconded. Upon roll call the amended resolution passed unanimously.**

***Resolution 161-03 As Recorded In The Office Of The City Clerk.***

**James Anderson the Director of Public and Governmental affairs for Cox Communications:** I want you to know that we did hear your concerns tonight. I wanted to thank the City Council and the Mayor for adopting the extension tonight. I look forward to working with you in the future and creating a proposed franchise agreement that is a win win for the city, the citizens and also the company.

**Meeting Adjourned at 9:14 PM**

_____

**Sondra Smith**
**City Clerk**

Approved
12/16/03

# Minutes
# Of The
# City Council Meeting
# November 18, 2003

A meeting of the Fayetteville City Council was held on November 18, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

**Mayor Coody called the meeting to order.**

**CONSENT:**

**Approval of the Minutes:** Approval of the October 7, 2003, November 4, 2003 Special and November 4, 2003 Regular City Council meeting minutes.

**Street, Fire and Police Impact Fees:** A resolution to request city staff to study the feasibility and advisability of new impact fees in the areas of street construction, fire fighter operations, police operations and capital cost.

***Resolution 167-03 As Recorded In The Office Of The City Clerk.***

**Crossland Construction Library Change Order No. # 11:** A resolution approving Change Order # 11 to the contract with Crossland Construction Company, Inc. in the amount of $41,342.00 for water and sewer improvements at the New Fayetteville Public Library.

***Resolution 168-03 As Recorded In The Office Of The City Clerk.***

**Crossland Construction Library Change Order # 12:** A resolution approving Change Order # 12 to the contract with Crossland Construction Company, Inc. in the amount of $110,117.00 to install underground utilities to seven residences adjacent to the New Fayetteville Public Library.

***Resolution 169-03 As Recorded In The Office Of The City Clerk.***

**SBC Long Distance Bid Award:** A resolution awarding Bid #03-59 and approving a three-year contract with SGC Global Services, Inc. in the amount of $16,000.00 per year for long distance telephone services for the City of Fayetteville.

***Resolution 170-03 As Recorded In The Office Of The City Clerk.***

**2003 Department of Homeland Security Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Department of Homeland Security Fire Grant in an amount up to $300,000.00 for fire prevention programs.

***Resolution 171-03 As Recorded In The Office Of The City Clerk.***

Pulled: Dec 16th mtg

**U of A Hangar, Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Municipal Airport staff to apply for and accept a grant in the amount of $43,820.00 from the Arkansas Department of Aeronautics for the construction of an access road, parking and utilities to serve the University of Arkansas Corporate Hangar.

***Resolution 172-03 As Recorded In The Office Of The City Clerk.***

**U of A Hangar, Architectural Contractors:** A resolution awarding a contract to Architectural Contractors, Inc. in the amount of $532,000.00 for the construction of the University of Arkansas Corporate Hangar at the Fayetteville Municipal Airport; approving a project contingency in the amount of $29,565.00; and approving a budget adjustment in the amount of $220,835.00 for same.

***Resolution 173-03 As Recorded In The Office Of The City Clerk.***

**Fleet Vehicle Purchase, Ton Truck from Lander's:** A resolution approving the purchase of one pickup truck, 1 ton cab/chassis from Landers GMC at State contract prices in the amount of $24,612.00.

***Resolution 174-03 As Recorded In The Office Of The City Clerk.***

**Fleet Vehicle Purchase, Four Pickup Trucks From Lander's:** A resolution approving the purchase of four pickup trucks from Landers Ford at State contract prices for a total cost of $105,721.00.

***Resolution 175-03 As Recorded In The Office Of The City Clerk.***

**Williams Tractor Bid Acceptance:** A resolution awarding Bid # 03-61 and approving the purchase of a Bobcat Toolcat 5600 utility work machine from Williams Tractor, Inc. in the amount of $43,306.00.

***Resolution 176-03 As Recorded In The Office Of The City Clerk.***

**Alderman Davis moved to approve the consent agenda as read. Alderman Marr seconded. Upon roll call the motion passed unanimously.**

**OLD BUSINESS:**

**Amend Chapter 51.136 Monthly Water Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study. ***This Ordinance was left on the second reading at the October 7, 2003 City Council meeting.***

***Mr. Williams read the ordinance.***

**Alderman Thiel:** What we were given tonight, was that a change from what we had already received?

**Greg Boettcher:** That is the revised ordinance that reflects conformance with our contracts and the recommendations of the Water and Sewer Committee. The water rates would be an across the board increase and the sewer rates would be an across the board increase. There are a few minor exceptions where we have a contract that is valid that mandates that we use cost of service. The revised ordinance reflects all of the recommendations from the Water and Sewer Committee.

**Alderman Thiel:** The Farmington rates have changed in this?

**Greg Boettcher:** Yes.

**Alderman Thiel:** Where were the adjustments made?

**Greg Boettcher:** The water rates reflect an across the board 10% increase from the current rate. There was one water customer that we have that has a cost of service rate, which is White River Water District. The sanitary sewer rates, the across the board reflects all those customers, except Farmington that has a cost of service contract and Greenland has a cost of service contract. The contracts with certain customers specifically state cost of service.

**Alderman Thiel:** With Farmington we are looking at a minus .51 on the water?

**Greg Boettcher:** The Farmington water rate will go up 10% from where it is now under that proposed ordinance.

**Alderman Thiel:** It is the sewer that has been changed.

**Greg Boettcher:** Yes.

**Alderman Marr moved to approve the new Exhibit A dated November 18, 2003. Alderman Reynolds seconded. Upon roll call the motion to approve the new Exhibit A dated November 18, 2003 passed unanimously.**

**Alderman Davis:** Greg can you define the cost of service for us?

**Greg Boettcher:** Cost of service basically looks at the nature of customer demands and then allocates our cost to serve those various groups. For customers that are not within the corporate limits of Fayetteville there is a rate of return added to their cost of service so that the people that are inside the City of Fayetteville that have ownership in the system do receive a benefit for the risk taking and their investment.

**Alderman Davis:** I understood it also to include the billing of the outside customer, the maintenance.

**Greg Boettcher:** The City of Fayetteville under the contract provides demand operation and maintenance. We also do some preventive operation and maintenance. We maintain the Farmington lift station, pumps, and provide all the operation and maintenance of the system. We

do not do capital reinvestment in the Farmington or Greenland system, but we are under contract and obligated to operate and maintain.

**Alderman Davis:** Depreciation of the capital portion of that we are not involved in at all?

**Greg Boettcher:** You are correct. Elkins on the other hand is a wholesale customer that does operate and maintain their own system, so they have a wholesale rate which means they have a main meter into town and their main lift station has a meter on it that we bill for water and wastewater service.

**Steven Tennant, City Attorney of Farmington,** voiced his concern about the increase in sewer rates that was being proposed for the City of Farmington.

A discussion followed on the changes to the ordinance and the rates.

**Greg Boettcher:** We have done a detailed rate study. The Council and all of our customers have been advised of the rate study, it is posted on the web site. The study has been done by a reputable firm following what we believe is acceptable mythology. I have not heard any thing other than we don't like the differential rate, I have not heard or received any formal communication that says the rate mythology on page 47 is inappropriate and we believe this is the correct approach. I have not received any formal communication that is the process that I am accustomed to. We may not like the results, if it is the process that we are questioning, what in the process is wrong, tell me and I will try to respond to it. The rate increases are necessary. I have not received anything stating that this mythology is flawed and I don't recall receiving any thing that indicates that what we are doing is not in accordance with the contract. We hired a professional to develop the rates they are an unbiased expert in this field and have given us this recommendation and that is what we have tried to follow.

**Alderman Marr:** Has there been any change in the mythology of this study compared to previous studies.

**Greg Boettcher:** I am not aware of any but I was not here when the previous rate study was done. It was done by the same firm and I believe it is following the same process.

**Steven Tennant, City Attorney of Farmington** asked about the mythology and the cost of service. He asked where the consultant came up with the numbers.

**Teresa Clark, Farmington City Council Member** spoke of the maintenance that needed to be completed on the Farmington system. She also spoke on the cost Farmington residents will pay compared to the cost the Fayetteville residents will pay. She also discussed the Black and Veatch rate study.

A discussion followed on the rates.

**Alderman Jordan:** The non owners are 19% with all of them combined.

**Greg Boettcher:** That is correct, that is out side the city limits customers.

**Alderman Jordan:** Do you know how much Farmington is of the aggregate?

**Greg Boettcher:** Farmington is about 5% of our total customer base. Those numbers change year to year.

**Carol Tuck** from Farmington spoke against the rate increase.

**Kim Miller** from Farmington spoke against the rate increase.

**Mayor Coody:** Average unit cost for service for a Fayetteville resident in 2002 per thousand gallons was $3.27 for a Farmington resident it was $4.33. Fayetteville, sewer per thousand gallons was $3.44 for a Farmington resident it was $5.24. The Fayetteville residents voted an extra tax to fund a new sewer plant. We also charge impact fees.

**Teresa Clark** said they are shopping and working in Fayetteville and paying the sales tax.

**Alderman Marr:** Can you agree that you do not have a ¾ cent sales tax in the City of Farmington for the items that are purchased there?

**Teresa Clark:** We do not have an additional sales tax.

**Alderman Marr:** Do you have an impact fee?

**Teresa Clark:** We do not have an impact fee.

**Mayor Coody:** Fayetteville residents pay a ¾ cents sales tax and impact fees that Farmington residents do not have. If you paid these it would be about the same as this cost of service rate increase amounts to.

**Teresa Clark** said they would be happy to discuss these issues.

**Greg Boettcher:** Hugh Earnest sent a letter to Farmington and we have not received a written response. I have also sent them a letter on some rehab issues and have not received a written response.

**Mayor Coody:** Mr. Tennant, has Farmington sent any thing to us about sales tax or impact fees?

**Mr. Tennant:** We have had discussions.

**Mayor Coody:** The staff has tried over the past several months to have a rate equity discussion and we have not had anything in writing sent back to us. This discussion started in July. We don't like raising your rates but we had to do an election and raise taxes and impact fees.

A discussion followed on the impact fees.

**Heather Woodruff:** I did not realize we needed to write a letter for questions we needed answered.

**Alderman Rhoads:** What can we do?

**Kit Williams:** Cost of services is in the contract and we are required to follow the contract, the contract states that the rates of service shall be on a cost of service basis as computed by a registered professional engineer selected and employed by the City of Fayetteville, Farmington has the right to review such rates and provide the city with their comments. We are required to base our rates with Farmington upon a contract signed by Farmington and Fayetteville on this cost of service basis. I was at the meeting as several other aldermen were when representatives of Black and Veatch were asked how did they come up with the rates and they said it would take weeks to tell you because there is a long document, it is not just three or four simple answers. All the answers that Mr. Tennant has been asking for are in the cost of study document that has been provided that was prepared by an outside engineer that was hired by us that has done this in the past and does this all over the country.

**Alderman Rhoads:** The contract doesn't give an opportunity for Farmington to get their own engineer if they don't like what our engineer said.

**Kit Williams:** It says the City of Farmington has the right to review the rates and give the City of Fayetteville their comments.

**Alderman Rhoads:** They did not put anything in to allow them to get a second or third recommendation.

**Kit Williams:** That is correct and at the time the contract was signed there was a differential in rates then and they were adopted in the contract at that time. There has always been a differential in rates between Farmington and Fayetteville because we own the sewer plant and put lots on money into the sewer plant and we are providing a service to Farmington and their citizens.

A discussion followed on the rate study completed by Black and Veatch.

**Greg Boettcher:** The key difference between the inside City of Fayetteville rates and outside the City of Fayetteville rates is a return on investment. What that means is that the people inside the city take the risk, they have the capital expense, they own the asset people that are external pay a higher rate.

A discussion followed on the rate study and the cost of service for each customer.

**Alderman Marr** asked that we table this and have the consultant come in before the next City Council meeting.

**Alderman Reynolds** asked that we get a copy of the cost of service rate study to Mr. Tennant.

**Steve Davis:** We will make a copy and get it to them tomorrow.

**Alderman Rhoads:** Is there any urgency, will this put the city at a disadvantage by waiting?

**Steve Davis:** There are two urgencies that the City Council needs to be aware of, beginning November 1, 2003 every gallon of water that flows through our pipes cost us more money and we don't currently have the rate structure to support that 15% water increase. We have a commitment to the Arkansas Soil and Water Conversation Commission to have a rate ordinance adopted by January 1. We need to have these rates in place by December 31, 2003. The rates will not go into effect on that date; it would go into effect 30 days later. For every month we are delayed it costs about $60,000.

**Alderman Reynolds moved to table this until the December 2, 2003 City Council meeting. Alderman Jordan seconded. Upon roll call the motion to table passed unanimously.**

**R-PZD 03-04.00 Lazenby Properties:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 03-04.00 located on the west side of Razorback Road between Baum Stadium and the State Revenue Office containing 7.65 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This Ordinance was left on the first reading at the November 4, 2003 City Council meeting.***

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

***Mr. Williams read the ordinance.***

**Dawn Warrick:** There is a new Exhibit A and legal description. This applicant will be removing the Northwestern portion of this site which is adjacent to an existing contractor's storage facility. There is 1.31 acres of wetlands that was delineated in this site, a wet lands study was performed to delineate that area, if you remove that area along with the area that was removed that was the proposed contractors storage area the over all density would be 17.7 units per area with those areas removed. If you use the entire property which is the way that we traditionally calculate the density that would be a density of 14.6 units per area.

**Mr. Lazenby:** I think we have tried to address every thing you have asked us to.

**Alderman Jordan:** I have concerns about the density for this area.

**Alderman Lucas:** I have concerns about the only outlet being Razorback Road and the intersection; I would have liked to have another exit from the property.

**Alderman Cook:** I agree about the density and the traffic.

**Mayor Coody:** What is staff doing to address these concerns?

**Tim Conklin:** We have looked at a traffic signal at Razorback Road and Fifteenth Street money would be put into escrow from the project for the signal. Arkansas Transportation Department has improving Razorback Road from two lanes to four lanes in their improvement program. We are researching residential design as an action item for 2004.

A discussion followed on the project and emergency access to the project during game day.

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

***Mr. Williams read the ordinance.***

**Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Thiel, Marr, Rhoads, Davis and Reynolds voting yes. Alderman Cook, Lucas and Jordan voting no.**

**Ordinance 4528 As Recorded In The Office Of The City Clerk.**

**NEW BUSINESS:**

**VAC 03-11.00 Vacation Michael & Jill Salazar:** An ordinance approving VAC 03-11.00 to vacate a portion of a utility easement along lot 51 of the Brookbury Subdivision as depicted on the attached map and legal description.

**Dawn Warrick:** When this structure was built we believe through contractor error and information that was not presented in building permits there was a portion of the deck and sunroom at the rear of property which encroaches upon an existing utility easement at the rear of the lot. In order to refinance the home the property owners requested a survey and are trying to resolve the problem.

A discussion followed on the property set backs, the liability for not following set back requirements, and tracking violators.

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

***Mr. Williams read the ordinance.***

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

***Mr. Williams read the ordinance.***

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

**Ordinance 4529 As Recorded In The Office Of The City Clerk.**

**ADM 03-27.00 Stearns Street Apartments Right of Way Reduction Stearns Street:** A resolution approving ADM 03-27.00 amending the Master Street Plan, lessening the right-of-way dedication for Stearns Street, designated a collector street requiring 70' right-of-way, to

local street standards requiring 50' right-of-way, and reconfiguring the connection between Stearns Street and Vantage Drive.

**Tim Conklin** gave an explanation as to what was being proposed.

There was a discussion on the right of way reduction.

**Alderman Davis moved to approve the resolution. Alderman Reynolds seconded. Upon roll call the resolution passed 4-4. Alderman Thiel, Rhoads, Davis and Reynolds voting yes. Alderman Cook, Marr, Lucas and Jordan voting no.**

**Mayor Coody:** What are your reasons for opposing this?

**Alderman Cook:** There is not enough connectivity there.

A discussion followed on the streets and the capacity that would be on these streets.

**Tim Conklin:** The Planning Commission has approved this project. What you are considering this evening is not whether or not the access for the development is appropriate, whether or not it needs to be reduced from 70 feet to 50 feet and a 28 foot street versus a potential for a 36 foot street for some time in the future. What you are considering is the right of way that should be required.

**Alderman Marr:** I think to have a local street intersect with an arterial Joyce Street is bad planning.

A discussion followed on the right of way.

A discussion followed on if discussion should follow a vote.

**Mayor Coody:** Tim, staff supports this recommendation?

**Tim Conklin:** Staff recommended the reclassification to a local street and the Planning Commission approved it.

**Mayor Coody voted yes breaking the tie thus the resolution passed.**

**Resolution 177-03 As Recorded In The Office Of The City Clerk.**

**ADM 03-26.00 Stearns Street Apartments Right of Way Reduction Shepherd Lane:** A resolution approving ADM 03-26.00 amending the Master Street Plan, lessening the right-of-way dedication for Shepherd Lane, designated a collector street requiring 70' right-of-way, to local street standards requiring 50' right-of-way.

There was a discussion on Shepherd Lane.

**Alderman Davis moved to approve the resolution. Alderman Reynolds seconded. Upon roll call the resolution passed 4-4. Alderman Thiel, Rhoads, Davis and Reynolds voting**

**yes. Alderman Cook, Marr, Lucas and Jordan voting no. Mayor Coody voted yes breaking the tie thus the resolution passed.**

**Resolution 178-03 As Recorded In The Office Of The City Clerk.**

**2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.

**Steve Davis:** The overall cost increase from the adopted 2003 budget to the proposed 2004 budget is 2.05%. The budget for operating funds is $75,836,000. There are $8.7 million in transfers, $90.5 million of capital and $8.2 million in depreciation. The largest capital project that is budgeted is the wastewater system improvements project; this budget contains approximately $76 million for that one project alone. The budget contains 18 ½ new positions, 12 of these are for fire fighters to staff Station 7.

**Tom Brown** spoke on items that could affect the budget and expenditures in the police department.

**Alderman Marr moved to table the resolution until the December 2, 2003 City Council meeting. Alderman Jordan seconded. Upon roll call the motion to table passed unanimously.**

**Meeting Adjourned at 8:40 P.M.**

**Sondra Smith**
**City Clerk**

Approved
12/16/03

# Minutes
# Of The
# City Council Meeting
# December 2, 2003

A meeting of the Fayetteville City Council was held on December 2, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

**Mayor Coody called the meeting to order.**

**CONSENT:**

**Approval Of The Minutes:** Approval of the October 21, 2003 and November 18, 2003 meeting minutes.

**Police Department Policy – Racial Profiling Prohibited:** A resolution to adopt a Fayetteville Police Department Policy prohibiting racial profiling.

***Resolution 179-03 as Recorded in the Office of the City Clerk.***

**APAC Arkansas Inc; Church Avenue Retaining Wall:** A resolution awarding Bid # 03-66 to APAC-Arkansas Inc. in the amount of Twenty-Eight Thousand Fifteen Dollars ($28,015.00) to replace a retaining wall at the Church Avenue employee parking lot; and approving a project contingency in the amount of Two Thousand Eight Hundred One Dollars ($2,801.00).

***Resolution 180-03 as Recorded in the Office of the City Clerk.***

**Garver Engineers, LLC; Mount Sequoyah Water and Sewer Improvements Project:** A resolution approving a contract in the amount of Sixty-Eight Thousand Three Hundred Dollars ($68,300.00) with Garver Engineers, LLC for engineering services relating to the Mount Sequoyah Water and Sewer Improvements Project.

***Resolution 181-03 as Recorded in the Office of the City Clerk.***

**Cross Keys Subdivision – Park Land Dedication – Money in lieu of land:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $58,830.00 cash in lieu of the required park land dedication for Cross Keys Subdivision.

***Resolution 182-03 as Recorded in the Office of the City Clerk.***

**Fleet Purchase of 2 Expeditions for the Police Department:** A resolution approving the purchase of two Ford Expeditions from Landers Ford at State contract prices for a total cost of $56,322.00 for use as police K-9 units.

***Resolution 183-03 as Recorded in the Office of the City Clerk.***

**Special Election for the Referendum Election on Ordinance No. 4512:** A resolution setting the date for the Special Election for the Referendum Election on Ordinance No. 4512 which amended §95.05 of the Fayetteville Code to Regulate Smoking In Most Public Places And Places Of Employment and requesting the Washington County Board of Election Commissioners to place this referendum on the ballot.

***Resolution 184-03 as Recorded in the Office of the City Clerk.***

**Alderman Davis asked that the minutes be pulled from the consent agenda.**

**Alderman Marr moved to approve the consent as read with the minutes removed. Alderman Reynolds seconded. Upon roll call the motion passed unanimously.**

**OLD BUSINESS:**

**Amend Chapter 51.136 Monthly Water Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates. ***This Ordinance was left on the second reading at the October 7, 2003 City Council meeting. This Ordinance was tabled at the November 18, 2003 City Council meeting to the December 2, 2003 City Council meeting.***

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

***Mr. Williams read the ordinance.***

**Alderman Cook:** We had a Water and Sewer meeting last night and there were three key points that we discussed. We asked that the city stay with the winter averaging as opposed to the 85% rule. We wanted the water and sewer rates to be looked at again in three years and to do another cost of service study at that time. We would also like to do a RFQ at that point and open it up for bidding, this is no reflection on Black and Veatch, we have been with them for years and just felt we should open it up for competitive bidding.

Do we need to officially amend the ordinance with the amended version that we have.

**Kit Williams:** The winter averaging was not included in the last one that was read, so that part would have to be amended. The other items can be done in the future.

**Alderman Thiel:** We left Section II in here, that section relates to the 85% on the year round average of the water usage. This section should probably be removed.

**Steve Davis:** If the City Council wants to provide the opportunity for some of our existing customers to move to an irrigation meter it would be appropriate to leave it, but if as a policy decision City Council doesn't want to provide that opportunity then it can be removed.

**Alderman Thiel:** You are right it could stay in regardless of where we go with the 85% or not. It is just kind of an incentive by waving the impact fee.

**Alderman Marr:** Is it currently limited to a time period.

**Steve Davis:** There is nothing in the current ordinance that has a limitation on it at all.

**Alderman Marr:** What is the reason for the 36 month from the start of this plan? I like the idea of adding that this is an option but tying it only to a certain time frame.

**Steve Davis:** The original reason was to provide some method to transition folks that were going to have a higher sewer bill under the 85% rule, because under the 85% methodology even though for the sewer utility as a whole it was revenue neutral, there would be some users that would experience a higher sewer bill because of the 85% calculation than they currently would under a sewer average. If we are going to retain the winter average methodology then you could also remove the 36 month if the City Council chose to offer that as an incentive to move to irrigation systems.

**Mayor Coody:** Would there be anyone that would see a decrease in sewer?

**Steve Davis:** Yes, those folks that had very little lawn watering or had very few outside uses of water.

**Mayor Coody:** Do you have any kind of an idea of the ratio of those that would see higher versus those that would see lower?

**Steve Davis:** I would think that there would be a multiple impact.

**Mayor Coody:** More people would see a decrease than would see an increase?

**Steve Davis:** I would expect that to be the case.

**Alderman Marr:** If we leave winter averaging in place as proposed by the Water and Sewer Committee then there really is no advantage of keeping within 36 months in Section II.

**Steve Davis:** No.

**Alderman Marr:** We could remove that time and then all that we are making people aware of in the ordinance is that they have the ability to request separate irrigation meters and not within a specific time frame.

**Alderman Davis:** People that are currently on the system would have the impact fee for the meter waived, but those that have new housing they would have to go ahead and pay that impact fee.

**Steve Davis:** Yes, because they are placing new burdens on the system, those folks that are currently on the system with an irrigation system running through their household meter or watering extensively through a hose network, we have already accounted for their impact on the system.

**Alderman Davis:** The new residents that have paid the impact fee for their new home, why couldn't they go ahead and hook on with an irrigation system then and not have an impact fee?

**Steve Davis:** The new building represents an additional impact on the water system.

**Alderman Davis:** Which they are picking up at that time when they come to the city and pay that impact fee for the water and sewer hookup.

**Steve Davis:** There would also be an additional impact for the irrigation meter.

**Alderman Reynolds:** So you are talking about from $800 to $1,100 for an irrigation meter plus impact fees.

**Steve Davis:** Yes.

**Mayor Coody:** If someone has an existing meter and wants to add an irrigation meter so that he can keep his water bill separate from his sewer bill, if he is not adding any impact to the system, would adding the irrigation meter be constituting a new impact?

**Steve Davis:** Under that condition it was not envisioned that it would create a new impact.

**Mayor Coody:** So he would not pay the impact fee with an existing home that was built before impact fees were in effect.

**Alderman Davis:** The individual that builds a home today and wants to put an irrigation system in also they are going to get the double whammy.

**Steve Davis:** Yes.

**Mayor Coody:** We have talked about when new construction happens instead of having a single yolk meter set, we could encourage builders to put in a double yolk to where if they wanted to have an irrigation system they could simply add the meter without having to have a new water tap.

**Alderman Davis:** I would like to see that for those people that are coming to the community that may want to irrigate their yards in the years to come.

**Alderman Thiel:** I had a constituent that was going to have to pay an impact fee that lived in an existing home. Our current policy is that we do charge an impact fee for anyone for an irrigation meter and this would have changed that.

**Steve Davis:** Yes it would.

**Alderman Davis:** If you are going to change it you might as well change it for all and make it uniform instead of just picking out those that have been in their home for five to ten years.

**Alderman Thiel:** In other words just waive the cost for an irrigation meter.

**Mayor Coody:** What would the down side be to that?

**Steve Davis:** You have impacts to the water supply system and the storage capacity system that would not be recognized if that impact fee were to be waived for those irrigation meters.

**Dawn Warrick:** The way the ordinance was drafted and adopted is that a new meter is a new impact and requires a fee, whether it is an irrigation meter or a service meter for residents or a commercial structure.

**Mayor Coody:** Is there room for fine tuning of the impact fee ordinance to cover these situations where we might see an extra meter yet not see an additional impact.

**Dawn Warrick:** The City Council adopted the ordinance in its current form, it specifically addresses irrigation meters and exempts them from having to pay the sewer impact fee and only requires that water be applied to those irrigation meters as far as the fee that is being accessed. I believe it would require an ordinance amendment to change the way it is drafted currently.

**David Jurgens:** From the mechanics of the water business, most residential meters will not accommodate an irrigation system, so when an irrigation meter is put in, it is more commonly a 1" rather than a ¾" and has more than twice the volume capability. Most often when an irrigation system is put in it is in fact creating an increased demand on the system. Additionally in the older part of town where we have pipes that are smaller than 6" in diameter and we have hundreds of miles of them we often can't even handle irrigation systems on them and I have to tell people no. If an irrigation system draws the pressure down under high demand times to where people don't have adequate water pressure for domestic uses, we don't want one person's irrigation system to scald the other guy in the shower. Water mechanics wise a separate irrigation meter almost always produces an increase demand on the system. We do have those that have sized their irrigation systems small enough so that a domestic meter can handle it. My understanding is if they already have an irrigation system in place they wouldn't have that impact fee, but if they don't already have an irrigation system in place they are almost certainly going to increase the impact. New developments that have large size lots where it is likely that they will be putting irrigation systems in, we have been requiring developers to put in a two inch main across the road so that we will significantly reduce the cost and amount of work required in order to hook up an irrigation system. They still have to buy the tap to put the loop in and to actually make the final connections to get everything there to do it.

**Peggy Howell with Black and Veatch** gave a presentation on the cost of service methodology and examples of how it specifically applies to our utility. The basis for the water study is the AWWA manual and for the wastewater is the WEF manual; these are the bibles of the industry. There are three components to a full rate study, the cash flow or revenue requirements analysis, the distribution of that requirement to your customers and the return on your investment. There are different unit cost based on an owner (City of Fayetteville resident) and non-owner (non resident of the City of Fayetteville).

**Alderman Marr:** Looking at the O & M cost per class, is the city allocating what cost to operate the system is going to each particular class?

**Peggy Howell:** We look at each line in your 2002 actual budget and your 2003 budget. We identify the line items that address the function of volume, strength or customer and allocate to what we call functional components. We add all those up for O & M, so we have a total O & M cost allocated to the functions. We then look at the units of service and come up with a unit cost. That unit cost for O & M is multiplied by the units for the residential to come up with the residential cost, the units for the commercial to come up with the commercial cost and the units for the industrial to come up with the industrial cost.

**Alderman Davis:** How do you determine the rate of return on the sewer?

**Peggy Howell:** Your total cost less your O & M and your depreciation. Your rates are not providing on their own enough money to reinvest in your system. You are using another source of revenue, sales tax to make up for the negative. You start with the assets that you can earn a return from your outside city folks on and end up with your total return that is required that's required per your revenue requirements.

**Steve Tennant, City Attorney for the City of Farmington:** I asked Black and Veatch today what are the actual costs that are attributed to the operation and maintenance of the Farmington system and they told me that that was hard to determine. This study has nothing to do with our contract. We are trying to justify how you are putting the rate increase on us. Fayetteville has done nothing for our infrastructure repairs in the past nor do they have any planned for the future. The rate of return is not part of our contract; we should not be required to pay it.

**Mayor Coody:** Can you please explain how your company came up with these figures in the rate study?

**Peggy Howell:** You have to look at the configuration of the Fayetteville system, Farmington is outside the city, it goes to your wastewater treatment plant, and in order to get from Farmington to the wastewater treatment plant they use your collection system. It is not just a matter of Farmington participating in the treatment plant portion of your capital investment, but they are currently using your collection system, so as such they should participate in a portion of that system also. Secondly, as far as the specific cost for Farmington, in order to keep rates on an even keel instead of specifically identifying the cost to serve Farmington, we put them in the system and every customer in the system on the O& M is treated the same. We take the total O & M cost and divide it by the total units associated with all customers.

**Alderman Marr:** When you talked about Farmington's cost using our system to take it from Farmington to our current plant, when the new plant is built and it is not using the current part of the system, how will these rates be reconfigured at the time because it seems to be cost would go down at that point.

**Peggy Howell:** That's correct. I would suggest as a consultation to you, when the new plant comes on line and you have actual operating data that you revisit the contract and write the contract to reflect the facilities that are being used by those communities at that time. You can't do that now because you don't know specifically how Farmington's discharge is going to arrive at your old treatment plant or the new plant.

**Mayor Coody:** We have talked about revisiting this whole issue in an about three years.

**Alderman Marr:** Were there other cost items identified that have changed that have been taken into account with this rate structure?

**Blaine Bickel with Black & Veatch:** The study and the rate design include projections of operation and maintenance expense associated with this new plant which amount to approximately $4 million in additional operating expenses per year. Included in that are both increases and decreases.

**Alderman Reynolds:** Are we going to have to invest $2.5 million in the pump station at Farmington before we move into 2006?

**Greg Boettcher:** The City of Fayetteville's financial plan does not include investing any money in the major upgrade of the Farmington lift station. I believe the original estimate on upgrading that lift station is $3.5 million which Farmington's consultant is currently evaluating. Since they own the system that capital improvement was anticipated to be at the system owner's expense.

**Ernie Penn, City of Farmington resident** spoke against the proposed increase in the rates. He said the rates should be fair and equitable. He thinks there is an equitable solution that can be negotiated with the right parties involved in those negotiations so that there would be a fair and equitable solution for both cities.

**Danny Spears, Farmington City Council:** We need to work together to try to get this resolved. There is room for improvement in the existing contract.

**Teresa Clark, Farmington City Council:** The mythology to determine the difference is what we are arguing.

**Kelly Thomas, Farmington City Council:** The mythology is what we are concerned about. There needs to be further discussion on the increase in the sewer rates.

**Mayor Coody:** I did meet with your Mayor and tried to work something out but we failed. There has been an attempt to find some middle ground.

**Kelly Thomas:** Hopefully in the future we can have better communication. We met with Black & Veatch today and thought your City Council would be attending that meeting but they did not.

**Alderman Rhoads:** The only thing this City Council officially requested was to have the engineers here and to explain the rates at this City Council meeting. The fact that you were able to meet with Black & Veatch was good, but I don't feel that I needed to be invited to that because I knew that I would here for Black & Vetch's presentation tonight at the City Council meeting. I think there has been a lot of open communication on this subject.

**Kelly Thomas:** After seeing the Black & Veatch presentation the only thing we could agree on is that there were no specific facts or figures used for the mythology of why this cost of service rate for the City of Farmington and the 6% rate increase was not based on how much it would

cost you to provide us service. The 6% was the rate of return on the investment that you look to get.

**Paul Graham, Farmington City Council:** If the City of Farmington imposed an impact fee or sales tax, would you consider giving us the same rate plus have us pay 6% more than a citizen if Fayetteville is paying?

**Mayor Coody:** Speaking for myself, if Farmington residents were more on an equal investment footing along the line of Fayetteville residents certainly you will find an open door with this governing body to see if there is a way that we can bring a more perception of equity to this rate structure.

Ms. Howell, if Farmington was to have a ¾ cent sales tax and if they were to pass impact fees, how would that impact our rate of return.

**Peggy Howell:** The cost of service analysis is determined the total cost to serve the City of Farmington, how they choose to transfer that money to you, be it through rates, impact fees or sales tax, the total cost to serve them has been defined. The reason the rates appear as high as they do is because we have taken that total cost and put it in their sewer rate. If they choose to reduce their sewer rates the same way the citizens of Fayetteville chose to through a sales tax then it could in theory be equal to what you are paying if they recovered enough revenue through other sources.

**Mayor Coody:** So it is feasible to think if they were to do the same pay structure that Fayetteville residents have adopted, that their bills might be more in line with what we are paying.

**Peggy Howell:** That is correct, it is feasible.

**Shannon Freeman resident of Elkins** spoke against the proposed rate increase.

**Heather Woodruff Dumas** spoke of her concern regarding the current rate of return and the future rate of return.

**Geary Lowery:** Spoke against the proposed rate increase.

**Mayor Coody:** Mr. Boettcher, do you know if there is a 350% rate increase in Elkins?

**Greg Boettcher:** No, I do not. I can tell you the rates are going up for all customers. The water rate is being decreased based on cost of service. The wastewater rate is going up substantially, but I do not believe that totally accounts for the increases that they are contemplating, I believe the City of Elkins operates and maintains a system that they add a cost on top of our delivery and treatment charges. I do not know the makeup of that, so there may be some additional factor in the increase that represents the local delivery cost.

**Mayor Coody:** So we are reducing our charge for water rates to Elkins?

**Greg Boettcher:** In the current cost of service arrangement with Elkins in the ordinance that the Council has before them now there is a decrease in the cost of water to the City of Elkins.

**Mayor Coody:** The increase for sewage is going to be more than the decrease for water. Ms. Howell, do you know the wholesale increase that we would pay.

**Greg Boettcher:** No, I did not bring that with me. I wish I could tell you that the objective we had in doing a rate study was to find a way to make people outside of Fayetteville pay more so we could capitalize on that but actually we retained a professional consultant to do an unbiased rate study following accepted practices. There are different impacts because there are different categories of service. What we have to remember is there are multiple governments and entities that are making contracts. When we are investing large amounts of capital money in the system and paying for it not through rates but through other mechanizes, others that use those resources have to also pay but our only mechanism to access them is rates.

**Mayor Coody:** We have a contract with our sister cities, are we abiding by the terms of the contract that was signed by Farmington in 1994?

**Kit Williams:** Yes, I believe we are fully compiling with all the contracts that we have. I have instructed the Council that we should follow our contracts and abide by them.

**Alderman Marr:** Mr. Tennant made a comment that the rate of return portion that is in our rate he doesn't believe it is part of our contract; could you advise us on that point?

**Kit Williams:** The rate of return has always been a part of this contract and earlier contracts that we have had with the City of Farmington and other cities. As part of the contract with Farmington there was an exhibit attached that was accepted as the current rates at that point in time, showing a different rate for the City of Fayetteville than what Farmington was paying. Farmington was paying more at that point in time than the citizens of Fayetteville because in fact we own the system. If you look at the contract itself, it specifically says how our sewer rates are going to be determined. It says the rates for sewer service shall be on a cost of service basis as computed by a registered professional engineer selected and employed by the City of Fayetteville. They use the accepted industry standards in order to determine what the cost of service cost would be. Our tax payers own the sewer plants and therefore it is only reasonable that our tax payers get the benefit of the taxes that they are paying because of that there is a rate of return. Mr. Tennant said the sewer rates include maintenance and treatment cost, if you look at treatment cost, what is treatment cost, how about building a new wastewater treatment facility and upgrading our current one. Those are obviously treatment cost, they are always interpreted and understood to be part of the cost of providing services to them. I think it is clear the way this contract was written that it was anticipated at that time when it was originally signed that the Farmington residents would pay more than Fayetteville residents. Rates were raised in 1997 with the City of Fayetteville, rates on Farmington were raised and they were higher because we get an 8% return on the contract, no one argued, no one disagreed. This has been a long standing contract between Fayetteville and Farmington it has been interpreted in the past to include this rate of return that is the industry standard, obviously that is a very proper thing for us to consider.

Kit Williams read case law.

**Mayor Coody:** Did you find that wholesale rate increase?

**Greg Boettcher:** What we found is that the wastewater service charges will go up $4.40 per thousand; the water charges will go down 70 cents per thousand so there is a net increase per thousand gallons for water and wastewater wholesale to Elkins of $3.70. I have no knowledge of the retail rate that Elkins is building from our wholesale rate.

**Alderman Thiel:** The existing rates have a larger discrepancy; can you explain that to me?

**Peggy Howell:** Keep in mind that the 8% is no difference between the rates, the 8% is the return on your investment, so in developing that rate there was three elements of it, there was the O & M and then return, so the difference between the inside and outside city rates is entirely dependent upon the return element because the other two elements we pay the same on. Because inside city choose to address their capital with the sales tax and outside the city at this point does not, they are paying for their portion of the capital investment through their rate. If Farmington chooses to pay through the form of a sales tax then their sewer rate would go down.

**Steve Tennant** spoke about the contract and the rate of return.

**Geary Lowery** spoke about the rates and the impact fees that would be charged for irrigation meters.

**Alderman Davis:** If we decide to delay this increase for Farmington for 30 days, what deficit would we have to our budget?

**Steve Davis:** The City is already being charged the increased water purchase rates from Beaver Water District. That cost is estimated at $50,000 per month on an average month. Those rates went into affect November 1, so every gallon of water from November 1 until the ordinance takes affect is costing us $50,000 on an every 30 day increment. Farmington is somewhere between 4% to 5% of the total dollar volume the sewer side we are already incurring the increased cost on the sludge handling, I would have to figure what that cost would be.

**Alderman Davis:** If we went ahead and passed this tonight we could still have open negotiations with the City of Farmington in the mean time to have changes in the water and sewer rate. Once their Council came together and the citizens came together and made a proposal to the Council, that is they passed a sales tax and an impact fee, those dollars would come to the City, then we could automatically change those rates at that point in time, would that be a fair statement?

**Mayor Coody:** I suspect that if two people want to renegotiate a contract they can.

**Kit Williams:** We wouldn't actually have to renegotiate the contract, if they raise money through a sales tax or impact fees and send those monies to us that should automatically require us to look at their rates. You would not have to change the contract; it would still be the cost of service basis.

**Alderman Davis:** If I were a resident of the City of Farmington I would want to know at that time that if I passed that sales tax and that impact fee that I would be granted the same rates as the City of Fayetteville.

**Kit Williams:** We probably could not do that with the contract that we have because they would not be raising enough money to fully fund their sewer rates. Before we had our election the citizens of Fayetteville had the choice of 134% sewer rate increase or you can have a sales tax and a 29% sewer rates increase which is what we are having.

**Alderman Davis:** It was my understanding that there was no dispute from the Farmington folks on the water rates increases, so that portion of the ordinance could be enacted without any question.

**Alderman Reynolds:** We need to negotiate with them.

**Mayor Coody:** If we were to pass the rates that we have exclusive of Farmington we would pretty much have to do the same thing with Greenland since we have the same contract with them. If we were to do that, what rate would we charge them and if it took a year to negotiate something that is agreeable what would we do to make up for that lost?

**Kit Williams:** That is why we do these rate studies to make sure we have enough money to operate our system and by not having about 9% of our system pay the new rates then that might have some implications.

**Alderman Rhoads:** If we adopt this what would be the increase in the total amount projected that we would receive from the Farmington residents.

**Steve Davis:** I have not run the numbers specifically for Farmington.

**Peggy Howell:** What I can give you are the figures for all outside customers we don't have the individual customers broke down within this rate report. We can calculate that. The allocated cost of service to the outside of the city customers for 2006 is $1,136,000; revenue under their existing rates is $772,000. Farmington is approximately 60% to 65% of that amount.

**Mayor Coody:** What the Mayor of Farmington and I discussed was the idea that Fayetteville would go ahead and pass the study as presented and then we could renegotiate the rates if the City of Farmington would pass impact fees. If we were to pass it as presented tonight we would have hard figures and Farmington would have a very strong incentive to have the discussion on impact fees and sales tax. I would rather pass this as it is set up and then work with Farmington.

**Alderman Reynolds:** I would like to hear from Mayor Harris of Farmington.

**John Harris, Mayor of Farmington:** Mayor Coody and I did discuss that at our meeting. The bottom line was no matter what we discussed we were going to have to come back to the Councils for approval. It looks like this is something that both sides are willing to negotiate on.

**Alderman Cook moved to amend the ordinance by adding the new Exhibit A dated December 2, 2003, winter averaging. Alderman Davis seconded. Upon roll call the motion passed unanimously.**

**Alderman Thiel moved to amend the ordinance by removing Section 2 of the proposed ordinance. Alderman Reynolds seconded.**

**Steve Davis:** That section was put in there to provide an incentive for folks to move to an irrigation meter for their irrigation systems and if it is a policy decision for City Council to not offer that as an incentive that's fine.

**Alderman Thiel:** The reason we were offering that as an incentive is because of the change in the way that we were charging the sewer rates. There is a cost associated with irrigation systems with a separate meter so for us to be giving up that impact fee for that separate system might not be a wise thing. There is a cost attached to that it is not free, that is the reason that we passed impact fees to try to pay back for the cost of service, so there is a cost attached to this service, since there is no longer a need for the incentive, I do think we should remove it.

**Alderman Marr:** I thought we heard earlier this evening that we are requiring an impact fee so if we leave it in we have conflicting ordinances.

**Mayor Coody asked shall the amendment to the ordinance pass. Upon roll call the motion to amend the ordinance passed unanimously.**

**Alderman Marr:** The cost is the cost; we are losing money somewhere if we are not covering the cost. I do think that the cost will change in the future and will be less in the future. If we don't pass it, when are we going to start to negotiate between the cities? Passing it almost puts a time frame or a more since of urgency to negotiate.

**Alderman Rhoads:** Ms. Howell, would Farmington's charge be less once the new plant is in place.

**Peggy Howell:** Yes that will result in a different charge, I can't say that it will be less, one of the things you have to consider is right now they are considered 4% to 5% of a total system, if they claim they only discharge to one of your treatment plants, should that be a percentage of that treatment plants flow as opposed to 4% or 5 % of the whole system. Those are all things that have to be looked at.

**Alderman Rhoads:** If they are using considerably less of our facilities wouldn't you expect the cost to go down?

**Peggy Howell:** I would expect it to go down, I question what would replace the use of your collection system right now, how are you going to transfer their waste, that is not designed at this point in time and how it should be funded, by Farmington or Fayetteville.

**Alderman Rhoads:** I think we have to know how much we are giving up in dollars and my calculation is about $219,000 per year if we were to not raise the rate at all. I believe we should go ahead and pass this and then negotiate.

**Alderman Cook:** No one wants to pay more in rates; I have to rely on the staff and the consultants that were hired. I feel that in three years when we do another rate study after we get our entire infrastructure on line we will readjust and things could change at that point. I think we should pass this tonight and negotiate.

**Alderman Thiel:** We need to get back on line with a cost of service for everyone, the industry and commercial also. We are relying on these experts to tell us what these rates should be; I will support this because it will be looked at in three years again.

**Alderman Reynolds:** We need to get gripe on what we are doing and cut our spending.

**Alderman Jordan:** I don't like raising these rates any more than anyone else does. Uncontrolled growth brings about these types of things; growth has to pay its price. We must develop long range strategic growth plans in this city. This is to maintain what we are doing now; it does not address the future growth of the city. I will support this ordinance.

**Alderman Davis:** We need to find some way to take care of our 22% loss of water before it gets to our customers. I think we need to agree to allow the other cities to pass impact fees and sales tax and get those monies to the City of Fayetteville to offset some of our cost then we can re-look at those agreements with those cities.

**Alderman Lucas:** This is not new; the citizens voted this in a couple of years ago. People knew that rates were going to go up. The citizens of Fayetteville choose to offset some of their cost with the impact fees and the sales tax in order not to have the big hit on their bills. I think everyone was aware that these were options because we certainly voted on them and brought them forward. If we had not had the fees it would be a big hit on my bill also.

**Mayor Coody:** Conservation, the average user uses 5700 gallons per family; if you would like to reduce your bills reduce consumption. None of us like raising rates but operating cost keep going up, the tax payers cannot keep absorbing the increase in cost without having an increase in revenue to cover it. We are the lowest city tax rate that other cities in the area. You can not cost your cost and spend more money on repairs at the same time. We need to find a way to solve these problems and do it as cost effectively as possible. Our door is open for other cities to discuss this issue.

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

***Ordinance 4530 as Recorded in the Office of the City Clerk.***

**2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program. ***This Resolution was tabled at the November 18, 2003 City Council meeting until the December 2, 2003 City Council meeting.***

A discussion followed on the budget. Alderman Marr would like to have a budget work session before the budget is passed. Alderman Marr would also like to have a one page bullet point item of what were the policy decisions that we were asked to make decisions on. Alderman Marr also said if people have political oriented issues, how we spend money in a particular area he would also like that before a budget work session.

**Alderman Reynolds** asked for a line item budget detail before the work session. He also wanted to see the other departments to present items they would like to see cut to save money.

**Steve Davis** said those items surfaced as part of the zero based budget exercise that was done by Parks, Police and Fire. We can ask for a list from other departments of policy type decisions that they would like the Council to consider at the next budget work session.

**Mayor Coody** said while we might make a political decision to change how we do business, we could not do some of the services but that would not save us any money the manpower would be diverted to doing something else. From what I understand it would not help the budget process much.

**Alderman Reynolds** said he thought we were trying to cut money to save the tax payers money.

**Alderman Marr** said in a longer term vision it does save us money. It may not help us right now but it may in the future.

**Alderman Marr moved to table this resolution until the December 16, 2003 City Council meeting. Alderman Reynolds seconded. Upon roll call the motion to table passed unanimously.**

**Public Hearing Raze and Removal 226 North School Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Timothy C. and Christine Klinger located at 226 N. School Avenue in the City of Fayetteville, Arkansas.

**Mayor Coody:** They want to take bids for construction.

**Hugh Earnest:** We started moving against this structure in February of this year. I would suggest that we pass the resolution.

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

***Resolution 185-03 as Recorded in the Office of the City Clerk.***

**NEW BUSINESS:**

**Raze and Removal 1905 S. Brower Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Jonathan M. and Jennifer L. Rich located at 1905 S. Brower Avenue in the City of Fayetteville, Arkansas.

**Alderman Jordan:** I have had a lot of complaints about this piece of property.

**Hugh Earnest:** We sent a notice to the owners in May of this year. I think it is appropriate that the Council take the action that is recommended by staff.

**Alderman Davis:** Hugh, have you heard any thing from these individuals regarding your letters.

**Hugh Earnest:** No we have not gotten any feedback.

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

***Resolution 186-03 as Recorded in the Office of the City Clerk.***

**VAC 03-12.00 Combs Street Church of Christ:** An ordinance approving VAC 03-12.00 to vacate and abandon a portion of 4th Street right of way, City of Fayetteville, Washington County, Arkansas as described on the attached map and legal description.

***Mr. Williams read the ordinance.***

**Dawn Warrick** gave an overview of the project.

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

***Mr. Williams read the ordinance.***

**Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Davis seconded. 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 4531 as Recorded in the Office of the City Clerk.***

**Hay Group 2004 Salary Recommendation:** A resolution adopting the Hay Group's recommendation in the 2003 compensation practices update; implementing 50% of the recommendation in January 2004 and the remaining 50% in January 2005; and approving the 2004 city and employee premium amounts for the group medical plan.

**Steve Davis**: The city contracted with Hay Group for a salary survey for 2003. They surveyed the public sector employers that had been selected by the Wage and Benefit Committee from prior years. This item is to do a phased approach; we are also proposing to adjust the merit matrix to be more in line with Hay Group found in the municipal market. They base their recommendation off of using a municipal cost survey that was conducted by Watts and Wyatt, it is a national survey merit matrix for municipal governments for 2004, it is between a 3% and 3 ½ % cost. The 2004 budget that you have before you contains a merit budget of 3.28% so we are right in the middle of that range that they recommended. This merit budget will reduce cost to our largest cost item, personnel services if you want the cost on a city wide basis the best way to do that is to try to control the cost growth in your major cost element which is labor. The employees will still be receiving a merit increase, on the average it will cost the city next year 3.28%, the police and fire fighters will still receive their step increases that will be in the vicinity of 4% to 5%. Adjusting the merit budget will have the impact of reducing cost in future years about $69,000, concurrent with this we are asking the city to pick up a portion of the health care increase, we are asking that the health care cost be shared between the city and the employees, that each pick up a portional share by increasing their participation by 9.5% each. The insurance cost increase for the city is $185,000 for next year, $117,000 in general fund.

**Michele Bechhold** explained the merit matrix.

**Alderman Davis** asked for the positions to be associated with the grades.

**Jason Alvarado, FOB Vice President for 2003 and a representative on the City's Wage and Benefit Committee:** We would like to thank the city for allowing the committee. The FOB is asking the City Council to vote no on the first portion of the resolution the 50/50 they are asking that it be funded fully. Since the inception in 1989 every year to this point, the City Council has fully funded it. This year it will cost $300,000 to fund it at 100% to do the entire city. Partially funding salary increases means our salaries are not competitive; it only makes our salary average foe 2003. This will negatively affect moral if the full increase is not granted.

He also spoke on the insurance turn back funds that are received do to this turn back money it does not cost the city to fund the police or fire retirement. He also spoke about the guiding principle and the high approval rating the police and fire departments received. He said the FOB applauds the City Council for the efforts of being good stewards of our tax dollars, funding our salary increases at 100% is a responsible use of those tax dollars. We are asking for our wages to be competitive. The first report that Hay Group gave stated that employee's increases should not be a swing item in the budget as employees are the cities contact with the public.

**Mayor Coody:** This decision we have to make tonight on budgeting salaries is the toughest one we have to make. All the city staff is doing a great job. 80% of our budget goes to salaries and when you have City Council people saying we need to cut cost you have to look at the 80% of your expenses and that is where you are going to have to look at cutting cost. None of us like the idea of not fully funding wages for our employees because you are doing a good job.

**Jason Alvarado:** Dialog is good, but it is hollow without action.

**Mayor Coody:** With raises, with LOPFI and establishing of the committee we have put our words into action time and time again. We have a track record of doing some good.

**Alderman Marr:** Voiced his concern about the Hay Group study this year and how far off market we are on this new study.

**Michele Bechhold:** Part of the answer is that the survey was actually completed in 2002 and aged for implementation in 2003. This time we had 58 cities in the survey group and 32 cities participated this year, 40% of this survey group was new participants.

**Hugh Earnest:** When we picked those 58 cities it was very carefully done. We very carefully choose those cites and we tried to pick a base that would accurately reflect Fayetteville, Arkansas.

**Alderman Marr:** I completely agree with the statement in 1989 that says that your pay should not be a swing item in the budget because basically every business's best access is its people. It does concern me about this survey.

**Alderman Marr** spoke of the survey and his concern about the percent that we are lagging behind this year. He does not feel the increase matches inflation.

A discussion followed on the salary survey.

**Alderman Marr** asked to see what our turnover rates are by departments for 2003.

**Michele Bechhold:** The last part of the agenda item is requesting a decision on the health insurance premiums, we have open enrollment scheduled to begin on Monday, December 8, 2003 if the City Council would consider making a decision on that issue it would be very beneficial to us in being able to communicate to the employees what their insurance premiums would be for 2004.

**Alderman Thiel moved to remove Sections 1 and 2 of the resolution. Alderman Marr seconded. Upon roll call the motion to amend the resolution passed unanimously.**

**Alderman Marr:** We are voting to go ahead and do the insurance amount without making a decision on the funding of the Hay Group study?

**Michele Bechhold:** Our original proposal was if the pay plan is passed at 50% implementation or full implementation that the city and the employees share the increase to the insurance premium. The city would pay 9 ½ % of the increase and the employee would also pay a 9 ½ % increase. We did also say if no changes were made to the pay plan that we would propose that the city pick up the entire increase on the health insurance.

**Alderman Marr:** So there is no different premium break if we decide to fully fund it?

**Michele Bechhold:** That is correct.

**Alderman Thiel moved to approve the resolution as amended. Alderman Reynolds seconded. Upon roll call the amended resolution passed unanimously.**

***Resolution 187-03 as Recorded in the Office of the City Clerk.***

**Steve Davis:** I do have a clarification, the information that Mr. Alvarado shared with you about the LOPFI turn back monies, he was told by Mr. Clark at LOPFI that the turn back monies are fully funding the LOPFI retirement, our accounting records indicate we received $490,000 in turn back monies in 2003 and we are spending $750,000. In our 2004 budget we are expecting $369,000 in turn back monies and we are projecting $680,000 LOPFI expense. I have been told by the actuaries that in the future cities can expect 32% of LOPFI expense to be covered by state turn back. I have asked Jody to develop a report to that affect. I have not received that report but when I do I will make it available to the City Council, the policemen and the fire fighters.

**Mr. Alvarado:** Speaking to the last part of what Mr. Davis said, the way it was done before the least amount of money the city has had to pay in one year to our retirement was $12,000, the most $100,000 and that was before this legislative session changed the way the money was allocated. The 32% is completely different not only from what I am getting from Mr. Clark but also from what I have gotten at the quarterly LOPFI meetings when I have attended them.

**Mayor Coody:** Can we iron out these discrepancies before the next meeting?

**Steve Davis:** When we produce the report from the actuary those differences will be ironed out, they work with LOPFI on a daily basis.

**ADM 03-29.00 Amend Master Street Plan – Cliffs Boulevard Eastern Extension:** A resolution approving ADM 03-29.00 amending the Master Street Plan by removing the Eastern extension of Cliffs Blvd. between Crossover Road and Starr Drive.

**Dawn Warrick** explained the request. Staff is recommending this be removed from the Master Street Plan.

**Mayor Coody:** The off set and the grade concern me.

A discussion followed on the street, the traffic volume and the type of street that this street should be.

**Alderman Davis** felt it needs to remain as a Collector Street.

**Dawn Warrick:** I think right now the consideration is to classify it as a collector or remove it completely from the Master Street Plan. We are asking that the eastern side of Cliff Drive be removed as a line on a map from the Master Street Plan. We are not asking that this street not be constructed as a part of this subdivision, we are asking that our Master Street Plan be amended not to call that extension a minor arterial or a collector, but to remove it.

**Alderman Marr:** I think what the resolution is saying by removing it from the Master Street Plan we are conceding that it will be something less than a collector street. If we don't think it should be less than a collector street we should vote against this resolution.

**Kit Williams:** You could amend it to relocate Cliffs Boulevard and reduce it to a collector street. You have to relocate it because right now some of it runs across land they do not own, so if you require them to build it would not go any where, so you would need to relocate it and reduce it to a collector size.

**Dawn Warrick:** The Planning Commission approved it with the amendments to pass on their recommendation to remove it from the Master Street Plan. It is platted as a collector on the approved preliminary plat.

**Mayor Coody:** Land ownership is temporary, but once this street gets built it is there for the next 150 years, so I hate making a decision that is a bad alignment, a permanent mistake over a temporary problem.

**Dawn Warrick:** I believe that the street if it were connected at Cliffs Boulevard extended to the east would be steeper than the 14% grade that is proposed and approved for this street.

**Mayor Coody:** If this topical map is accurate at all it would be a lot less steep grade if it were lined up and just headed to the southeast.

**Alderman Reynolds:** How is Hyland Park classified?

**Dawn Warrick:** It is a local street.

**Alderman Cook:** I am struggling with this it looks like we are trying to make concessions here only because the land owners did not own the right of way to build the street to connect it through the way we thought it was going to be in the first place.

**Alderman Thiel:** This street can be built like it is now but at some time in the future you could come back and pick up this angle. This needs to remain a collector street.

**Dawn Warrick:** So you are suggesting that the street through this subdivision not serve as the Master Street Plan Street but continue to have a connection south of the proposed intersection where it is currently shown on the Master Street Plan in a different configuration.

**Alderman Thiel:** No go ahead and build the street but not reduce the size of it.

A discussion followed on the street, relocation of the street and removing it from the Master Street Plan.

The developer spoke about the development and the street.

A discussion followed on the road and the development.

**Dawn Warrick:** So do I understand the Council is looking to table this item so we can bring you an exhibit that shows an eastern connection to Cliffs Boulevard in an alternate location that will still provide that Master Street Plan connection and we need to look at bringing it farther to the east.

**Alderman Davis moved to table this resolution until the December 16, 2003 City Council meeting. Alderman Reynolds seconded. Upon roll call the motion to table passed unanimously.**

**Meeting adjourned at 10:25 p.m.**

_____

**Sondra Smith**
**City Clerk**

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

## DEPARTMENTAL CORRESPONDENCE

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

FROM: **Kit Williams**, City Attorney

DATE: **December 12, 2003**

RE: **New Sewer Rates**

Although the City widely publicized the proposed new sewer rates and held many public hearings on these rates, there is a minor (but too dangerous to ignore) possibility that we did not fully comply with A.C.A. §14-235-223 **Rates and charges for services – Lien.** when we passed the ordinance raising sewer rates. The problem that we might be attacked on is the argument that the sewer rate adjustment was not substantially "pro rata as to all classes of service" which would have exempted the City from the requirement to publish the rates before final vote. Since the City did an across the board raise for in town customers, but had to do a cost of service increase for customers in cities with a sewer contract, we probably need to redo the ordinance in strict compliance with A.C.A. §14-235-223. Otherwise, there is a slight risk our rate change ordinance would be found invalid. This happened to Fort Smith in the last 80's and full refunds were ordered.

Therefore, we need to suspend the rules at the December 16th City Council meeting to include a newly drafted ordinance that repeals only the sewer rate portion of the ordinance you passed on December 2nd. This new ordinance will then adopt the identical sewer rates, but we must leave it on the first reading, because A.C.A. §14-235-223 (d) (1) (B) requires that these

sewer rates be published "after introduction of the ordinance" and "at least ten (10) days before the date fixed in the notice for the hearing ...." (January 6, 2004).

The public hearing to comply with A.C.A. §14-235-223 would be at your first City Council meeting in January (the 6th) where interested persons can again comment. I regret having to put you through more public hearings on the sewer rates, but it is not worth the risk that your previous hearings and the previous publication of sewer rates were sufficient to comply with A.C.A. §14-235-223.

**Nominating Committee Report**
**Meeting: Wednesday, December 10, 2003**
**Room 326, City Hall 3:30 - 8:00 pm**
**Members Present – Kyle Cook, Shirley Lucas – Through 6:30 pm, Don Marr, Robert Rhoads**

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The Nominating Committee meeting was called to order at 3:30 pm. We reviewed the interview schedule for the afternoon. We determined because of the volume of applicants that when interviews for a specific committee were finished we would discuss appointment to that respective committee at that time, rather than waiting until the end.

After interviewing all applicants and discussion among the Nominating Committee, the following is being submitted to the entire City Council for consideration. The nominations are being submitted by the Nominating Committee with the committee's unanimous recommendation.

**Airport Board**
The Committee recommends the following candidates for appointment:

- ***David Hollman*** – The appointment is for One Pilot term ending 12/31/2008
- ***Janice Stanesic*** - The second appointment is for One unexpired Business term ending 12/31/2007

**Audit Committee**
The Committee recommends the following candidates for appointment:

- ***Adam Motherwell*** - *re-appointment,* One term ending 12/31/2006

**Environmental Concerns Committee**
The Committee only received one applicant for this committee. However, we did have one citizen that had applied for the Audit Committee express interest in serving on a committee for the City until their original committee interest became available. The Committee recommends the following candidates for appointment:

- ***Kathe Dyer*** - One Community Citizen at Large term ending 6/30/2006
- ***Judy Jacobs*** – One unexpired Community Citizen at Large term ending 6/30/2005
- One Local Industry term ending 12/31/2006 – **vacant (not enough applicants applied to fill all available slots)**
- One Community Citizen at Large term ending 6/30/2006 – **vacant (not enough applicants applied to fill all available slots)**

**Housing Authority Board of Commissioners**

The Committee interviewed each applicant that had applied, however because of State law; the Committee has referred all applicants to the Housing Authority Board for Interviews, and is awaiting the Boards recommendation prior to any selection being recommended to the full City Council.

**Parks and Recreation Advisory Board**

The Committee had some awesome applicants for this board, and we would like the City Clerk's office to retain these applicants in a separate file so that the Nominating Committee can call back those individuals not selected and encourage them to reapply again when future appointments become available. The Committee is recommending the re-appointment of four current Parks Board members. We felt there was not a compelling reason not to reappoint current members who were all eligible for the second and final terms. The Committee recommends the following candidates for appointment:

- ***Michael Hill*** – *re-appointment* – term ending 12/31/2005
- ***Kristen Holmes*** – *re-appointment* – term ending 12/31/2005
- ***Trey Marley*** – *re-appointment* – term ending 12/31/2005
- ***Craig Mauritson*** – *re-appointment* – term ending 12/31/2005

**Sidewalk and Trails Task Force**

The Committee recommends the following candidates for appointment:

- ***Sam Lafoy*** – term ending 12/31/2005
- ***Cindy Kalke*** – term ending 12/31/2005
- ***Laura Kelly*** – *re-appointment* – term ending 12/31/2005
- ***Scott Mashburn*** – *re-appointment* – term ending 12/31/2005

**Telecommunications Board**

The Committee recommends the appointment of One Term, with the term ending time to be determined when the Telecommunications Board convenes and draws for newly designated alternating term slots. The Committee recommends the following candidates for appointment:

- ***Gary Cochran*** – One term, term length TBD

**Tree and Landscape Advisory Committee**

The Committee again had good applicants for this committee; however we had more developers apply than positions available. Again, we would like the City Clerks office to retain the individuals not appointed so that they may be considered for future openings. The Committee recommends the following candidates for appointment:

- ***Bill Dollar*** – One Business term ending 12/31/2005
- ***Hank Broyles*** – One Land Development term ending 12/31/2005
- ***Melissa Evans*** – *re-appointment*, One Land Development term ending 12/31/2005
- ***Tommy Deweese*** – One Utility Representative term ending 12/31/2005
- One University Representative term ending 12/31/2005 – ***(No applicants received that would qualify for appointment to this position.)***
- ***Keith Roberts*** - One Service Organization term ending 12/31/2005

**Youth Activities Committee**

The Committee interviewed over 11 students from Woodland Junior High for this committee. While many individuals would be great candidates for this committee, we recommend the appointment of two individuals from Woodland Junior High to fill the one open position for Woodland Junior High and the one open position for West Campus. All other applicants will be forwarded to the Committee so that in the future, the Committee will have individuals to contact and request their assistance for planning and execution of youth activities. The Committee recommends the following candidates for appointment:

- ***Shay Hopper*** – One Teacher term ending 11/30/2005
- ***Haley Bradford*** – Student term ending 11/30/2004 - Woodland Junior High
- ***Michael Brown*** – Student term ending 11/30/2004 - Woodland Junior High
- ***John Green*** - One Citizen At-Large term ending 11/30/2005

Nominating Committee Meeting adjourned at 8:00 pm.

**Final Agenda**
**For**
**City Council Meeting**
**December 16, 2003**

A meeting of the Fayetteville City Council will be held on December 16, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Fayetteville Natural Heritage Committee Presentation.**

accept **Nominating Committee Report**

**A. CONSENT:**

approved 1. **Approval Of The Minutes:** Approval of the October 21, 2003, November 18 and December 2, 2003 meeting minutes.

188-03 2. **Vanco Engineering Flash Mixer Purchase for the Noland Plant:** A resolution approving the purchase of a flash mixer for the Noland Wastewater Treatment Plant in the amount of $21,310.00 from the lowest qualified bidder, Vanco Engineering Company; and approving a budget adjustment in the amount of $55,000.00 for same.

189-03 3. **EDC Corporation Bid Award No. 03-68 and Contract Approval:** A resolution to approve a contract with EDC Corporation for the AIMS Parking Management System in the amount of $34,357.26, with a project contingency of $3,435.74, and approval of a budget adjustment in the amount of $37,793.00.

190-03 4. **Jim Black Contract - Operation of the Lake Fayetteville Boat Dock:** A resolution awarding a contract to Jim Black in the amount of $31,719.00 to operate the Lake Fayetteville Boat Dock for calendar year 2004, with five one-year renewal options.

191-03 5. **Green Anderson Contract Amendment – Installation of an Emergency Generator for City Administration Building:** A resolution to approve amendment # 1 of the agreement with Green Anderson Engineers, Inc. in the amount of $3,100.00 for engineering services related to design of a standby emergency generator system for the City Administration Building.

192-03 6. **Jerry Sweetser Construction Contract – Construction of Broyles Road:** A resolution approving a construction contract with Jerry D. Sweetser, Inc. in the amount of $397,868.25 for the construction of Broyles Road from Wedington Drive to Persimmon Place Subdivision; approving a 15% project contingency in the amount of $59,680.75; and approving a budget adjustment in the amount of $457,549.00 for same.

193-03

7. **Habitat for Humanity Waive of Building Permit Fees and Developmental Fees:** A resolution to waive the building permit fee and other developmental fees for homes to be constructed by Habitat for Humanity.

## B. OLD BUSINESS:

Passed as amended 194-03

1. **ADM 03-29.00 Amend Master Street Plan – Cliffs Boulevard Eastern Extension:** A resolution approving an amendment to the Master Street Plan relocating Cliffs Boulevard and reducing it to a collector street between Highway 265 and Starr Drive as shown on Exhibit A.

Passed as amended 195-03

2. **Hay Group Salary Survey: A resolution:** A resolution adopting the Hay Group's recommendation in the 2003 compensation practices update; implementing 50% of the recommendation in January 2004 and the remaining 50% in January 2005.

196-03

3. **2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.
***This Resolution was tabled at the November 18, 2003 City Council meeting until the December 2, 2003 City Council meeting.***
***This resolution was tabled at the December 2, 2003 City council meeting to the December 16, 2003 City Council meeting.***

## C. NEW BUSINESS:

197-03

1. **OMI Contract Amendment No. 10:** A resolution approving Amendment No. 10 to the contract with Operations Management International (OMI) in the amount of $4,373,573.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2004.

4532

2. **Fayetteville Boys and Girls Club Agreement to Provide Public Recreation:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2004.

4533

3. **Council on Aging Agreement and Bid Waiver to Provide Public Recreation for the Citizens of Fayetteville:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $32,900.00 to provide public recreation services for the senior citizens of Fayetteville for 2004.

4534

4. **ANX 03-4.00 – Repeal Ordinance 4518 Carol Stephens Annexation:** An ordinance repealing Ordinance No. 4518 for the annexation to the City of Fayetteville, Arkansas, of 1.08 acres located north of Mt. Comfort Road and west of Rupple Road owned by Carol Stephens

4535

5. **RZN 03-37.00 – Stonebridge Meadows:** An ordinance rezoning that property described in rezoning petition RZN 03-37.00 as submitted by the City of Fayetteville for property located south of Goff Farm Road and east of Stonebridge Meadows.

198-03

6. **Traffic and Transportation Study:** A resolution accepting the traffic and transportation study dated October, 2003 and prepared by Bucher, Willis & Ratliff.

199-03

7. **LEECO Fire Equipment:** A resolution approving the purchase of one Emergency One, Inc. (E-One) pumper apparatus from LEECO, Inc in the amount of $347,645.83; and approving a budget adjustment in the amount of $377,646.00 for same.

8. Suspended the rules & added Water Sewer Ordinance. Set public hearing 12/30/03 @ 4:30pm

**D. INFORMATIONAL:**

**Citizen Survey Distribution**

LOPFI MEMO

# NOTICE OF PUBLIC HEARING

The Fayetteville City Council will conduct a public hearing on December 30, 2003, at 4:30 P.M. on the new sewer rate ordinance §51.137 of the Fayetteville Code.

The proposed readjusted 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:

(1) Monthly sewer quantity charge:

**Table E-1**

**Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons Beginning *February 9, 2004***

(*Across-the-Board Percentage; **Cost of Service Methodology)

| | |
|---|---|
| Residential* | $ 2.61 |
| Commercial/Industrial* | 2.04 |
| Outside city limits** | 6.03 |
| Elkins** | 5.24 |

**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** | 5.71 |

**Table E-3**

**Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons After *December 31, 2005***

| | |
|---|---|
| Residential* | $ 3.10 |
| Commercial/Industrial* | 2.42 |
| Outside city limits** | 7.16 |
| Elkins** | 6.22 |

(1) Monthly service charge:

**Table F-1 Monthly Sewer Service Charge**
**Beginning *February 9, 2004***

| Meter Size | Inside City | Outside City† |
|---|---|---|
| 5/8 inch | $ 8.72 | $ 8.72 |
| 3/4 inch | 10.08 | 11.87 |
| 1 inch | 11.34 | 16.28 |
| 1½ inch | 15.85 | 28.90 |
| 2 inch | 21.10 | 41.51 |
| 3 inch | 46.31 | 97.02 |
| 4 inch | 77.51 | 160.09 |
| 6 inch | 149.26 | 317.78 |
| 8 inch | 232.26 | 475.47 |

**Table F-2 Monthly Sewer Service Charge**
**After *December 31, 2004***

| 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 |

**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 |

†Cost of Service Methodology required by contract.

(B) *Determination of charge for domestic customers.* In the case of domestic customers, the average monthly water consumption for the preceding months of December, January, and February shall be computed separately for each customer, and a uniform monthly charge for each customer shall be determined by applying the schedule of rates set out in subsection (A) of this section to such average monthly water consumption. In the case of a domestic user for whom a uniform monthly charge has been established and who moves to a new location the same uniform monthly charge shall apply at the new location. In the case of new domestic users, the schedule of rates shall be applied to monthly water usage until an average monthly water

consumption has been established. This methodology shall not apply to multi-family structures containing five (5) or more units in a contiguous building.

(C) *Determination of charge for commercial and industrial customers.* In the case of commercial and industrial customers the monthly sewer charge shall be determined by applying the schedule of rates prescribed in subsection (A) of this section to the monthly water usage of such customers. In the event that a commercial or industrial customer discharging waste into the city's sanitary sewer system produces evidence to the water and sewer superintendent demonstrating that a substantial portion of the total amount of water from all sources used for all purposes does not reach the sanitary sewer which is in excess of the factors used in establishing the rates in subsection (A) of this section, an estimated percentage of total water consumption to be used in computing charges may be established by the water and sewer superintendent. The factors used in establishing said rates are on file in the office of the water and sewer superintendent and are incorporated herein by reference thereto. Any rate so adjusted by the water and sewer superintendent shall be effective for a 12-month period beginning with the billing for the month when rates adjudged hereby go into effect.

(D) *Extra Strength Surcharge.* For all commercial and industrial customers whose wastewater discharge is greater than 300 mg/l of $BOD_5$ and/or TSS, the City shall levy an Extra Strength Surcharge for each parameter in accordance with the following unit charges:

| | *Beginning February 9, 2004* | *After December 31, 2004* | *After December 31, 2005* |
|---|---|---|---|
| (1) Extra Strength $BOD_5$ | --- $0.2246/lb. | 0.2449/lb. | 0.2669/lb. |
| (2) Extra Strength TSS | ----- $0.1123/lb. | 0.1224/lb. | 0.1334/lb. |

Extra Strength Surcharges shall be billed monthly and shall be computed on the basis of water meter reading (wastewater discharge volume).

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer

FROM: Stephen Davis, Finance & Internal Services Director

DATE: December 16, 2003

**SUBJECT: LOPFI – Future Cost**

Last evening I received an actuarial report on the Fayetteville Fire and Police LOPFI retirement system. The report is attached and states that between 2004 and 2008 the City of Fayetteville expense will rise from $51,000 to $264,000.

I have also attached two graphs that show the increase in cost for years ending 2013 and 2028.

Please contact Stephen Davis at 575-8330 if you have any questions concerning the information presented.

Thank you.

Cc: Michele, Bechhold, Human Resources
Jason Alvarado, Police Department
Dean Matthews, Fire Department

K:\Steve Davis\City Council\Informational Reports\LOPFI Report_Future Cost.doc

**Osborn, Carreiro & Associates, Inc.**

Actuaries * Consultants * Analysts

Osborn, Carreiro & Associates, Inc.
124 West Capitol, Suite 1690
Little Rock, AR 72201

Phone: 501-376-8043
FAX: 501-376-7847
email: JodyC@oca-actuaries.com

# *Facsimile*

To: Steve Davis
@Fax: 1-479-575-8257
From: Jody Carreiro
Date: Monday, December 15, 2003 @ 3:48 PM
Re: LOPFI cost to city
Pages: 5, including this

Steve,

Four pages follow. The first is the calculation of the 2003 premium tax. The second is the projection for the 2004 premium tax amount.

The next page is the detail numbers of the projected LOPFI only cost for the next 25 years and the projected premium tax for the next 25 years. The graph on the last page shows these amounts graphically.

Take a look and then call me to discuss. I will be happy to adjust in any way to make it more understandable for your audience.

A couple of things the graph tells me,

1. That, in general, the LOPFI payroll will grow faster rate than premium tax and so the cost to the city will grow.
2. Premium tax may grow faster in total than 2% per year. We might want to look at a different long term rate of growth.
3. It is very hard to predict especially with the new formula, how this will work in the long run. The first 5 to 10 years should be pretty good, but after that any slight change in assumptions would make a big difference.
4. Either way things go. The city expense begins to pick up in about 2008. At that point most of the old plan liability should be paid off. Therefore, about 2007 or 2008 may be the optimum time to consider a merger with LOPFI.

# Arkansas Fire and Police Pensions - Insurance Premium Tax Allocation for 2003 for the City (or Fire Protection District) of Fayetteville

| Steps | | Fire Pensions | Police Pensions | Total City |
|---|---|---|---|---|
| 1 | Actual Old Plan Actuarial Cost 2002 | 955,199.00 | 969,581.00 | 1,924,780.00 |
| 2 | Actual paid LOPFI cost for 2002 | 193,764.87 | 262,363.11 | 456,127.98 |
| 3 | Total Cost of Old Plan and LOPFI<br>Sum of steps 1 and 2 | 1,148,963.87 | 1,231,944.11 | 2,380,907.98 |
| 4 | Actual Premium Tax Allocation for 2002 | 200,350.14 | 395,337.12 | 595,687.26 |
| 5 | Percent covered for 2002 (base year)<br>This is step 4 divided by step 3 | 17.4% | 32.1% | 25.0% |
| 6 | Minimum Percentage Covered<br>Lesser of step 5 and 100%, that is,<br>No more than 100% of cost is covered | 17.4% | 32.1% | 25.0% |

This percentage is fixed for all future years. That is, this is the Minimum Percentage Covered in the future.

| | | | | |
|---|---|---|---|---|
| 7 | Projected current year (2003) Old plan cost. | 955,199.00 | 969,581.00 | 1,924,780.00 |
| 8 | Projected current year (2003) LOPFI cost. | 269,646.75 | 220,320.15 | 489,966.90 |
| 9 | Total Projected current year costs | 1,224,845.75 | 1,189,901.15 | 2,414,746.90 |
| 10 | First Allocation Amount<br>Step 6 times step 9 with adjustments for locations with both fire and police | 222,308.21 | 381,845.32 | 604,153.53 |
| 11 | a. Calculated Excess Subsidy Account 12/31/2002 | | | 0.00 |
| | b. Allocation reduced by Excess Subsidy | 222,308.21 | 381,845.32 | 604,153.53 |
| 12 | a. Contribution Shortfall (step 9 less step 10) | 1,002,537.54 | 808,055.83 | 1,810,593.37 |
| | b. Remaining premium tax allocated based on Contribution Shortfall | 460,026.72 | 223,513.64 | 683,540.36 |
| 13 | Total Allocated Premium Tax<br>Sum of steps 11.b. and 12.b. | 682,334.93 | 605,358.96 | 1,287,693.89 |
| 14 | Step 13 Split between the Old Plans and LOPFI | | | |
| | Direct to Old Plan | 412,688.18 | 385,038.81 | 797,726.99 |
| | LOPFI (to be applied as credit) | 269,646.75 | 220,320.15 | 489,966.90 |
| | Total Premium Tax Allocation | | | 1,287,693.89 |

Complete information is found in June 10, 2003 Allocation Report

11/07/2003

## Arkansas Fire and Police Pensions - Insurance Premium Tax Allocation for 2004 for the City (or Fire Protection District) of Fayetteville (11/03 proj)

| Steps | | Fire Pensions | Police Pensions | Total City |
|---|---|---|---|---|
| 1 | Actual Old Plan Actuarial Cost 2002 | 955,199.00 | 969,581.00 | 1,924,780.00 |
| 2 | Actual paid LOPFI cost for 2002 | 193,764.87 | 262,363.11 | 456,127.98 |
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| 4 | Actual Premium Tax Allocation for 2002 | 200,350.14 | 395,337.12 | 595,687.26 |
| 5 | Percent covered for 2002 (base year)<br>This is step 4 divided by step 3 | 17.4% | 32.1% | 25.0% |
| 6 | Minimum Percentage Covered<br>Lesser of step 5 and 100%, that is,<br>No more than 100% of cost is covered | 17.4% | 32.1% | 25.0% |
| This percentage is fixed for all future years. That is, this is the Minimum Percentage Covered in the future. | | | | |
| 7 | Projected current year (2004) Old plan cost. | 972,939.00 | 969,581.00 | 1,942,520.00 |
| 8 | Projected current year (2004) LOPFI cost. | 378,634.40 | 331,783.91 | 710,418.31 |
| 9 | Total Projected current year costs | 1,351,573.40 | 1,301,364.91 | 2,652,938.31 |
| 10 | First Allocation Amount<br>Step 6 times step 9 with adjustments for<br>locations with both fire and police | 246,132.82 | 417,614.61 | 663,747.43 |
| 11 | a. Calculated Excess Subsidy Account 12/31/2003 | | | 0.00 |
| | b. Allocation reduced by Excess Subsidy | 246,132.82 | 417,614.61 | 663,747.43 |
| 12 | a. Contribution Shortfall (step 9 less step 10) | 1,105,440.58 | 883,750.30 | 1,989,190.88 |
| | b. Remaining premium tax allocated based<br>on Contribution Shortfall | 205,827.74 | 127,509.56 | 333,337.30 |
| 13 | Total Allocated Premium Tax<br>Sum of steps 11.b. and 12.b. | 451,960.56 | 545,124.17 | 997,084.73 |
| 14 | Step 13 Split between the Old Plans and LOPFI | | | |
| | Direct to Old Plan | 123,613.14 | 213,340.26 | 336,953.40 |
| | LOPFI (to be applied as credit) | 328,347.42 | 331,783.91 | 660,131.33 |
| | Total Premium Tax Allocation | | | 997,084.73 |

# City of Fayetteville

## Projection of LOPFI Cost and Premium Tax Income

**(Based on 4% salary growth and 2% real growth)**

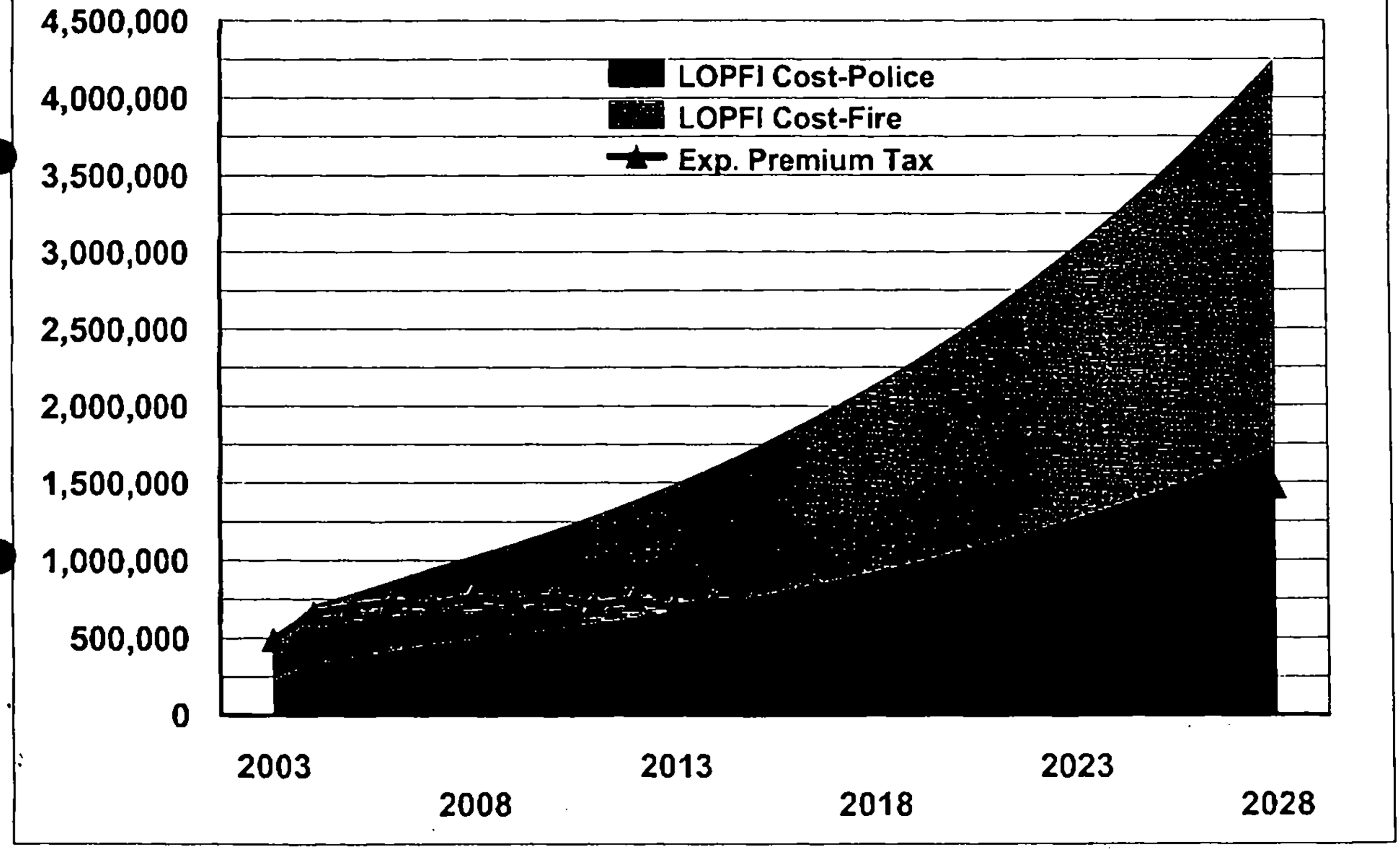
| Year | Projected LOPFI Cost Police | Projected LOPFI Cost Fire | Projected Premium Tax for LOPFI | Expected Net City Cost of Pensions |
|---|---|---|---|---|
| 2003 | 220,000 | 270,000 | 490,000 | 0 |
| 2004 | 332,000 | 379,000 | 660,000 | 51,000 |
| 2005 | 371,000 | 415,000 | 704,000 | 82,000 |
| 2006 | 413,000 | 453,000 | 729,000 | 137,000 |
| 2007 | 457,000 | 495,000 | 713,000 | 239,000 |
| 2008 | 487,000 | 540,000 | 763,000 | 264,000 |
| 2009 | 519,000 | 588,000 | 733,000 | 374,000 |
| 2010 | 554,000 | 639,000 | 763,000 | 430,000 |
| 2011 | 591,000 | 694,000 | 712,000 | 573,000 |
| 2012 | 629,000 | 753,000 | 744,000 | 638,000 |
| 2013 | 671,000 | 817,000 | 696,000 | 792,000 |
| 2014 | 715,000 | 885,000 | 732,000 | 868,000 |
| 2015 | 762,000 | 957,000 | 726,000 | 993,000 |
| 2016 | 812,000 | 1,035,000 | 766,000 | 1,081,000 |
| 2017 | 865,000 | 1,118,000 | 767,000 | 1,216,000 |
| 2018 | 921,000 | 1,207,000 | 813,000 | 1,315,000 |
| 2019 | 981,000 | 1,303,000 | 848,000 | 1,436,000 |
| 2020 | 1,045,000 | 1,405,000 | 900,000 | 1,550,000 |
| 2021 | 1,112,000 | 1,514,000 | 955,000 | 1,671,000 |
| 2022 | 1,184,000 | 1,630,000 | 1,015,000 | 1,799,000 |
| 2023 | 1,261,000 | 1,754,000 | 1,078,000 | 1,937,000 |
| 2024 | 1,342,000 | 1,887,000 | 1,146,000 | 2,083,000 |
| 2025 | 1,428,000 | 2,029,000 | 1,219,000 | 2,238,000 |
| 2026 | 1,520,000 | 2,181,000 | 1,296,000 | 2,405,000 |
| 2027 | 1,617,000 | 2,343,000 | 1,379,000 | 2,581,000 |
| 2028 | 1,721,000 | 2,516,000 | 1,468,000 | 2,769,000 |

Note 1: The LOPFI costs were projected using a 4% salary growth as assumed, and a 2% additional growth per year of the city. Adjustments were made to take into account the additional LOPFI employees who will replace Old Plan active employees.

Note 2: The Premium Tax was assumed to increase on a statewide level by 2% per year. The projected old plan portion was subtracted from the total Premium Tax for each year.

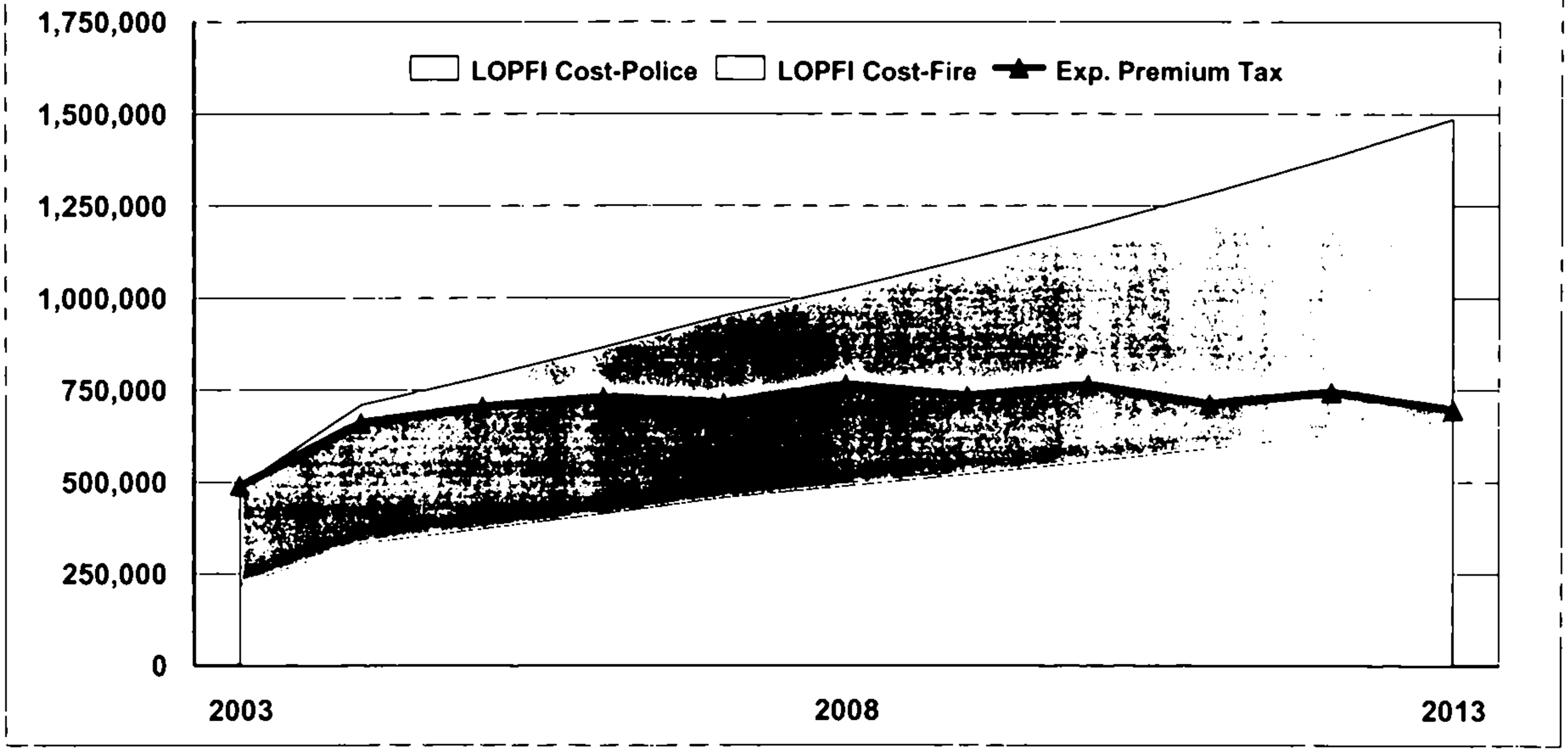
# City of Fayetteville

## Projection of LOPFI Cost and Premium Tax Income



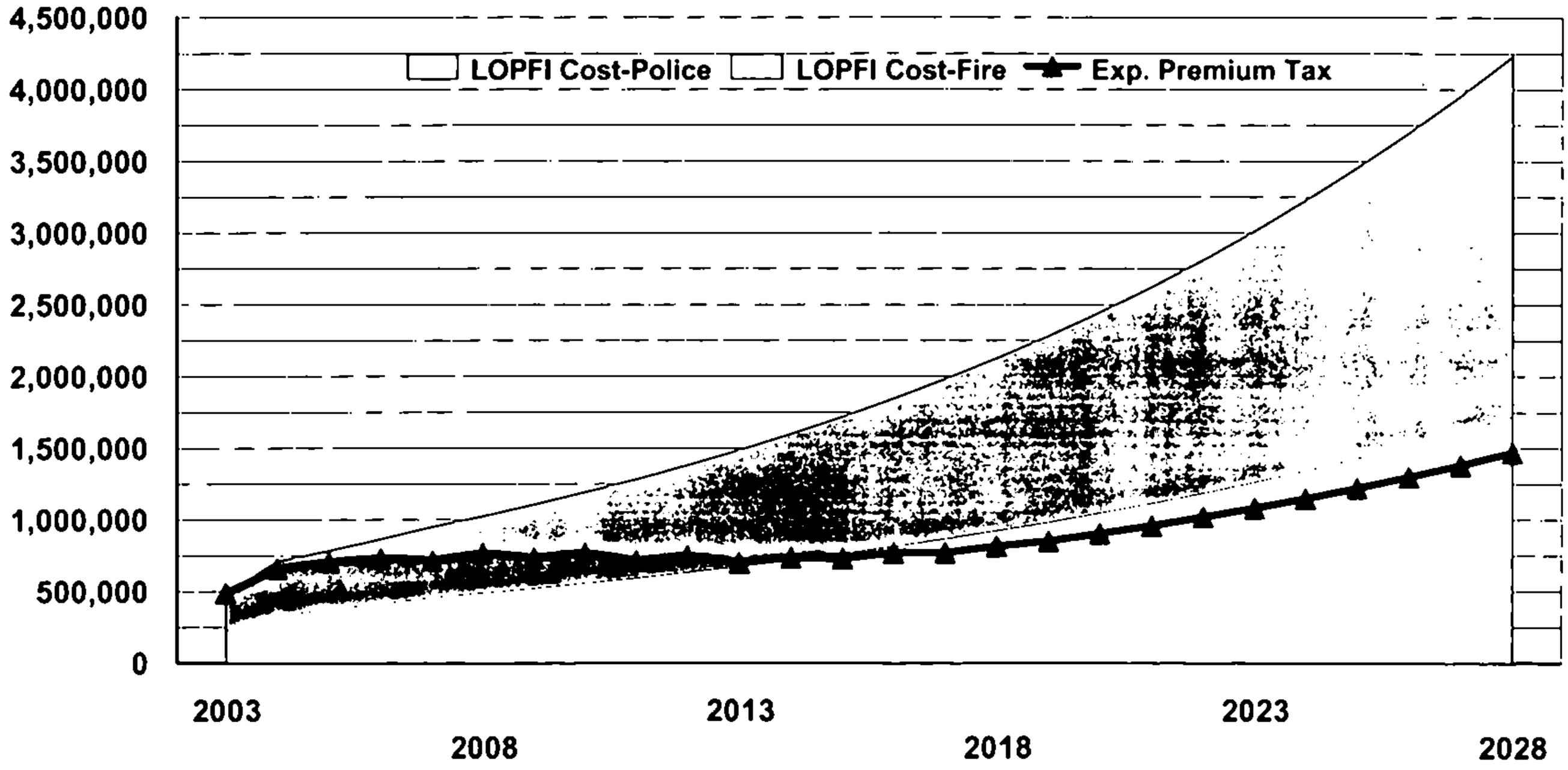
# City of Fayetteville

## Projection of LOPFI Cost and Premium Tax Income



# City of Fayetteville

## Projection of LOPFI Cost and Premium Tax Income



**Tentative Agenda**
**For**
**City Council Meeting**
**December 16, 2003**

A meeting of the Fayetteville City Council will be held on December 16, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Fayetteville Natural Heritage Committee Presentation.**

A. **CONSENT:**

1. **Approval Of The Minutes:** Approval of the October 21, 2003, November 18 and December 2, 2003 meeting minutes.

2. **Vanco Engineering Flash Mixer Purchase for the Noland Plant:** A resolution approving the purchase of a flash mixer for the Noland Wastewater Treatment Plant in the amount of $21,310.00 from the lowest qualified bidder, Vanco Engineering Company; and approving a budget adjustment in the amount of $55,000.00 for same.

3. **EDC Corporation Bid Award No. 03-68 and Contract Approval:** A resolution to approve a contract with EDC Corporation for the AIMS Parking Management System in the amount of $34,357.26, with a project contingency of $3,435.74, and approval of a budget adjustment in the amount of $37,793.00.

4. **Jim Black Contract - Operation of the Lake Fayetteville Boat Dock:** A resolution awarding a contract to Jim Black in the amount of $31,719.00 to operate the Lake Fayetteville Boat Dock for calendar year 2004, with five one-year renewal options.

5. **Green Anderson Contract Amendment – Installation of an Emergency Generator for City Administration Building:** A resolution to approve amendment # 1 of the agreement with Green Anderson Engineers, Inc. in the amount of $ 3,100.00 for engineering services related to design of a standby emergency generator system for the City Administration Building.

6. **Jerry Sweetser Construction Contract – Construction of Broyles Road:** A resolution approving a construction contract with Jerry D. Sweetser, Inc. in the amount of $397,868.25 for the construction of Broyles Road from Wedington Drive to Persimmon Place Subdivision; approving a 15% project contingency in the amount of $59,680.75; and approving a budget adjustment in the amount of $457,549.00 for same.

## B. OLD BUSINESS:

1. **ADM 03-29.00 Amend Master Street Plan – Cliffs Boulevard Eastern Extension:** A resolution approving an amendment to the Master Street Plan relocating Cliffs Boulevard and reducing it to a collector street between Highway 265 and Starr Drive as shown on Exhibit A.

2. **Hay Group Salary Survey: A resolution:** A resolution adopting the Hay Group's recommendation in the 2003 compensation practices update; implementing 50% of the recommendation in January 2004 and the remaining 50% in January 2005.

3. **2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.
   ***This Resolution was tabled at the November 18, 2003 City Council meeting until the December 2, 2003 City Council meeting.***
   ***This resolution was tabled at the December 2, 2003 City council meeting to the December 16, 2003 City Council meeting.***

## C. NEW BUSINESS:

1. **OMI Contract Amendment No. 10:** A resolution approving Amendment No. 10 to the contract with Operations Management International (OMI) in the amount of $4,373,573.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2004.

2. **Fayetteville Boys and Girls Club Agreement to Provide Public Recreation:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2004.

3. **Council on Aging Agreement and Bid Waiver to Provide Public Recreation for the Citizens of Fayetteville:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $32,900.00 to provide public recreation services for the senior citizens of Fayetteville for 2004.

4. **ANX 03-4.00 – Repeal Ordinance 4518 Carol Stephens Annexation:** An ordinance repealing Ordinance No. 4518 for the annexation to the City of Fayetteville, Arkansas, of 1.08 acres located north of Mt. Comfort Road and west of Rupple Road owned by Carol Stephens

5. **RZN 03-37.00 – Stonebridge Meadows:** An ordinance rezoning that property described in rezoning petition RZN 03-37.00 as submitted by the City of Fayetteville for property located south of Goff Farm Road and east of Stonebridge Meadows.

6. **Traffic and Transportation Study:** A resolution accepting the traffic and transportation study dated October, 2003 and prepared by Bucher, Willis & Ratliff.

7. **Leeco Fire Equipment:** A resolution approving the purchase of one E-One Fire Pumper from LEECO Fire Equipment in the amount of $347,645.83

**D. INFORMATIONAL:**

**Council Tour: December 15, 2003**

**Citizen Survey Distribution**

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Hugh Earnest, Chief Administrative Officer

**From:** Greg Boettcher, Water/Wastewater Director

**Date:** November 26, 2003

**Subject:** Resolution approving purchase of a new Flash Mixer for the Noland Wasterwater Plant

## RECOMMENDATION

Fayetteville City Administration recommends approval of an authorization totalling $21,301.00, said amount reflecting the purchase of a Flash Mixer from Vanco Engineering Company

## BACKGROUND

The equipment at the Noland Wastewater Treatment Plant has been in continuous service since the facility's upgrade in 1988. The lead units have been repaired and rebuilt during the service period of 15 years; however, the units are at the end of their useful service life and require replacement. The flash mixers perform an integral function in the biological treatment process and are esssential for continued compliance with treatment standards.

## DISCUSSION

The long-range wastewater needs of Fayetteville anticipate the continued utilization of the Noland Wastewater Treatment Plant as a functional element of the municipal wastewater system. Recognizing the age of the current equipment and the planned use of such components for an additional 20 years necessitates the gradual change-out of the existing lead equipment units. The flash mixers and the larger aerator/mixer units operate 24 hours per day and 7 days per week, hence they have accumulated significant wear and tear. The replacement of the various units will be an ongoing operation and maintenance cost over coming years, the proposed purchase being the beginning of a multi-year replacement program. The biological process contains a total of 12 flash mixers and 16 aerator/mixers, all of which are nearing the end of their service life.

## BUDGET IMPACT

The $21,301.00 expenditure for equipment replacement is a regular part of the system's operating budget. Due to earlier commitments of such funds to other needs (effluent filtering system emergency repairs) this purchase requires a transfer from the lesser priority building capital improvement account.

**RESOLUTION NO. _____**

A RESOLUTION APPROVING THE PURCHASE OF A FLASH MIXER FOR THE NOLAND WASTEWATER TREATMENT PLANT IN THE AMOUNT OF $21,310.00 FROM THE LOWEST QUALIFIED BIDDER, VANCO ENGINEERING COMPANY; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $55,000.00 FOR SAME.

**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 flash mixer for the Noland Wastewater Treatment Plant in the amount of $21,310.00 from the lowest qualified bidder, Vanco Engineering Company.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $55,000.00 for same.

**PASSED** and **APPROVED** this 16th day of December, 2003.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

**City of Fayetteville, Arkansas**
**Budget Adjustment Form**

| Budget Year | Department: Water & Wastewater<br>Division: WWTP Operations<br>Program: WWTP Capital | Date Requested | Adjustment Number |
|---|---|---|---|
| 2003 | | 12/16/2003 | |

| Project or Item Requested: | Project or Item Deleted: |
|---|---|
| $55,000 is being requested in the plant Pumps and Equipment capital project. | $ 55,000 from the WWTP Building Improvements capital Project |

| Justification of this Increase: | Justification of this Decrease: |
|---|---|
| Due to recent unanticipated expenses of the effluent filtering system project, there are insufficient funds in the plant pumps and equipment account to complete the necessary planned repairs and purchases for this year. | There is sufficient funding remaining in project to meet 2003 objectives. |

**Increase Budget (Decrease Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Fixed assets | 5400 | 5800 | 5801 | 00 | | 02069 | 1 |
| | | | | | | | |

**Decrease Budget (Increase Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Fixed assets | 5400 | 5800 | 5801 | 00 | | 02032 | 1 |
| | | | | | | | |

| Approval Signatures | | Budget Office Use Only | | | |
|---|---|---|---|---|---|
| Requested By | Date | Type: A B C D E | | | |
| B. Feel | 11/25/03 | Date of Approval | Initial | Date | |
| Budget Manager | Date | | | | |
| Department Director | Date | Posted to General Ledger | Initial | Date | |
| Finance & Internal Services Director | Date | Posted to Project Accounting | Initial | Date | |
| Mayor | Date | Entered in Category Log | Initial | Date | |

# City Of Fayetteville

(Not a Purchase Order)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Requisition No.<br>OMI 03-35 | | | | | | | | Date:<br>11/17/2003 | |
| P.O Number | | | | | | | | Expected Delivery Date<br>8 - 10 Weeks | |
| Vendor # | Vendor Name:<br>Vanco Engineering Company | | | | | | | Mail<br>Yes:__ No:_X__ | |
| Address:<br>7033 East 40th Street | | | | Fob Point:<br>Fayetteville, AR | | | | Taxable<br>Yes:_X_ No:___ | Quotes Attached<br>Yes:__X__ No:_____ |
| City:<br>Tulsa | State:<br>OK | | | Zip Code<br>74145 | Ship to code:<br>95 | | | Divison Head Approval: | |
| Requester:<br>Tim Luther | | | | Requester's Employee #<br>OMI | | | | Extension:<br>443-3292 | |
| Item | Description | Quantity | Unit of Issue | Unit Cost | Extended Cost | Account Numbers | | Project/Subproject # | Inventory # | Fixed Asset # |
| 1 | LightIn Model 83Q5 Heavy Duty Flash Mixer | 1 | Each | 21,301.00 | $21,301.00 | 5400.5800.5414.00 | | 02069 | | |
| 2 | | | | | | | | | | |
| 3 | | | | | | | | | | |
| 4 | | | | | | | | | | |
| 5 | | | | | | | | | | |
| 6 | | | | | | | | | | |
| 7 | | | | | | | | | | |
| 8 | | | | | | | | | | |
| 9 | | | | | | | | | | |
| 10 | | | | | | | | | | |
| | Shipping/Handling | | Lot | | | | | | | |

Special Instructions:

Reference Bid # 03-72

| | |
|---|---|
| Subtotal: | $21,301.00 |
| Tax | $1,172.93 |
| Total: | $22,473.93 |

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Financo & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

# CITY OF FAYETTEVILLE, ARKANSAS
# PURCHASING DEPARTMENT
# REQUEST AND QUOTATIONS FORM

QUOTE NUMBER: _____ ACCOUNT NUMBER: **5400.5800.5414.00**

DATE: **17-Nov-03** PURCHASE ORDER NUMBER: _____

DATE NEEDED: **ASAP** DEPARTMENT: **WWTP**

TAKEN BY: _____

DESCRIPTION OF ITEM(S):
**Lightin Model 83Q5 Heavy Duty Flash Mixer (or equivalent) constructed with an 80 series right angle double reduction oil splash lubricated gear reducer. The mixer will be supplied with a 5 HP, 230/460/3/60, 215T frame, TEFC severe duty high effiency horizontal electric motor. Also included will be a 3" diameter by 154" long FMB shaft with rigid coupling for attachment to the reducer output shaft. The lower 30" of the shaft is stepped to 2-1/2" diameter. A single 72" diameter A510E32 high efficiency axial flow impeller is to be mounted to the shaft. Shaft and impeller are to be epoxy-coated carbon steel.**

QUANTITY: 1

| | VENDOR LIST | UNIT PRICE | TOTAL PRICE | TERMS/ REMARKS |
|---|---|---|---|---|
| VENDOR # 1:<br>ADDRESS: | **Vanco Engineering Company**<br>**7033 East 40th Street**<br>**Tulsa, OK 74145** | **$21,301.00** | **$21,301.00** | |
| VENDOR # 2:<br>ADDRESS: | **Evans Enterprises Inc.**<br>**2001 N 13th Street**<br>**Rogers, AR 72756** | **$25,090.00** | **$26,450.86** | |
| VENDOR # 3:<br>ADDRESS: | | | | |
| VENDOR # 4:<br>ADDRESS: | | | | |

COMMENTS:
**Reference Bid #: 03-72**

FAXED 11:20 03

**REQUEST FOR VENDOR FILE MAINTENANCE**

(CHECK ALL AVAILABLE RESOURCES, VENDOR LIST, ACCESS SYSTEM
PRIOR TO SUBMISSION OF THIS REQUEST)

DATE OF REQUEST: **17-Nov-03** REQUESTED BY: **Billy Ammons**

DEPT/DIVISION: **Public Works/WWTP** DATE REQUIRED: **19-Nov-03**

EXTENSION: **443-3292**

TYPE OF SERVICE REQUESTED:

NEW VENDOR: **X** VENDOR CHANGE: _____ VENDOR RE-ENTRY: _____

VENDOR NAME: **Vanco Engineering Company**

STREET OR P.O. BOX: **7033 East 40th Street**

CITY: **Tulsa**

STATE: **OK** ZIP CODE: **74145**

ATTN: **Craig S. Gawlas** PHONE: **918-627-1920**

FAX: **918-627-6742**

E-Mail: craig@vanco-inc.com

FEDERAL ID NUMBER: **73-0943731** TYPE OF ORGANIZATION:

OR CORPORATION (100): **X**

SOCIAL SECURITY NUMBER: _____ PARTNERSHIP (200): _____

INDIVIDUAL (300): _____

EMPLOYEE (400): _____

(500): _____

**PURCHASING OFFICE USE ONLY**

NEW VENDOR: _____ ENTERED BY: _____

VENDOR CHANGES: _____ DATE: _____

VENDOR RE-ENTRY: _____ G L FILE: _____

INVENTORY FILE: _____

# City of Fayetteville

## NOTICE TO BIDDERS

## BID NO. 03-72 Heavy Duty Flash Mixer

The City of Fayetteville, Arkansas, will receive sealed bids at the City Administration Office, City Hall, Room 306, 113 West Mountain Street, Fayetteville, Arkansas until Nov. 14, 2003 at 11:00 a.m. for a heavy duty flash mixer.

Bid forms may be obtained from the Purchasing Office, located in Room 306, 3rd Floor of the City Administration Building or by downloading the bid documents from the Purchasing Website at www.accessfayetteville.org.

The City reserves the right to reject any and all bids, and to waive formalities deemed to be in the City's best interest.

Peggy Vice
Purchasing Manager
479/575-8289

**CITY OF FAYETTEVILLE**
**113 W. Mountain St.**
**Fayetteville, AR 72701**
**479-575-8289**
**INVITATION TO BID**

**BID #: 03-72** **DATE ISSUED: November 5, 2003**

**DATE & TIME OF OPENING: November 14, 2003 11:00 A.M.**

**BUYER:** Peggy Vice, Purchasing Manager, Room 306 - (479) 575-8289

**DATE REQUIRED AS A COMPLETE UNIT:** 30 days from Date of Order

***GUARANTEED DELIVERY DATE:**_____

**F.O.B.** Fayetteville, AR

**THIS INVITATION TO BID IS BASED ON THE NEED FOR 1 UNIT, AS LISTED IN SPECIFICATIONS ATTACHED. HOWEVER, THE CITY RESERVES THE RIGHT TO ACCEPT OR REJECT ANY OR ALL BIDS, WAIVE FORMALITIES IN THE BIDDING, AND MAKE A BID AWARD DEEMED TO BE IN THE BEST INTEREST OF THE CITY.**

| ITEM: | DESCRIPTION: | QUANTITY: | *TOTAL PRICE: |
|---|---|---|---|
| 1. | **Heavy Duty Flash Mixer** | 1 | _____ |

As specified or approved equivalent:

LIGHTNIN Model 83Q5 Heavy Duty Flash Mixer (or equivalent) constructed with an 80 Series right angle double reduction oil splash lubricated gear reducer. The mixer will be supplied with a 5 HP, 230/460/3/60, 215T frame, TEFC severe duty high efficiency horizontal electric motor. Also included with the mixer will be a 3" diameter by 154" long FMB shaft with rigid coupling for attachment to the reducer output shaft. The lower 30" of the shaft is stepped to 2-1/2"

diameter. A single 72" diameter A510E32 high efficiency axial flow impeller is to be mounted to the shaft. Shaft and impeller are to be epoxy-coated carbon steel.

**PLEASE SPECIFY:**

***MANUFACTURER:**_____

***MODEL:**_____

**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. The Bidder also agrees to furnish these articles at the prices stated. Unsigned bids will be rejected. Items marked * are mandatory for consideration.**

***NAME OF FIRM:**_____

***BUSINESS ADDRESS:**_____

***CITY:**_____ ***STATE:**_____ ***ZIP:**_____

***PHONE:**_____ ***FAX:**_____

***BY :( PRINTED NAME)** _____

***AUTHORIZED SIGNATURE:**_____

***TITLE:**_____

***EMAIL:**_____

**PLEASE NOTE: ALL ITEMS MARKED * ARE CONSIDERED MANDATORY REQUIREMENTS FOR CONSIDERATION OF BID. FAILURE TO COMPLETE THESE ITEMS MAY RESULT IN REJECTION OF BID.**

# SPECIAL TERMS & CONDITIONS

**THIS REQUEST FOR BID IS NOT TO BE CONSTRUED AS AN OFFER, A CONTRACT, OR A COMMITMENT OF ANY KIND; NOR DOES IT COMMIT THE CITY TO PAY ANY COSTS INCURRED BY THE BIDDER IN THE PREPARATION OF THIS BID.**

1. All bids shall be submitted on forms provided by the City, with the item bid and the bid number stated on the face of the sealed envelope. Bidders MUST provide the City with their bids signed by an employee or officer having legal authority to submit bids on behalf of the bidder. The entire cost of preparing, and providing responses shall be borne by the bidder.

2. Bidders shall include all applicable local, state, and federal sales tax in this bid. The responsibility of payment shall remain with the successful bidder. Tax amount **MUST** be shown as a separate item.

3. Bids received after the date and time set for receiving bids will **NOT** be considered. The City will **NOT** be responsible for misdirected bids. Vendors may call the Purchasing Office at (479) 575-8289, to determine if their bid documents have been received prior to opening date and time listed on the bid form.

Bids must be mailed or hand delivered to:

City of Fayetteville – Attn: Purchasing
113 West Mountain St.
Fayetteville, AR 72701

4. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City. The City shall be able to purchase more or less than the quantity indicated subject to availability of funds.

5. Each bidder **MUST** state on the face of the bid form the anticipated number of days from the date of receipt of order, to the date of delivery of the completed units to the City of Fayetteville, Arkansas.

6. Time is specifically made of the essence in this contract, and failure to deliver on or before the time specified in the contract may subject the contractor to payment of damages.

7. All bid prices shall be F.O.B. Fayetteville Airport, Drake Field, Hwy 71 S., Fayetteville, AR, 72701, and shall include all dealer preparation charges, labor, materials, overhead, profit, insurance, inspection fees, etc., to cover the furnishing of the unit/units bid.

8. Minimum one year warranty or Manufacturer's Standard Warranty, whichever is greater, shall apply to each unit as specified. A copy of the applicable warranty **MUST** accompany the bid, with any exception to the warranty clearly noted on the Bid Form. Warranty on accessories/equipment furnished by an after market vendor **MUST** be noted.

9. Any exceptions to the requirements of the City of Fayetteville **MUST** be noted on the Bid

Form. If products and/or components other than those described on this bid document are proposed, the bidder must include complete descriptive literature, and technical specifications. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.

10. Installation of Dealership/Distributorship Logo is **PROHIBITED.**

11. The completed unit delivered to the City of Fayetteville shall comply with all accepted commercial standards for materials and supplies which are new and unused except for normal testing and evaluation needed prior to release for delivery.

12. All items marked, **"MANDATORY REQUIREMENT FOR CONSIDERATION OF BID" MUST** be completed and returned with the bid, or the bid may be considered as non-responsive and rejected on that basis.

13. Parts and Service Manuals shall be provided to cover the Chassis, Power train, Body, and any modifications to production items.

14. A training session shall be provided at a City of Fayetteville Facility, in order to familiarize City Employees with the operational and maintenance needs of any special equipment furnished.

These are **MINIMUM SPECIFICATIONS ONLY,** and are not limited or restricted to the following.

**ALL UPGRADE OR DOWNGRADE VARIATIONS/DEVIATIONS/SUBSTITUTIONS MUST BE CLEARLY ANNOTATED. IN THE ABSENCE OF SUCH STATEMENTS, THE BID SHALL BE ACCEPTED AS IN STRICT COMPLIANCE WITH ALL TERMS, CONDITIONS, AND SPECIFICATIONS AND THE SUPPLIER SHALL BE HELD LIABLE.**

Alternates will be considered, provided each supplier clearly states on the face of the proposal exactly what is proposed to be furnished, and forwards necessary descriptive material which will clearly indicate the character of the article covered by the bid. All Bids are subject to Staff analysis, Fleet standardization requirements, replacement parts availability, warranty service availability, and Manufacturer/Distributor/Dealer Field support of operational units will be considered.

All Units Bid shall show deviations to line item specifications on the "Minimum Specification" attached with referral to each item. Utilizing a copy of these specifications with variations "hi-lited" and specifics noted is suggested.

**ANY BIDDER, WHETHER A MANUFACTURER OR DESIGNATED DEALER, WHO CAN PROVIDE MATERIALS , FEATURES OR OPTIONS TO MEET THE SPECIFICATIONS OUTLINED HEREIN, AND WILLFULLY FAILS TO DO SO BECAUSE OF PRICE, OR TO GAIN A PRICING ADVANTAGE IN A COMPETITTIVE BID SITUATION WILL BE DEEMED NON-RESPONSIVE. NO FURTHER CONSIDERATION OF THEIR BID SUBMISSION WILL BE MADE. SHOULD THEIR CURRENT LITERATURE OR PRICE LISTS FOR MATERIALS, FEATURES, OR OPTIONS INDICATE THEIR ABILITY TO PROVIDE SAME TO MEET THESE SPECIFICATIONS, AND THEY FAIL TO DO SO, THEY WILL BE DEEMED NON-RESPONSIVE, AND DECLARED INELIGIBLE TO RECEIVE THE AWARD FOR THE UNIT SPECIFIED. FINALLY, ANY CLAIMS THAT AN ITEM BID EXCEEDS THE STATED SPECIFICATION MUST BE DEMONSTRATED IN A**

**PERFORMANCE DEMONSTRATION IN DIRECT COMPETITION WITH OTHER UNITS BID BY OTHER MANUFACTURERS PRIOR TO AN AWARD, OR THE BID WILL BE DEEMED UNRESPONSIVE FOR FAILURE TO SUBSTANTIATE THE CLAIM.**

All equipment shall be new and unused, and of the Manufacturers Current Model Year, and shall include all standard equipment as advertised by the Manufacturer. All vehicles and equipment listed herein shall comply with applicable Federal and State Safety, Emission and Pollution Control Requirements in effect at time of delivery. Standard Manufacturer's Warranty shall be furnished. Minimum Warranty period shall be no less than one year.

Field demonstrations of currently operational units which are offered as a substitute, variation, or deviation may be required as part of Staff analysis, at the option of Staff members, or other qualified interested parties. Properly documented referrals may be required of vendors, which allow field evaluation of units in a comparable operational area.

The City of Fayetteville reserves the right to accept the best bid for the City, and is not required to accept the lowest priced bid.

The City also reserves the right to reject any or all bids and will be the sole judge of what comprises the best, and most advantageous unit to meet the needs of the City.

## GENERAL PROVISIONS AND REQUIREMENTS

### 1. GENERAL

It is the intent and purpose of these specifications, to secure for the purchaser the necessary equipment and accessories that will be capable of performing in a safe, practical, and efficient manner consistent with accepted commercial standards.

### 2. MATERIALS AND WORKMANSHIP

All equipment, materials, and workmanship shall be of the highest grade in accordance with modern practice. The equipment supplied will be new and unused except for the necessary testing, calibration, and transportation.

### 3. WARRANTY

All items furnished in accordance with these specifications shall be covered by the manufacturers and/or supplier's standard warranty or guarantee on new equipment. The minimum warranty period on new equipment must be one year. Warranty which will be honored by other than the supplier bidding must be annotated.

### 4. PARTS AND SERVICE

To best service the requirements of the purchaser, it is the intent of these specifications to secure equipment which can be properly maintained, and serviced without the necessity of stocking an extensive parts inventory, or being subjected to long periods of interrupted service due to the lack of spare parts.

A complete set of Parts and Service Manuals are to be provided for each unit.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 16, 2003

FROM:

| Greg Boettcher | Water & Wastewater | Wastewater Treatment Plant |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Approval to purchase a flash mixer for the Noland Plant from Vanco Engineering Company for $21,310.00 based upon their low competitive quotation. Funds for purchase to be transferred from Building Improvements account balance with approval of attached budget adjustment.

COST TO CITY:

| $21,301.00 | $ 213,417.00 | Plant Pumps & Equipment |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 5400-5800-5414-00 | $ 208,330.00 | Wastewater Treatment Improvements |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 02069.1 | $ 5,087.00 | Water & Sewer |
| Project Number | Remaining Balance | Fund Name |

BUDGET REVIEW: ____ Budgeted Item __V__ Budget Adjustment Attached

Barbara Lead — 11/25/03
Budget Manager — Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fawkins — 11/25/03
Accounting Manager — Date

Nancy Smith — 11/25/03
Internal Auditor — Date

D. J. White — 11/26/03
City Attorney — Date

Purchasing Manager — 11/26/03
Date

STAFF RECOMMENDATION:

_____ — _____
Division Head — Date

Guy Buttlar — _____
Department Director — Date

Steve Dawson — 12-1-03
Finance & Internal Services Dir. — Date

Hugh Earnest — 11-24-03
Chief Administrative Officer — Date

Dan Coody — 12/02/03
Mayor — Date

Received in Mayor's Office — _____ Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

RECEIVED 11-25-03

City Council Meeting of December 16, 2003

## CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council

THRU: Gary Dumas, Director of Operations

FROM: Sharon Crosson, Parking and Telecommunications Manager

DATE: November 21, 2003

SUBJECT: Bid Award and Contract Approval with EDC Corporation for the AIMS Parking Management System; Approval of a Budget Adjustment

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### RECOMMENDATION

Staff recommends a bid award (Bid No. 03-68) and approval of a contract with EDC Corporation for the purchase of the AIMS Parking Management System in the amount of $34,357.26, and the approval of a project contingency in the amount of $3,435.74 for a total project cost of $37,793.00. The project contingency is anticipated for programming the application interface between the AIMS System and our current financial software, New World Systems. Staff also recommends the approval of a budget adjustment for the total cost of the project.

### BACKGROUND

The existing Parking Enforcement System has been in operation since 1996. The old system runs as a stand alone system on an antiquated DOS PC. We have 3 handheld devices that are utilized to issue parking citations. Each of these devices have been sent off for repair on numerous occasions this year, leaving staff reduced to 1 to 2 handhelds 86% of the time. It is essential that we upgrade to a Windows based system as we will no longer be able to get support for the old software or hardware after this year. The new system will be networked on the City server and will be interfaced with all other financial software applications eliminating duplicate entry of tickets, payments and journal entries into the general ledger.

The Parking Division generates $60,000 annually in parking ticket revenues, $265,000 annually in parking permit revenues, and $125,000 annually in parking meter revenues. The Parking Management Division currently has a 74% collection rate on parking citations. With the improved technology of the AIMS System, we can increase our collections to at least 90% through an improved method of DMV lookup, thus increasing our revenues by $10,000 annually.

In addition, this system will also make electronic payments available to citizens through our web site.

## DISCUSSION

The City of Fayetteville solicited formal bids for a Parking Management System. EDC was the low bidder, with the high bid coming in at $81,000. Parking Management staff looked at several different systems prior to the bid process and agreed unanimously that the AIMS System seemed to meet our needs and be the most user friendly.

## BUDGET IMPACT

This $37,793 expenditure for a Parking Management System was not included in the CIP because staff assumed we would continue to use the existing software and hardware; staff was unaware that we would no longer be able to receive support or replacement parts for the existing system until this year. This expenditure will be offset by existing funds in the Parking Deck Rehabilitation Project.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH EDC CORPORATION FOR THE AIMS PARKING MANAGEMENT SYSTEM IN THE AMOUNT OF $34,357.26, WITH A PROJECT CONTINGENCY OF $3,435.74, AND APPROVAL OF A BUDGET ADJUSTMENT IN THE AMOUNT OF $37,793.00

**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 a contract and license agreement with EDC Corporation (attached as Exhibit A) for the AIMS Parking Management System in the amount of $34,357.26, with a project contingency of $3,435.74.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $37,793.00 (attached as Exhibit B).

**PASSED** and **APPROVED** on this the 2nd day of December, 2003.

APPROVED:

By: _____
**DAN COODY**, Mayor

DRAFT

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

# City of Fayetteville, Arkansas
## Budget Adjustment Form

| Budget Year | Department: Operations<br>Division: Telecommunications & Parking<br>Program: Off Street Parking Exp | Date Requested | Adjustment Number |
|---|---|---|---|
| 2003 | | 12/16/2003 | |

**Project or Item Requested:**

$37,793 is requested for the Parking Management System Capital Project

**Project or Item Deleted:**

$37,793 reduced from the Parking Deck Rehabilitation Capital Project

**Justification of this Increase:**

To replace old Parking Management System purchased in 1996 that runs on antiquated DOS system and is no longer supported by vendor; can no longer obtain replacement parts for hardware; can no longer gain support for software.

**Justification of this Decrease:**

There is a balance of $232,607 remaining in this project; the rehab efforts on this project are estimated to be less than $200,000.

**Increase Budget (Decrease Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Fixed assets | 2130 | 9130 | 5801 | 00 | 37,793 | 03037 | 01 |
| | | | | | | | |

**Decrease Budget (Increase Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Parking deck expenditures | 2130 | 9130 | 5411 | 00 | 37,793 | 02085 | 01 |
| | | | | | | | |

**Approval Signatures**

Sharon Crossan — Requested By — 11-21-03 Date

Budget Manager — 11.21.03 Date

Department Director — 11/21/03 Date

Finance & Internal Services Director — 11-25-03 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

# Automated Issuance/Management

ELECTRONIC DATA COLLECTION CORPORATION

## LICENSE AGREEMENT

EDC Corporation, hereafter referred to as "Licensor", grants a license to use the following software application:

| | |
|---|---|
| Product: | Automated Issuance Management System |
| User Type: | |
| Serial Number: | |

This Licensing Agreement is subject to the conditions contained within this agreement. The acceptance by the customer listed below, hereafter referred to as "Licensee"' is a legal agreement that the licensee agrees to be bound by the licensing conditions contained within this agreement.

| | |
|---|---|
| Licensee | |
| Address | |
| | |

1. **Grant of License**. Use. EDC Corporation grants the licensee a non-exclusive license to use one copy of the aforementioned software program in accordance with the user license listed within this agreement.

   For purposes of this section, "use" means loading the Software into RAM, as well as installation on a hard disk or other storage device. You may access the Software from a hard disk, over a network, or any other method you choose, so long as you otherwise comply with this License Agreement at the times during use of the Software.

2. **Copyright**. The Software is owned by EDC Corporation and is protected by United States Copyright laws and international treaty provisions. This Software may not be copied for distribution or redistributed under any circumstances without written permission from an officer of EDC Corporation. The Licensee may copy the Software solely for backup or archival purposes. You may not copy the written materials accompanying the Software.

3. **Other Restrictions**. This EDC Corporation License Agreement is your proof of license for use of the Software and must be retained by you. This License Agreement must be accepted by signature of an authorized agent of the licensee and an officer of EDC Corporation in order to be valid.

   This License is non-transferable and is intended for single agency use. The Licensee is specifically prohibited from using this Software to engage in service contracts or in any other service bureau activities without written consent from licensor. The Licensee has perpetual use of the Software unless otherwise stated, provided the terms and conditions of this agreement are upheld. You may not reverse engineer, decompile or disassemble the Software.

4. **Limited Warranty**. EDC Corporation warrants that the Software will perform substantially in accordance with accompanying written materials for a period of one year from the date of receipt.

5. **Customer Remedies**. EDC Corporation's entire liability and your exclusive remedy shall be, at EDC Corporation's option, either (a) return of the price paid, or (b) replacement of the Software.

6. **No Other Warranties**. Except as expressly stated herein, the Software is provided "AS IS" without warranty of any kind. EDC Corporation disclaims all other warranties, either express or implied. The licensee bears all risk relating to the quality and performance of the Software.

7. **No Liability for Consequential Damages**. In no event shall EDC Corporation or its suppliers be liable for any damages whatsoever (including, without limitation, damages for loss of business profits or revenues, business interruption, loss of business information or other pecuniary loss) arising out of the use of or inability to use this EDC Corporation product, even if EDC Corporation has been advised of the possibility of such damage.

8. **U.S. Government Restricted Rights**. The Software and documentation are provided with **RESTRICTED RIGHTS**. Use, duplication or disclosure by the Government is subject to restrictions as set forth in Subparagraph(c)(1)(iii) of The Rights in Technical Data and Computer Software clause at **DFARS** 252.227-7013 or Subparagraph(c)(1) and(2) of the Commercial Computer Software-Restricted Rights clause at 48 **CFR 52.227-19,** as applicable. Contractor/manufacturer is EDC Corporation, 13 Dwight Park Dr, Syracuse, New York 13209.

9. **Governing Law**. This Agreement is governed by the laws of the State of New York.

10. **Effect of Agreement**. This Agreement embodies the entire understanding of the parties with respect to, and supersedes any prior understanding or agreement, oral or written, relating to the Software.

---

Accepted by Licensor: Name: _____

Title: _____

Date: _____

Signature: _____

Accepted by Licensee: Name: _____

Title: _____

Date: _____

Signature: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 16, 2003

FROM:

| Sharon Crosson | Parking Management | Operations Department |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Bid award (Bid No. 03-68) and contract approval to EDC Corporation for the AIMS Parking Management System for a contract amount of $34,357.26, with a project contigency of $3435.74 for a total project cost of $37,793.00; approval of a budget adjustment for same.

COST TO CITY:

| $37,793.00 | $ - | Parking Management System |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 2130-9130-5801-00 | $ - | Transportation Improvements |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 03037-1 | $ - | Off Street Parking |
| Project Number | Remaining Balance | Fund Name |

BUDGET REVIEW: ____ Budgeted Item XXX Budget Adjustment Attached

Budget Manager — Date: 11/21/03

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager: Marsha Fawkins — 11/21/03 Date
Internal Auditor: Nancy Smith — 11/21/03 Date
City Attorney: [signature] — 11/24/03 Date
Purchasing Manager: Alice — 11/24/03 Date

STAFF RECOMMENDATION:

Division Head: Sharon Crosson — 11-21-03 Date
Department Director: [signature] — 11/21/03 Date
Finance & Internal Services Dir. — Date
Chief Administrative Officer: Hugh Earnest — 11-27-03 Date
Mayor: Dan Coody — 12/3/03 Date

Received in Mayor's Office — 11/21/03 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

RECEIVED
NOV 21 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

11-21-03

City Council Meeting of December 16, 2003

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Gary Dumas, Director of Operations

**From:** Connie Edmonston, Parks and Recreation Director

**Date:** November 21, 2003

**Subject:** Approval of Resolution awarding a contract to Jim Black in the amount of $31,719 to operate the Lake Fayetteville Boatdock

## RECOMMENDATION

Parks and Recreation Staff recommends approving a resolution awarding a contract to Jim Black in the amount of $31,719 to operate the Lake Fayetteville Boatdock.

## BACKGROUND

The current contract with Jim Black established by Resolution #135-98 will expire on December 31, 2003. A Selection Committee was formed according to the Professional Selection Policy to select a contractor. Three bids for the RFP were received. The Committee interviewed the applicants on November 20, 2003.

## DISCUSSION

The Committee selected Jim Black in the amount of $31,719 to be the Boatdock Operator at Lake Fayetteville. Jim Black has been the Boatdock Operator since 1988. The term of this contract is for one year. The contract may be automatically renewed for five consecutive one years terms, with compensation being adjusted each renewal period by three percent of the contracted amount for the prior year.

Attachment:
Contract

**RESOLUTION NO. _____**

A RESOLUTION AWARDING A CONTRACT TO JIM BLACK IN THE AMOUNT OF THIRTY ONE THOUSAND SEVEN HUNDRED NINETEEN DOLLARS ($31,719.00) TO OPERATE THE LAKE FAYETTEVILLE BOAT DOCK FOR CALENDAR YEAR 2004, WITH FIVE (5) ONE-YEAR RENEWAL OPTIONS.

**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 contract to Jim Black in the amount of Thirty One Thousand Seven Hundred Nineteen Dollars ($31.719.00) to operate the Lake Fayetteville boat dock for calendar year 2004, with five (5) one-year renewal options. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

**PASSED** and **APPROVED** this 16th day of December, 2003.

DRAFT

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**HEATHER WOODRUFF**, City Clerk

# Lake Fayetteville Boat Dock Operator Contract
## CITY OF FAYETTEVILLE, ARKANSAS

## OPERATING CONTRACT FOR LAKE FAYETTEVILLE BOAT DOCK

For the total amount of **$31,719** to be paid in monthly installments, **Jim Black** (the "Contractor") agrees to provide the list of services and requirements to the City of Fayetteville beginning January 1, 2004 and ending December 31, 2004. The term of this agreement is for a twelve month period. Either party may cancel this contract by giving the other party thirty days written notice of cancellation. The Contractor further certifies possession of the initial capital monies to commence boat dock operations.

The City agrees to pay the Contractor in current funds for the performance of the listed services and requirements by making payments to the contractor no later than the 15th of each month.

### CONTRACTED SERVICES AND REQUIREMENTS

1. Contractor shall operate and manage the Lake Fayetteville Boat Dock. Shall be an independent contractor not an employee of the City. The Lake Fayetteville Boat Dock is closed each year from December 24, through January 14. The operator is responsible for supervising the boat dock during this time.

2. Contractor shall open and close the lake gates seven days a week at Sunrise and Sunset. This includes the gates leading to the boatdock, Lake Fayetteville North, and Veterans Memorial on the south side of the lake as directed by the Parks and Recreation Director. Contractor is further responsible for the opening and closing of these gates during the period in which the boatdock is closed from December 24 through January 14. Contractor is required to respond to City Central Dispatch requests 24 hours a day to provide assistance to citizen lock-ins at secured Lake Fayetteville gates. City will provide a pager to the contractor for the purpose of being on-call.

3. Contractor shall collect boat stall rentals, storage rentals, fishing permits, and boating permits. These fees are submitted to the Parks and Recreation Office on a weekly basis or as otherwise approved by the Parks and Recreation Director during the slow season.

4. Contractor shall prepare reports and keep records as required by the Parks and Recreation Director.

5. Contractor shall enforce lake rules and regulations as adopted by the Fayetteville Code of Ordinance Chapter 97, Section 97.070 and 97.999. Contractor is to act in the best interest of city property or public safety in response to ordinance violations.

6. Contractor shall provide proof of liability insurance with a minimum coverage of:

   $300,000.00 for one person involved in death or injury.
   $500,000.00 for two or more persons involved in death or injury.

7. Contractor shall receive prior approval from the Parks and Recreation Director for any special event conducted at Lake Fayetteville.

8. Contractor shall mow and manicure within the secured confines of the Lake Fayetteville Boatdock area. Grounds must be maintained according to park standards. Contractor shall provide all equipment necessary for the maintenance of these grounds.

9. Contractor shall pick up trash and clean the office and restroom on a daily basis. Contractor is to supply cleaning and restroom supplies. This is a public restroom which will be used by park patrons utilizing the trails and other park features.

10. Contractor shall attend a citizen service workshop administered by the Parks and Recreation Division and adhere to the public relation policies and procedures.

11. Contractor shall conduct the following at the Lake Fayetteville Boat Dock:
    a. Sell concessions in compliance with all applicable State & Federal Laws, Municipal Ordinances, Health Department Regulations and the rules and regulations of all authorities having jurisdiction over the performance of this project.
    b. Sell related fishing equipment and supplies.
    c. Provide other services which the Parks and Recreation Director determines will enhance the operation of Lake Fayetteville.
    d. All appliances and amenities related to the sale of equipment and supplies must be provided by the contractor.

12. Contractor is hereby granted a temporary license to place and maintain a mobile home in Lake Fayetteville Boat Dock area. Mobile homes style, condition, and location site must be approved by the Parks and Recreation Director. Mobile home shall be structurally sound and skirting shall be installed around the perimeter.

    a. Contractor agrees to accept financial responsibility for the electric and natural gas at the mobile home site. In exchange therefore, the City of Fayetteville agrees to be responsible for the municipal water account at the site. City will be responsible for the telephone utilities at the boatdock office and the Contractor will be responsible for the telephone utilities at the mobile home.
    b. Contractor agrees to maintain the mobile home and the grounds adjacent to the residence in good and orderly appearance, to include grass, shrubs, and trees; place all trash or refuse in

appropriate containers; and assist in monitoring the property and improvements owned by the City of Fayetteville.

c. Contractor understands and agrees that he must receive Parks and Recreation Division staff approval prior to making any improvements to the site, including but not limited to the construction, installation, or placement of fencing, storage buildings, or other facilities. Outdoor storage of any personal property must be pre-approved by the Parks and Recreation Director.

d. Contractor understands and agrees that he shall be solely responsible for insuring all personal property against any damage or loss whatsoever, and that nothing herein shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville under the Constitution and Statutes of the State of Arkansas.

e. Contractor understands and agrees that the property shall be used for residential purposes only.

f. Contractor hereby agrees that upon termination of the Operating Contract for Lake Fayetteville Boat Dock by expiration or by earlier termination for any reason whatsoever, contractor will peacefully deliver possession of the premises to the City of Fayetteville, and remove his mobile home forthwith. In the event it should become necessary for the City of Fayetteville to institute any action of law to recover possession at the time of termination, whenever and however termination may occur, Contractor agrees that he will pay all costs and expenses of such action, including reasonable attorneys' fees.

g. Contractor agrees not to violate any law, ordinance, rule or regulation of any government authority having jurisdiction over the premises.

13. It is agreed that the failure of the City of Fayetteville to invoke any of the available remedies under this agreement or under lay in the event of one or more breaches or defaults by contractor under the agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the City of Fayetteville from invoking such remedies in the event of any future breach or default.

14. Each paragraph in this agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

15. Contractor shall not act as a broker or facilitate sales of boats.

16. Upon budget approval by the City Council, the term of the Contract shall be for one (1) year. However, said Contract may automatically renew for five (5) consecutive one (1) year terms, with compensation being adjusted each renewal period by three percent (3%) of the contracted amount for the prior year. Such automatic renewal shall be subject to budget approval by the City Council.

17. Either party may terminate this contract at any time by giving the other party thirty (30) days written notice of termination.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in three (3) counterparts, each of which will be deemed an original, in the year and day first above mentioned.

**CITY OF FAYETTEVILLE**

ATTEST:

**Sondra Smith, City Clerk**

**DAN COODY, Mayor**

**Lake Fayetteville Contractor**

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 16, 2003

**FROM:**

| Connie Edmonston | Parks & Recreation | Operations |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** Approval of a Resolution awarding a contract to Jim Black in the amount of $31,719 to operate the Lake Fayetteville Boatdock.

**COST TO CITY:**

| $31,719.00 | $56,285 | Contract Services/Lake Fay Oper. |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 1010-5250-5315.00 | $ - | Lake Maintenance |
| Account Number | Funds Used to Date | Program / Project Category Name |
| | $ 56,285.00 | General |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** X Budgeted Item ____ Budget Adjustment Attached
2004 Budget

Budget Manager — 11-21-03 Date

**CONTRACT/GRANT/LEASE REVIEW:**

Marsha Farthing — 11/24/03 Date — Accounting Manager
Nancy Smith — 11/24/03 Date — Internal Auditor
D. Dj. White — 11/24/03 Date — City Attorney
P Clee — 11/24/03 Date — Purchasing Manager

**STAFF RECOMMENDATION:**

Connie Edmonston — 11-21-03 Date — Division Head
Gary D Mos — 11/25/03 Date — Department Director
Steph Sam — 11-25-03 Date — Finance & Internal Services Dir.
Hugh Guenett — 11-21-03 Date — Chief Administrative Officer
Dan Coody — 12/4/03 Date — Mayor

**Received in Mayor's Office** 11/25/03 Date P.M

Cross Reference:

Previous Ord/Res#: 135-98

Orig. Contract Date: 20-Oct-98

Orig. Contract Number:

New Item: (Yes) No

ENTERED 11-24-03 TLA

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## DEPARTMENTAL CORRESPONDENCE

December 16, 2003 City Council Meeting

TO: Mayor Dan Coody and the Fayetteville City Council
THROUGH: Stephen Davis, Director of Internal and Financial Services
FROM: Coy Hurd, Project Manager
DATE: November 26, 2003

SUBJECT: A resolution approving a contract amendment regarding the Green/Anderson Engineering Company and the design of the installation of an emergency generator for the City Administration Building

**Recommendation:** Staff recommends approval of the proposed contract amendment.

**Background:** The Green/Anderson Engineering Company of Fayetteville currently has a contract to design and oversee the work related to the installation of emergency electrical generators at three of Fayetteville's fire stations. This contract is in the amount of $9,500. The MultiCraft Company (of Springdale) is the contractor doing this work. Their price for these gas-fired generators is a very competitive one.

**Discussion:** In light of recent events such as the New York power outage, it has become obvious to Building Services Staff that the City Administration Building has a compelling need for a back-up system to assure continuity of the vital operations ongoing in the facility. This proposed back-up system would assure operations of the central computer system, communications systems, and other vital areas of the building. The option to add this generator to the MultiCraft's scope of work has two distinct advantages over a separate bid project. In a bid situation, it is doubtful that we would see the relatively low prices which we are hopeful of attaining through a negotiated Change Order. This is due (in part) to the economy of scale. Additionally, we can save money directed at Green/Anderson's fee, because the designers will have much less paperwork to do if we can rely on Change Order as opposed to a bid situation. This is reflected in a lower proposed fee ($2,800 plus reimbursables of $300 or less).

**Budget Impact:** This request will impact the Sales Tax/Capital Improvement Fund. An additional impact will be noted when and if Staff can successfully negotiate a fair price for the work with MultiCraft.

**RESOLUTION NO. _____**

A RESOLUTION TO APPROVE AMENDMENT #1 OF THE AGREEMENT WITH GREEN ANDERSON ENGINEERS, INC. IN THE AMOUNT OF $3,100.00 FOR ENGINEERING SERVICES RELATED TO DESIGN OF A STANDBY EMERGENCY GENERATOR SYSTEM FOR THE CITY ADMINISTRATION BUILDING

**WHEREAS,** a standby emergency generating system for the City Administration Building is necessary to ensure essential city services can continue if our normal electrical supply is interrupted.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment #1 of the agreement with Green Anderson Engineers, Inc. in the amount of $3,100.00 for engineering services related to design of a standby emergency generator system for the City Administration Building.

**PASSED** and **APPROVED** this the 16th day of December, 2003.

APPROVED:

By: DRAFT
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH,** City Clerk

9500

Green Anderson ENGINEERS, Inc.
2233 N. Green Acres Rd. Fayetteville, Arkansas 72703, Phone (479) 442-4882 / FAX: (479) 442-0413

November 19, 2003

City of Fayetteville
ATTN: Mr. Coy Hurd
FAX # 575-8223

RECEIVED
NOV 19 2003

RE: Stand-By Power Generator Addition
City Administration Building

Dear Coy,

It is my understanding that you wish to add a stand-by electrical generating system to the above facility as a Change Order to the present construction contract for the Fire Station power generator additions currently being performed by Multi-Craft Contractors, Inc. It is also understood the stand-by electrical generating system should serve the data processing equipment, cash registers, the telephone system, the radio system and the small split system serving the computer room air conditioning system plus certain other selected receptacles throughout the building. These loads are necessary to remain in operation so that certain City operations can continue in the event of a utility power failure. The level of engineering services proposed are as follows:

1. Design development to determine the ratings of required equipment and the loads and their locations to be served from the stand-by system.
2. Contractor documents including drawings on previously generated electronic floor plans and technical specifications as required for use in obtaining a Change Order Proposal from the referenced contractor.
3. Negotiation assistance consisting of clarification of our documents, issuing addenda if required and an opinion of contractor's change order proposed amount.
4. Construction observation for a final punch list on the contractor's completed work.

This level of services will apply to work necessary to add the stand-by system including the electrical power panels, generator set, natural gas piping, automatic transfer switch and wiring and devices required for the above-described loads.

The fee for the above-described services is proposed at a Fixed Fee of Two Thousand Eight Hundred Dollars ($2,800) plus any reimbursable expenses attributed o the project. Additional work you may request is proposed on a time plus expense basis with hourly rates as follows:

| | |
|---|---|
| Principal Engineer | $105.00 |
| Project Engineer | $ 75.00 |
| Project Coordinator | $ 65.00 |
| Design Engineer | $ 55.00 |
| Designer II | $ 50.00 |
| Designer I | $ 45.00 |
| CAD Tech II | $ 40.00 |
| CAD Tech I | $ 30.00 |
| Admin II | $ 40.00 |
| Admin I | $ 30.00 |

If this proposal is acceptable to you, please initiate a Notice to Proceed and either issue a new Purchase Order or a revision to the present Purchase Order covering the fire station generator project engineering services.

Should you have questions or need additional information, please contact me.

Sincerely,

O. Michael Green, P.E.
President

AMENDMENT #1

to Agreement Between City of Fayetteville and Engineer for Professional Services
for Back-Up Emergency Generators for Fire Stations

Dated: March 7, 2003
P.O. # 031230

The scope of services is hereby amended to include engineering services for a standby emergency generator system for the City Administration Building, West Mountain Street, Fayetteville, Arkansas. The level and extent of Engineer's Services shall be as described in the attached proposal dated November 19, 2003.

Modify section #2, Payment to Engineer to increase the engineering fee by Two Thousand Eight Hundred Dollars ($2,800) in addition to the Nine Thousand Five Hundred Dollars ($9,500) as stated for a new amended total of Twelve Thousand Three Hundred Dollars ($12,300). Increase the reimbursable expenses by $300 in addition to the $300 not to exceed as stated for an amended reimbursable not to exceed amount of $600.

All other provisions of the stated agreement shall remain in force.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in their behalf by their duly authorized representatives and the parties hereto have set their hands and seal on the date first above written.

CITY OF FAYETTEVILLE, ARKANSAS

_____

_____

_____

_____

Attest:

_____

GREEN ANDERSON ENGINEERS, INC.

O. Michael Green, P.E., President

Attest:

STAFF REVIEW FORM - FINANCIAL OBLIGATION

XX AGENDA REQUEST
XX CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 16, 2003

**FROM:**

| Coy Hurd | Building Services | FISD |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** The required action is the considertion and acceptance of an amendment to the contract of Green Anderson Engineers for their work on the emergency generator project. Add $2,800 for basic services and $300 for reimbursable expenses (a total of $3,100). This amendment will facilitate the design work needed to install an emergency generator for the City Administration Building.

**COST TO CITY:**

| $3,100.00 | $ 407,525.00 | Building Improvements |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 4470.9470.5801.00 | $ 40,470.00 | Other Improvements |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 02046 | $ 367,055.00 | SalesTax/Capital Improvements |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** XX Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — Date

Internal Auditor — Date

City Attorney — Date: 12-4-03

Purchasing Manager — Date

**STAFF RECOMMENDATION:**

Division Head — Date: 12.1.03

**Received in Mayor's Office** — Date

Department Director — Date

Cross Reference:

Finance & Internal Services Dir. — Date: 12-1-03

Previous Ord/Res#:

Orig. Contract Date:

Chief Administrative Officer — Date

Orig. Contract Number:

New Item: **Yes** **No**

Mayor — Date

City Council Meeting of December 16, 2003

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Hugh Earnest, Chief Administrative Officer

**From:** Tim Conklin, Community Planning and Engineering Services Director

**Date:** November 22, 2003

**Subject**: 1. Approval of a resolution awarding the construction contract in the amount of $397,868.25 with Jerry D. Sweetser, Inc. for the construction of Broyles Road from Wedington Drive to the Persimmon Place Subdivision 2. Approval of a project contingency in the amount of $59,680.75 (15%) for project needs including material testing, street light installation by Ozarks Electric, in-house inspection & management, and variations in final quantities. 3. Approval of the attached budget adjustment.

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## RECOMMENDATION

Staff recommends approval of the resolution awarding the contract to Jerry D. Sweetser, Inc. in the amount of $397,868.25, the project contingency, and the budget adjustment.

## BACKGROUND

On February 4, 2003 the City Council passed Resolution No. 22-03 which states that the City Council "...hereby expresses its intent to extend Broyles Road north to Wedington Drive to provide right-of-way for 48-inch sewer force mains and access to the site of the new wastewater plant." The developer's of the Persimmon Place Subdivision are currently constructing Broyles Road through their subdivision. The remaining portion of Broyles Road, measuring approximately 1,350 feet, was designed in-house and will complete the extension to Wedington Drive.

The extension of Broyles Road will also provide traffic relief for the existing residents on 46th Street. At the present, 46th Street is a narrow road approximately 20 feet in width with open ditchs on both sides of the road. The additional traffic expected from the Persimmon Place Subdivision and future developments in the area will be able to utilize Broyles Road. In addition, this extension will provide a major north-south connection from Highway 62 to Wedington Drive in the future.

## DISCUSSION

The contract bids were opened on November 21, 2003. The project engineer has reviewed the bids and recommends awarding the contract to the low bidder, Jerry D. Sweetser, Incorporated, in the amount of $397, 868.25 (see the attached bid tabulation

sheet). The estimated total project costs including the project contingency for unforeseen project expenditures are as follows:

| | |
|---|---|
| **Contractor Bid Amount** | **$ 397,868.25** |
| **Street Light Installation by Ozarks Electric** | **$ 12,500.00** |
| **Materials Testing** | **$ 5,000.00** |
| **In-house Management & Inspection** | **$ 15,000.00** |
| **Remainder of 15% Contingency** | **$ 27,180.75** |
| **TOTAL** | **$ 457,549.00** |

**BUDGET IMPACT**

Because of the fact that this project was not included in the 2003 Capital Improvement Program, a budget adjustment for this $457,549.00 expenditure will be necessary for the extension of Broyles Road. The money for this budget adjustment will be moved from the *Gregg Avenue – Highway 71 to Mud Creek Bridge* account which has funds remaining due to a lower than expected construction bid.

**RESOLUTION NO. _____**

A RESOLUTION APPROVING A CONSTRUCTION CONTRACT WITH JERRY D. SWEETSER, INC. IN THE AMOUNT OF $397,868.25 FOR THE CONSTRUCTION OF BROYLES ROAD FROM WEDINGTON DRIVE TO PERSIMMON PLACE SUBDIVISION; APPROVING A 15% PROJECT CONTINGENCY IN THE AMOUNT OF $59,680.75; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $457,549.00 FOR SAME.

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

Section 1. That the City Council of Fayetteville, Arkansas, hereby approves a construction contract with Jerry D. Sweetser, Inc. in the amount of $397,868.25 for the construction of Broyles Road from Wedington Drive to Persimmon Place Subdivision.

Section 2. That the City Council of Fayetteville, Arkansas, hereby approves a 15% project contingency in the amount of $59,680.75.

Section 3. That the City Council of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of $457,549.00 for same.

**PASSED** and **APPROVED** this 16th day of December, 2003.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

**City of Fayetteville, Arkansas**
**Budget Adjustment Form**

| Budget Year | Department: Community Planning & Engineering<br>Division: Engineering<br>Program: Sales Tax Capital Improvements | Date Requested | Adjustment Number |
|---|---|---|---|
| 2003 | | 12/16/2003 | |

**Project or Item Requested:**
$457,549 is needed in the Broyles Road Extension capital project.

**Project or Item Deleted:**
$457,549 from the Gregg Avenue - Highway 71 to Mud Creek Bridge capital project.

**Justification of this Increase:**
The funding is needed for the extension of Broyles Road north to Wedington Drive to be used as an access road to the new WWTP Plant.

**Justification of this Decrease:**
Due to lower than expected bids, there is sufficient funding remaining in this project to meet objectives.

**Increase Budget (Decrease Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Street improvements | 4470 | 9470 | 5809 | 00 | 457,549 | 03026 | 1 |
| | | | | | | | |

**Decrease Budget (Increase Revenue)**

| Account Name | Account Number | | | | Amount | Project Number | |
|---|---|---|---|---|---|---|---|
| Street improvements | 4470 | 9470 | 5809 | 00 | 457,549 | 03006 | 1 |
| | | | | | | | |

Approval Signatures

Requested By — Date

Budget Manager — 11-24-03 Date

Department Director — Date

Finance & Internal Services Director — 11-3-03 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

**BROYLES ROAD EXTENSION**
**STREET, WATER & DRAINAGE IMPROVEMENTS**

BID TABULATION FORM
BID OPENING - NOVEMBER 20, 2003 @ 2:00PM
City of Fayetteville, Arkansas

| Item No. | Description | Unit | Estimated Quantity | Jerry D. Sweetser, Inc. Unit Price | Jerry D. Sweetser, Inc. Extended Price | Tomlinson Asphalt Co., Inc. Unit Price | Tomlinson Asphalt Co., Inc. Extended Price | [illegible] Construction, Inc. Unit Price | [illegible] Construction, Inc. Extended Price | [illegible] Contractors, Inc. Unit Price | [illegible] Contractors, Inc. Extended Price | [illegible] Bros. Const., Inc. Unit Price | [illegible] Bros. Const., Inc. Extended Price | [illegible] Builders, Inc. Unit Price | [illegible] Builders, Inc. Extended Price | APAC, Inc. Unit Price | APAC, Inc. Extended Price | [illegible], Inc. Unit Price | [illegible], Inc. Extended Price | [illegible] Unit Price | [illegible] Extended Price | City of Fayetteville Unit Price | City of Fayetteville Extended Price |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Mobilization | LS | 1 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 2 | Construction Staking | LS | 1 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 3 | Excavation Safety | LS | 1 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 4 | Clearing & Grubbing | LS | 1 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 5 | Sawcut - Asphalt | LF | 170 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 6 | 16" Bore | LF | 30 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 7 | 8" x 8" Tap w/ valve | LS | 1 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 8 | Fire Hydrant Assembly | EA | 2 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 9 | Ductile Iron Fittings | LB | 300 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 10 | 12" PVC C900 (DR-14) Waterline | LF | 1,272 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 11 | 16" Steel Encasement | LF | 30 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 12 | Unclassified Excavation | CY | 6,000 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 13 | Compacted Embankment - Select Off-Site Material (Borrow) | CY | 3,435 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 14 | Undercut & Backfill | CY | 1,600 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 15 | Six-inch Aggregate Base Course (Class 7) | SY | 4,013 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 16 | Concrete Curb & Gutter | LF | 2,620 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 17 | Two-inch ACHM Surface Course (Class 2) | SY | 3,972 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 18 | Four-inch ACHM Surface Course (Class 2) | SY | 3,972 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 19 | Aggregate Base (Class 7) | Ton | 300 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 20 | 18-inch Reinforced Concrete Pipe (RCP) | LF | 343 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 21 | 24-inch Reinforced Concrete Pipe (RCP) | LF | 328 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 22 | 4 ft x 4 ft Type "C" Drop Inlet | EA | 4 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 23 | 5 ft x 5 ft Type "C" Drop Inlet | EA | 1.00 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 24 | Drop Inlet Extension (1 ft) | EA | 6 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 25 | Concrete Sidewalk (4") | SY | 463 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 26 | Barb Wire Fence (3-Strand) | LF | 1,293 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 27 | Seeding and Mulching | AC | 2 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 28 | Imported Top Soil | CY | 995 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 29 | Sign (R3-7R) | EA | 1 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 30 | Double 4" Yellow Long Pavement Marking (Thermoplastic) | LF | 1,270 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 31 | 4" White Lane Pavement Marking (Thermoplastic) | LF | 193 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 32 | 12" White Pavement Marking (Thermoplastic) | LF | 213 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 33 | 24" White Pavement Marking (Thermoplastic) | LF | 22 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 34 | White Pavement Marking Arrows (Thermoplastic) | EA | 4 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 35 | Silt Fence (E-2) | LF | 600 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 36 | Straw Bale (E-1) | EA | 120 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 37 | Rock Excavation | CY | 30 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| | Subtotal Construction Costs | | | | [illegible] | | [illegible] | | [illegible] | | [illegible] | | [illegible] | | [illegible] | | [illegible] | | [illegible] | | [illegible] | | [illegible] |
| | Contingency 15% | | | | | | | | | | | | | | | | | | | | | | [illegible] |
| | TOTAL CONSTRUCTION COSTS | | | | [illegible] | | | | | | | | | | | | | | | | | | [illegible] |

Section 00500

# AGREEMENT

## BETWEEN CITY OF FAYETTEVILLE AND JERRY D. SWEETSER, INC.

**THIS AGREEMENT** is dated as of the _____ day of _____ in the year 2004 by and between the City of Fayetteville, Arkansas and JERRY D. SWEETSER, INCORPORATED.

The CITY OF FAYETTEVILLE and JERRY D. SWEETSER, INC, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**Article 1. WORK.**

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents.

The work generally consists of construction of approximately 1,320 L.F. of 28' wide street with curb & gutter and associated earthwork, below ground storm sewer, drainage structures, approximately 1,400 L.F. of 12" waterline and all items indicated in the Drawings and Specifications.

**Article 2. ENGINEER.**

The Project has been designed by

City of Fayetteville Engineering Division
113 W. Mountain Street
Fayetteville, Arkansas 72701

who is hereinafter called ENGINEERING DIVISION and who is to act as the CITY OF FAYETTEVILLE'S representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

**Article 3. CONTRACT TIME.**

3.1. The Work shall be substantially completed within 180 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 210 consecutive calendar days after the date when the Contract Time commences to run.

3.2. *Liquidated Damages.* The CITY OF FAYETTEVILLE and JERRY D. SWEETSER, INC. recognize that time is of the essence of the Agreement and that the CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by the CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, the CITY OF FAYETTEVILLE and JERRY D. SWEETSER, INC. agree that as liquidated damages for delay (but not as a penalty) JERRY D. SWEETSER, INC. shall pay the CITY OF FAYETTEVILLE **Two hundred fifty** dollars **($250.00)** for

each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if JERRY D. SWEETSER, INC. shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by the CITY OF FAYETTEVILLE, JERRY D. SWEETSER, INC. shall pay the CITY OF FAYETTEVILLE **Two hundred fifty** dollars **($250.00)** for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

**Article 4. CONTRACT PRICE.**

The CITY OF FAYETTEVILLE shall pay JERRY D. SWEETSER, INC. for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1. for all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2. for all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

**BROYLES ROAD EXTENSION**
**PAY ITEMS**

| Item No. | Item Description | Unit | Estimated Quantity | Unit Price | Extended Price |
|---|---|---|---|---|---|
| 1 | Mobilization | LS | 1 | $5,000.00 | $5,000.00 |
| 2 | Construction Staking | LS | 1 | $6,800.00 | $6,800.00 |
| 3 | Excavation Safety | LS | 1 | $2,500.00 | $2,500.00 |
| 4 | Clearing & Grubbing | LS | 1 | $12,000.00 | $12,000.00 |
| 5 | Sawcut (Asphalt) | LF | 170 | $2.00 | $340.00 |
| 6 | 24" Bore | LF | 70 | $160.00 | $11,200.00 |
| 7 | 8" x 8" Tap w/ valve | LS | 1 | $2,500.00 | $2,500.00 |
| 8 | Fire Hydrant Assembly | EA | 2 | $2,000.00 | $4,000.00 |
| 9 | Ductile Iron Fittings | LB | 500 | $4.50 | $2,250.00 |
| 10 | 12" PVC C900 (DR-14) Waterline | LF | 1,372 | $38.00 | $52,136.00 |
| 11 | 24" Steel Encasement | LF | 20 | $60.00 | $1,200.00 |
| 12 | Unclassified Excavation | CY | 6,460 | $6.50 | $41,990.00 |
| 13 | Compacted Embankment – Select Hillside Material (Borrow) | CY | 3,425 | $8.00 | $27,400.00 |
| 14 | Undercut & Backfill | CY | 1,600 | $12.50 | $20,000.00 |
| 15 | Six-inch Aggregate Street Base Course (Class 7) | SY | 4,845 | $4.80 | $23,256.00 |
| 16 | Concrete Curb and Gutter | LF | 2,620 | $9.50 | $24,890.00 |
| 17 | Two-inch ACHM Surface Course (Class 2) | SY | 3,972 | $5.00 | $19,860.00 |

| | | | | | |
|---|---|---|---|---|---|
| 18 | Four-inch ACHM Surface Course (Class 2) | SY | 3,972 | $5.00 | $19,860.00 |
| 19 | Aggregate Base (Class 7) | Tons | 300 | $14.00 | $4,200.00 |
| 20 | 18-inch Reinforced Concrete Pipe (RCP) | LF | 345 | $36.00 | $12,420.00 |
| 21 | 24-inch Reinforced Concrete Pipe (RCP) | LF | 350 | $51.50 | $18,025.00 |
| 22 | 4 Ft x 4 Ft Type 'C' Drop Inlet | EA | 4 | $1,900.00 | $7,600.00 |
| 23 | 5 Ft x 5Ft Type 'C' Drop Inlet | EA | 2 | $2,500.00 | $5,000.00 |
| 24 | Drop Inlet Extension (8 Ft) | EA | 6 | $1,000.00 | $6,000.00 |
| 25 | Concrete Sidewalk (4") | SY | 865 | $32.00 | $27,680.00 |
| 26 | Barb Wire Fence (5-Strand) | LF | 1,287 | $4.25 | $5,469.75 |
| 27 | Seeding and Mulching | AC | 1.85 | $2,500.00 | $4,625.00 |
| 28 | Imported Top Soil | CY | 995 | $12.00 | $11,940.00 |
| 29 | Sign (R3-7R) | EA | 1 | $210.00 | $210.00 |
| 30 | Double 4" Yellow Line Pavement Markings (Thermoplastic) | LF | 1,270 | $0.85 | $1,079.50 |
| 31 | 6" White Line Pavement Markings (Thermoplastic) | LF | 145 | $2.10 | $30450 |
| 32 | 18" White Pavement Markings (Thermoplastic) | LF | 112 | $9.50 | $1,064.00 |
| 33 | 24" White Pavement Markings (Thermoplastic) | LF | 22 | $11.75 | $258.50 |
| 34 | White Pavement Marking Arrows (Thermoplastic) | EA | 4 | $315.00 | $1,260.00 |
| 35 | Silt Fence (E-3) | LF | 600 | $6.00 | $3,600.00 |
| 36 | Straw Bale (E-1) | EA | 120 | $10.00 | $1,200.00 |
| 37 | Rock Excavation | CY | 50 | $175.00 | $8,750.00 |
| | | | | | |
| | | | TOTAL CONSTRUCTION COST | | $397,868.25 |

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by the ENGINEERING DIVISION as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

## Article 5. PAYMENT PROCEDURES

JERRY D. SWEETSER, INC. shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by the ENGINEERING DIVISION as provided in the General Conditions.

5.1. *Progress Payments*. The CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of JERRY D. SWEETSER, INC.'S Applications for Payment as recommended by the ENGINEERING DIVISION, on or about the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02 . All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions and based on the number of units completed in the case of Unit Price Work or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the

percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as the ENGINEERING DIVISION shall determine, or the CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as determined by the ENGINEERING DIVISION, and if the character and progress of the Work have been satisfactory to the CITY OF FAYETTEVILLE and the ENGINEERING DIVISION, the CITY OF FAYETTEVILLE, on recommendation of the ENGINEERING DIVISION, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to the CITY OF FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to JERRY D. SWEETSER, INC. to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as the ENGINEERING DIVISION shall determine, or the CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.3 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, the CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by the ENGINEERING DIVISION as provided in said paragraphs 14.07.B & C.

**Article 6. CONTRACTOR'S REPRESENTATIONS.**

In order to induce the CITY OF FAYETTEVILLE to enter into this Agreement JERRY D. SWEETSER, INC. makes the following representations:

6.1. JERRY D. SWEETSER, INC. has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. JERRY D. SWEETSER, INC. has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work.

6.3. JERRY D. SWEETSER, INC. is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4. JERRY D. SWEETSER, INC. has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface

or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. JERRY D. SWEETSER, INC. accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which JERRY D. SWEETSER, INC. is entitled to rely as provided in paragraph 4.02 of the General Conditions.

JERRY D. SWEETSER, INC. acknowledges that such reports and drawings are not Contract Documents and may not be complete for JERRY D. SWEETSER, INC. purposes. JERRY D. SWEETSER, INC. acknowledges that the CITY OF FAYETTEVILLE and the ENGINEERING DIVISION do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. JERRY D. SWEETSER, INC. has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to the employed by JERRY D. SWEETSER, INC. and safety precautions and programs incident thereto. JERRY D. SWEETSER, INC. does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. JERRY D. SWEETSER, INC. is aware of the general nature of work to be performed by the CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. JERRY D. SWEETSER, INC. has correlated the information known to JERRY D. SWEETSER, INC., information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

6.7. JERRY D. SWEETSER, INC. has given the ENGINEERING DIVISION written notice of all conflicts, errors, ambiguities, or discrepancies that JERRY D. SWEETSER, INC. has discovered in the Contract Documents and the written resolution thereof by the ENGINEERING DIVISION is acceptable to JERRY D. SWEETSER, INC. and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

**Article 7. CONTRACT DOCUMENTS**

The Contract Documents which comprise the entire agreement between the CITY OF FAYETTEVILLE and JERRY D. SWEETSER, INC. concerning the Work consist of the following:

7.1. This Agreement (pages 1 to 8, inclusive).

7.2. Performance and Payment Bonds, (Exhibits A and B respectively).

7.3. Certificates of Insurance, (Exhibit C).

7.4. Documentation submitted by JERRY D. SWEETSER, INC. prior to signing Agreement.

7.5. General Conditions (pages 1 to 42, inclusive).

7.6. Supplementary Conditions (pages 1 to 13 inclusive).

7.9. Specifications consisting of Divisions 1 through 3 as listed in table of contents thereof.

7.10. Addenda numbers 0 to 0, inclusive.

7.11. One sets of drawings (not attached hereto) consisting of a cover sheet and additional sheets numbered 1 through 16 with each sheet bearing the following general title:

*Broyles Road Extension*

7.12. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

7.12.1. Notice to Proceed

7.12.2. All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

**Article 8. MISCELLANEOUS.**

8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3. The CITY OF FAYETTEVILLE and JERRY D. SWEETSER, INC. each binds itself, it partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or

Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5. 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.

8.6. 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 photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7. This contract must be interpreted under Arkansas Law.

**IN WITNESS WHEREOF, the CITY OF FAYETTEVILLE and JERRY D. SWEETSER, INC.** have signed this Agreement in quadruplicate. One counterpart each has been delivered to the CITY OF FAYETTEVILLE and the ENGINEERING DIVISION, and two counterparts have been delivered to JERRY D. SWEETSER. All portions of the Contract Documents have been signed, initialed, or identified by the CITY OF FAYETTEVILLE and JERRY D. SWEETSER, INC. or identified by the ENGINEERING DIVISION on their behalf.

This Agreement will be effective on _____, 200 (which is the Effective Date of the Agreement).

OWNER: **City of Fayetteville**

By: _____
**Mayor Dan Coody**

[CORPORATE SEAL]

CONTRACTOR: **Jerry D. Sweetser, Inc.**

By: _____

_____
Title

[CORPORATE SEAL]

Attest _____

Address for giving notices

(If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

* Attest _____

* If a Corporation, attest by the Secretary.

Address for giving notices

License No. _____

Agent for service of process:

_____

_____

(If CONTRACTOR is a corporation, attach evidence of authority to sign)

# City Of Fayetteville

(Not a Purchase Order)

| | | | |
|---|---|---|---|
| Requisition No.: | | Date: 11/22/2003 | |
| P.O Number: | | Expected Delivery Date: ASAP | |
| Vendor #: 70670 | Vendor Name: Jerry D. Sweetser, Inc. | Mail Yes:__ No:__X__ | |
| Address: 590 West Poplar Street | Fob Point: | Taxable Yes:__ No:__X__ | Quotes Attached Yes:____ No:__x__ |
| City: Fayetteville | State: Arkansas | Zip Code: 72703 | Ship to code: [redacted]090 |
| Divison Head Approval: Todd S. Pb | | | |
| Requester: Ron Petrie | Requester's Employee #: [redacted]1461 | Extension: [redacted]418 | |

| Item | Description | Quantity | Unit of Issue | Unit Cost | Extended Cost | Account Numbers | Project/Subproject # | Inventory # | Fixed Asset # |
|---|---|---|---|---|---|---|---|---|---|
| 1 | Construction Contract for Broyles Road from Wedington Drive to the Persimmon Place Subdivision | LS | LS | LS | $397,868.25 | 4470.9470.5809.00 | [redacted]3026.2 | | |
| 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:

Please Send P.O. to the Engineering Division

| | |
|---|---|
| Subtotal: | $397,868.25 |
| Tax: | $0.00 |
| Total: | $397,868.25 |

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/1/03

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: December 16, 2003

**FROM:**

| Ron Petrie | Engineering | Community Planning & Engineering |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** 1. Approval of a resolution awarding the construction contract in the amount of $397,868.25 with Jerry D. Sweetser, Inc. for the construction of Broyles Road from Wedington Drive to the Persimmon Place Subdivision. 2. Approval of a project contingency in the amount of $59,680.75 (15%) for street light installation, materials testing, in-house management and inspection, and variations in final quantities. 3. Approval of the attached budget adjustment.

**COST TO CITY:**

| $457,549.00 | $ 78,400.00 | Broyles Road Extension Impvs |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 4470.9470.5809.00 | $ 48,174.00 | Street Improvements |
| Account Number | Funds Used to Date | Program / Project Category Name |
| 03026.20 | $ 30,226.00 | Sales Tax |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** X Budgeted Item X Budget Adjustment Attached

Budget Manager — 11-24-03 Date

**CONTRACT/GRANT/LEASE REVIEW:**

Marla Farthing — 11/25/03 Date — Accounting Manager
Nancy Smith — 11/25/03 Date — Internal Auditor
D. Whit — 11/25/03 Date — City Attorney
Alice — 11/26/03 Date — Purchasing Manager

**STAFF RECOMMENDATION:** Staff recommends approval of resolution, project contingency and budget adjustment.

Division Head — 11/24/03 Date
Department Director — 12-03-03 Date
Finance & Internal Services Dir. — 12-3-03 Date
Chief Administrative Officer — 11-27-03 Date
Mayor — Date

**Received in Mayor's Office** 11/24/03 Date 9 AM

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 11-24-03

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director TC

**From:** Dawn T. Warrick, AICP, Zoning and Development Administrator DW

**Date:** November 14, 2003

**Subject:** Master Street Plan amendent – Cliffs Boulevard Eastern Extension

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## RECOMMENDATION

Planning Staff recommends approval of a resolution amending the Master Street Plan to remove Cliffs Boulevard eastern extention, a proposed minor arterial, from this policy document. This request was heard by the Planning Commission November 10, 2003 as a part of the proposed Stone Mountain Subdivision preliminary plat. The plat identifies the road in question as Stone Mountain Rd.

## BACKGROUND

Cliffs Blvd., a proposed connection between Crossover Rd. and Starr Dr., has been identified on the City's Master Street Plan for many years. Staff recommends removal of this eastern extention of Cliffs Blvd. based on findings from the City of Fayetteville's traffic analysis performed by Bucher, Willis and Ratliff and their recommendations regarding the Master Street Plan. Approval of a preliminary plat is currently being sought to begin the development process of an 82.74 acre tract which includes 8.19 acres of park land and 112 residential lots.

## DISCUSSION

The attached documents include a memo from the project representative for the proposed development and a section from the traffic study conducted by Bucher, Willis and Ratliff addressing the Master Street Plan.

## BUDGET IMPACT

None.



ENTERED 11-14-03

Tabled - Dec. 16th mtg DW

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE MASTER STREET PLAN RELOCATING CLIFFS BOULEVARD AND REDUCING IT TO A COLLECTOR STREET BETWEEN HIGHWAY 265 AND STARR DRIVE AS SHOWN ON EXHIBIT A

**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 Master Street Plan by relocating Cliffs Boulevard and reducing it to a Collector Street between Highway 265 and Starr Drive as shown on Exhibit A.

**PASSED** and **APPROVED** on this the 16th day of December, 2003.

APPROVED:

By: _____ DRAFT
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

October 22, 2003

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Attn: Planning Department
Re: Stone Mountain Subdivision Phase I – MSP Amendment

On behalf of the owner of the above mentioned project, we are also requesting an amendment to the Master Street Plan for the minor arterial that is shown crossing this property. We are proposing to change this street classification from a minor arterial with a 90' Right-of-way to a collector with a 70' Right-of-way. We are also proposing to move the street to the north and build it with this development. It would be very difficult for this street to function as a minor arterial due to the steep grades coming from Highway 265 and the extremely steep grades east of this project. These steep grades would limit the capacity of this road. It is our option that this road would never function as a minor arterial whether or not the Right-of-way was dedicated.

Please call concerning any questions you may have.

Thank you.

Sincerely;

Christopher B Brackett

Christopher B. Brackett, P.E.

# 2. MASTER STREET PLAN

**Key Findings:**

This chapter of the report describes the proposed Master Street Plan for the City of Fayetteville. Development of the Master Street Plan considers the function of each street (mobility and/or access) and uses this functional assignment to create a functional hierarchy. Defining a functional hierarchy is paramount in attaining a balance between arterial, collector, and local streets, which is essential to maintaining the quality of life within the City as it grows. Based on the functional assignment and functional hierarchy of Fayetteville's city streets, the proposed Master Street Plan recommends the following typical sections for arterial, collector, and local access streets:

- Principal arterial streets should generally provide two to three moving lanes in each direction, plus auxiliary turn lanes. Four typical sections have been prepared for principal arterial streets: (1) Principal Arterial typical section (150 feet right of way) with a trail on one side and sidewalk on the other, (2) Principal Arterial typical section (150 feet right of way) with on-street bike lanes on both sides and sidewalk on the both sides, (3) Constrained Principal Arterial typical section (110 feet right of way) with a trail on one side and sidewalk on the other, and (4) Constrained Principal Arterial typical section (110 feet right of way) with on-street bike lanes on both sides and sidewalk on the both sides.

- The typical sections for a minor arterial street lie within a 90 feet right of way width. This width would allow for (1) one moving traffic lane in each direction, a bicycle lane in each direction, sidewalks on each side, room for utilities and green space, and sufficient room to provide a center auxiliary turn lane, (2) one moving traffic lane in each direction, a bicycle lane in each direction, sidewalks on each side, room for utilities and green space, and sufficient room to provide a center landscaped median, (3) two moving traffic lanes in each direction, sidewalks on each side, and room for utilities and green space.

- The collector street typical section would lie within a 70 feet right of way and would provide for (1) one lane of moving traffic in each direction and sufficient room for a center turn lane with sidewalks on each side, and room for utilities and green space, (2) one 15 feet lane of moving traffic in each direction and sufficient room for a center landscaped median, with sidewalks on each side, and room for utilities and green space, (3) one lane of moving traffic in each direction, on-street bike lanes in each direction, with sidewalks on each side, and room for utilities and green space.

- The historic collector includes two 16 feet lanes and sidewalk on each side, within a 50 feet right of way.

- Several typical sections for local streets have been developed to meet the special demands for a variety of subdivision designs. Most local streets lie within a 50 feet right of way width. Four typical sections have been provided to accommodate local streets: (1) 50 feet of right of way to include 24 feet of pavement with sidewalks and green space each side, (2) 50 feet of right of way to include 34 feet of pavement to include bike lanes each side, with sidewalks and green space each side, (3) a new urbanism section with 50 feet of right of way, to include 30 feet of pavement for parking lanes each side, with landscaped sidewalks each side (4) a new urbanism section with 60 feet of right of way,

to include 40 feet of pavement for parking lanes and bike lanes each side, with landscaped sidewalks each side.

- The typical section for residential streets is set in a 40 feet right of way, and includes 22 feet of pavement with sidewalks on each side.
- 20 feet of right of way should be dedicated for alleys.

It is vital that the City protects the function of the major street system. Therefore, the study recommends that the City adopts the Access Management Policies described in Chapter 7 to preserve the function of the major street system.

## INTRODUCTION

Public roadways have two primary purposes. They are intended to provide access to properties within a community, and to carry traffic between properties within a community or between two communities. These two functions are in competition with each other when provided on the same roadway. An increase in the number of access points onto a roadway causes a corresponding decrease in vehicle mobility and safety. As a result, a well managed street system must include:

- Local streets, whose primary purpose is to provide access.
- Arterial streets, whose primary purpose is to provide mobility.
- Collector streets, whose primary purpose is to collect traffic from local streets and feed it to arterial streets.

In reality, the street systems in most communities do not reflect this distinction clearly. Frequently, what are intended to be arterial streets degenerate into providing direct access to properties, reducing both mobility and safety. At the other end of the continuum, streets that are intended to provide direct property access sometimes end up carrying volumes of through traffic for lack of an adequate arterial street to fulfill that function, resulting in a decrease of safety through neighborhoods. The key to protecting emerging neighborhoods from future encroachment of through traffic is to plan the transportation system to include local, collector, and arterial streets, and to protect the intended function of each through adhering to design guidelines. These roadway design guidelines are most effective when implemented and maintained on new construction.

## FUNCTIONAL ASSIGNMENT

The street system functions best when the intended purposes of arterial, collector, and local streets are protected, and when the overall street system includes the proper proportion of each type of street. Too few arterial streets will result in excessive through traffic using collector and local streets to pass through neighborhoods. In contrast direct access onto arterial streets will result in degradation of the arterial's function to move traffic, again causing diversion of through traffic onto collector and local streets and through neighborhoods.

Since many existing streets in Fayetteville do not have a pure function of mobility only, or access only, classification of the streets as a principal arterial, minor arterial, collector, or local street is somewhat subjective. Several factors may be considered in determining the actual existing function of each street.

- Greater existing traffic volumes on a street indicate a draw from a larger area within the community, and thus an arterial function.
- As the continuous length of a street increases, its potential to carry traffic through the community also increases, and thus an arterial function.
- Streets that provide interchanges with the freeway system will more often carry through traffic, and thus function as an arterial.
- Streets that access major commercial developments, industrial areas, or a university will generally carry traffic originating elsewhere in the community, thus functioning as an arterial.

General traffic volume guidelines assumed in assigning functions to the existing streets in Fayetteville as part of this Master Street Plan include:

- Residential streets carry less than 300 vehicles per day.
- Local streets carry less than 2000 vehicles per day.
- Collector streets 2000 to 7000 vehicles per day.
- Minor arterial streets carry 7000 to 14,000 vehicles per day.
- Principal arterial streets carry greater than 14,000 vehicles per day.

It should be emphasized that these traffic volume ranges do not describe the capacity of the street to carry traffic, but only provide a general range of the magnitude of traffic volumes that might be expected on a class of street. For instance, a minor arterial street, collector street, and local street might physically carry the same traffic volume. Furthermore, traffic volume alone does not determine or necessarily indicate the function of a street.

Whereas the traffic volume guidelines may be useful in classifying streets according to their existing function, traffic volumes alone are insufficient to address the long range function of currently undeveloped streets. It is important that arterial and collector corridors be designated to service future development of land beyond the urban fringe, even though significant traffic volumes may not be present for many years. The future function of these corridors will be influenced by the continuous length of each corridor, and their access to the freeway system.

The master street plan also designates a number of streets as historic collector streets. These are streets that carry greater traffic volumes than might be expected on a typical local street, but lack sufficient right of way to be widened and/or are constrained by historic development. While the function of these streets may be a collector function, it is impractical to consider reconstructing them to the collector street typical section. Rather, as historic collector streets are considered for improvement, it should be recognized that each historic collector street in Fayetteville has its own unique characteristics and any improvement project should be carried out in the spirit of context sensitive design, consistent with the smart growth policy of identifying the unique demands for neighborhood preservation. Consequently, a special typical section for historic collector has not been recommended.

Figure 2-1 depicts the proposed Master Street Plan for the year 2023. The plan designates the future street network for major arterial, minor arterial, collector, and historic collector streets. It is important that as the City expands, the intent of the plan be followed, so that an adequate balance of arterial and collector streets with local streets is maintained.

**ADM 03-29.00: Administrative Item (Cliffs Blvd. Eastern Extension)** Master Street Plan Amendment.

**PPL 02-13.10: Preliminary Plat (Stone Mountain, pp. 488/489)** was submitted by Jorgensen and Assoc. on behalf of Bill Conner for property located South of Hyland Park and east of Crossover Rd. The property is zoned RSF-4, Residential Single-family and contains 82.74 acres. The request is for a residential subdivision with 115 lots proposed.

Hoover: Item number two on the agenda is ADM 03-29.00 for Cliffs Blvd. eastern extension.

Warrick: If I might request that we hear items two and three together, this is a Master Street Plan amendment that is being brought forward because of the Preliminary Plat, which is the following item.

Hoover: Great. That would be item two and then item three that we are going to hear with it is PPL 02-13.10 for Stone Mountain submitted by Jorgensen & Associates on behalf of Bill Conner. Suzanne?

Morgan: Thank you. Item two again, is an amendment of the adopted Master Street Plan to relocate and change the destination of Cliffs Blvd. eastern extension, a proposed minor arterial connecting Crossover Road and Starr Drive. Planning staff recommends approval of a resolution to amend the Master Street Plan to eliminate Cliffs Blvd. eastern extension, a proposed minor arterial from this policy document. This request, will, as stated, be heard as part of the Stone Mountain subdivision Preliminary Plat. For some background, Cliffs Blvd. is a proposed connection between Crossover Road and Starr Drive that has been identified on the Master Street Plan for several years. Staff recommends removing this extension based on findings from the City of Fayetteville's traffic analysis performed by BWR and their recommendations regarding the Master Street Plan. Approval for a Preliminary Plat is currently being sought and will go ahead and read staff's comments on the Preliminary Plat for Stone Mountain. This was submitted by Jorgensen & Associates on behalf of Bill Conner for property located south of Hyland Park and east of Crossover Road. The applicant is requesting to create a residential subdivision of 115 lots on 82.74 acres. Two lots are to be used for detention and one 8.19 acre lot is proposed for park land dedication. The location of the proposed subdivision extends east off of Crossover Rd to the border of the City and Planning Area and is zoned RSF-4, Residential Single-family with 4 units per acre. Land to the north, south, and west is zoned RSF-4 with Planning Area to the east. All land is single-family residential in nature. Water and sewer will be extended to serve this development. The applicant requests an amendment to the Master Street Plan for the minor arterial (90') bisecting the property. The request is to relocate this planned road further south as Stone Mountain Drive at a lesser dedication of 70', a collector road. All other streets will have 50' of right of way. For tree preservation, existing is 33.94%, Required canopy is 25.0%, Preserved canopy proposed is 24.88% and Mitigation

required is $3,150 to the Tree Escrow Account. Parkland dedication for 112 single-family lots is 2.68 acres and the owners have proposed a dedication of 8.19 acres leaving a banking credit of 5.51 acres for the southeast park quadrant. Staff recommends approval of PPL 02-13.10 with the following conditions: 1) Add a note to the plat stating the existing private drive shall be removed prior to Final Plat approval. 2) Payment into the Tree Escrow Account in the amount of $3,150. 3) All street names shall be approved by the 9-1-1 Coordinator. 4) Any outstanding issues with the legal description shall be resolved prior to final plat approval. 5) Necessary property line adjustments to the east of the project boundary and to lot 51 shall be approved prior to Final Plat. 6) If any water pressure problems arise that might impact this proposed subdivision or the adjacent residents preventative actions shall be addressed and resolved through an approved water system design. 7) Planning Commission determination of waiver request for Stone Mountain Drive to be constructed at a 14% grade for approximately 1400 feet. City street standards allow for a 10% grade with an allowance up to 15% for 300 feet. Staff is in support of this request due to the connectivity Stone Mountain Drive provides to the east on Crossover Road. 8) Planning Commission determination of the proposed Master Street Plan Amendment to relocate the planned minor arterial Cliffs Boulevard to the proposed location of Stone Mountain Drive and to reduce the street classification from a minor arterial to a collector street. Staff recommends removal of the Cliffs Boulevard eastern extension. The proposed revision to the Master Street Plan based on the recent traffic study performed by Bucher, Willis and Ratliff does not include the construction of the minor arterial in this location due to unsuitable topography. 9) The developer shall comply with all conditions of the Parks and Recreation Board. All conditions as noted in the attached Memo dated October 29, 2003 are applicable and shall be considered, by reference, as part of the official Conditions of Approval. Items ten through fourteen are standard conditions of approval.

Hoover: Thank you. Would the applicant come forward?

Brackett: Good evening, my name is Chris Brackett, I am with Jorgensen & Associates representing the owner tonight. We are in agreement with all of the conditions of approval and I would be happy to answer any questions that you may have.

Hoover: At this time will ask if there is any member of the audience that would like to address this ADM 03-29.00 for the amendment to the Master Street Plan or if you have comments about PPL 02-13.10.

Earff: Good evening, my name is Jeff Earff, I live at 2711 Woodcliff Road which is in Hyland Park which is north of the proposed development. The first thing I would like to comment on is the change to the Master Street Plan. I just wanted to remind you all that a few years ago the city spent about $460,000 upgrading Cliffs Blvd. as part of a cost share so that would go from two lane

to a four lane road. That is back when this connector to Mr. Conner's property was proposed to be a minor arterial. Also, I wanted to point out that the recent traffic and transportation study indicated that a signal was proposed for Cliffs and Crossover, Hwy. 265. It seems to me that it would be better use of that signal if it was four way rather than three way. If you move the road then that traffic signal will only benefit traffic going into and out of the Cliffs. Just a couple of other things, concerning construction traffic, presently there is a driveway that comes up from that proposed development into Hyland Park on Cliffside Road and I would like to see a condition that would indicate construction traffic can not come through the Hyland Park subdivision. That was talked about previously when the homeowners got together about a year or two ago. Also, the issue of water pressure, I know it is unclear at this point what the resolution of that situation is going to be. My understanding is that it could potentially be a water tower in Hyland Park or perhaps using pumps or something like that. My question is will there be any grading and excavating until that issue is resolved? If you approve what's before you tonight does the developer has to wait for that issue to be resolved for the water pressure? My understanding is that the reason for the delay was the issue concerning water pressure. Does anyone have an answer for me?

Hoover: Jeff, we do things differently from Council. We take public comment and then they will answer questions.

Earff: Ok, I'm done. Thanks for your time.

Hoover: Is there any member of the audience that would like to address this Master Street Plan amendment and the Preliminary Plat? Seeing none, I will bring it back to the Commission. Staff, would you answer two of Jeff's questions? One is confirm that there is no Hyland Park connection, you might just talk a little bit about that and then we will get to the water pressure issue.

Warrick: We are going to tag team this because it has a lot to do with Enginecring as well. With regard to the access through Hyland Park for construction traffic. That is not noted as a construction entrance on this plat. It is probably very reasonable for that not to be utilized for construction traffic. The streets in Hyland Park are quite curvy and steep in areas and it is not the most direct route to get construction vehicles in and out of this proposed development. Typically where people are able to construct construction entrances to projects are in locations that entrances will be permanent in those projects once they are built out. I am going to ask Matt to address the water pressure questions.

Casey: As some of you may know, this came through last year and started the process and was withdrawn at the time because of water concerns. Currently the City of Fayetteville has hired McGoodwin, Williams and Yates to perform a Master Water Study. They are preparing a water model which we can analyze this area and plug in this subdivision and the number of lots that are going to be in this area and see the effect that it is going to have on this neighborhood.

We have been waiting on that, the study is almost complete and so we have allowed the applicant to proceed with this process knowing that there are going to be offsite improvements required for improving the water situation if it negatively effects any of the neighboring developments. There have been several options thrown out there over the past year including a water tank, pumps, rerouting a line and creating a high pressure line instead of the existing low pressure line along Hwy. 265. Those items will be worked out during the construction review after the water model is received and we are able to analyze that to see what needs to be done. At this time the applicant is aware that the improvements will need to be made and we will determine what those are at this time. I do assure you we will not approve any construction plans that will negatively effect the Hyland Park water situation.

Shackelford: A follow up question with Matt, just to be specific, no construction, grading or anything is going to be permitted on this until that is resolved?

Casey: We will see the construction plans submitted as a whole. I will not issue a grading permit without the water design situation worked out.

Shackelford: It is a little confusing. If you look at number six it talks about preventive actions shall be addressed if there is a problem. What you are saying is the study that you are doing will be able to show if there is a problem before construction starts?

Casey: Yes Sir.

Shackelford: Thank you very much.

Hoover: I was wondering if we could have a report from Subdivision. Were there important issues that we should be looking at on this Preliminary Plat, has it evolved or anything that you would like to share?

Bunch: Basically, what we addressed at Subdivision was the waiver request for the grades on the road from Hwy. 265 into this subdivision and we also discussed the pros and cons of a connection north into the Hyland Park area and also looked at the eastern extensions of the Master Street Plan. Those are basically the items that we discussed.

Hoover: Thank you.

Shackelford: Staff, maybe you can help me out a little bit. As I drove around and looked at this property I was thinking about the waiver request for the grading on the road. I think we call for 10% grade with allowance for 15%. I not only drove around this property but I drove around Hyland Park and Lovers Lane and some of the older properties in that area. Can you tell us an idea of the grades of those roads in the subdivisions? Are they greater than, equal to, less than what is being proposed here?

Casey: I'm sorry, I'm not able to answer that without the plans we have on file for those subdivisions.

Shackelford: Ok. Have the restrictions on grading changed or have they been in place for quite some time?

Casey: I believe those were adopted in 1996.

Shackelford: Thank you.

Hoover: In general, why did the traffic consultants recommend that we do not extend Cliffs Blvd.? I guess one thing is I'm confused on which part is Cliffs and which part is Stone.

Warrick: I don't know that we are going to find any definitive specific answer with them addressing this particular segment of the street. The map that is up for your display is the proposed Master Street Plan developed by BWR with the current Traffic and Transportation Study that is being considered. It is not adopted, which is why we are looking at an amendment to the Master Street Plan that is on the books right now. If you will reference your vicinity map on your plat, the applicant has overlaid the city's Master Street Plan on that so you will get an idea of where this project is in relation to the existing adopted Master Street Plan street. This proposed eastern extension of the Cliffs is actually not a four way intersection. This particular property does not intersect Hwy. 265 in the vicinity of Cliffs Blvd. It intersects north of that. The closest we could get is not a four way intersection. As I said, it is offset to the north. The proposed street through the development is offset again from what is on the plans. Keep in mind that the Master Street Plan is not an engineered study, it is a policy document and it is a guide. Our current Master Street Plan indicates there is a desire to have a larger street connecting Crossover east to Starr Drive. The proposed Master Street Plan that BWR has brought forward has actually eliminated quite a few of the higher level streets that we currently indicate on our plan. My understanding in that is the number of streets that are located on our currently adopted Master Street Plan as higher level streets is unrealistic that they will actually be all built out to those levels that streets not indicated as collectors or arterials on the Master Street Plan can very well function and carry similar, if not the same, loads of traffic as local streets. There was a determination somewhere through the committee process and the review, I know that staff met many times with the consultants for this traffic and transportation study and it has been through several public hearings, through that process it was determined that this particular stretch of collector street, minor arterial street, should be eliminated from that plan. I can't give you an exact reason. There is a lot of grade in this area, a lot of steep slopes and it is very reasonable to expect that that was partly to blame, partly a reason for them eliminating the street. Fayetteville is a hilly city and we have a lot of grade.

Hoover: You are saying they eliminated several streets but they don't reference item 5.3.A is our reason for this one.

Warrick: No, we included in your packet with item number two materials out of the text document that they submitted to compare with this map.

Allen: I wondered if there had been many comments from neighbors about the traffic impact for this area.

Warrick: In this round of review we have not heard much from the neighbors. However, when this project was originally brought forward in the spring of 2002 there were several neighborhood meetings with the Hyland Park neighborhood association because originally there was a contemplation for a street connection in the location of the existing drive that comes off Cliffside Drive into the subject property. It was determined that that would change the character of that neighborhood significantly that that property was platted as a single family residential lot, as were the lots around it and it was not desirable to the neighbors to have a street connection into Hyland Park into Cliffside Drive where it adjoins this property.

Allen: I guess I would like to have a clearer understanding about condition number six because it seems to me like the possible ways that the problem could be alleviated if they find that there is a water pressure problem could certainly have a significantly different impact on the area.

Casey: I'm sorry, I didn't fully understand your question.

Allen: Well, if there is a water tower up there that seems to me like an eye sorer or some people might be concerned about that. I just wanted a better understanding of the ways that water pressure problems could be eliminated.

Casey: I know the different methods that have been discussed, the top option was the tower. It has been discussed already. I know there has been some opposition to that but that would be the best way to increase the water pressure and also give additional capacity in the area. The other options that I'm aware of, unfortunately I wasn't involved in the review process last year when the majority of these were discussed, were some line changes out on Hwy. 265 that would convert the pressure of the line that will serve this development from one tank to the other so it will change the pressure and the other option that has been discussed is adding some pumps along that line to increase the pressure in this area as well. Those are the three that I know have been discussed. Chris Brackett may have some more information on that.

Brackett: There are not any detailed plans because we are waiting on the detailed study that the city is conducting. Those are the three options that we have before us now. There may be others but we will not know them until we actually know

exactly what the pressure problem is. It is our understanding currently that they don't believe that there is adequate pressure to serve this subdivision. We understand that we will have to provide adequate pressure for this subdivision to be able to continue and the owner understands that. As far as how it is done, right now it is our understanding that the city is not prepared to go forward with any kind of tower. Our understanding is that we will be fixing the problem for this subdivision. We won't be fixing the problem for the entire area. We are prepared to spend the money to fix the problem for this subdivision.

Allen: Will the method that you use be up to you?

Brackett: Anything that we do will have to be approved by the city. The method that we believe, we've had discussions with McGoodwin, Williams & Yates and the last method that was discussed that we were a part of were booster pumps which is nothing more than a pump station. It is not a tower or anything of that nature. Like I said, we can't really go any further than just discussions or what the possibilities are because we don't know exactly what the problem is.

Shackelford: It seems like every meeting that we are here we talk about connectivity. Every subdivision that we approve we stub out for connectivity. What makes this different? Can you walk me through the process of the decision to not require this to tie into the existing neighborhoods and why this is different than the normal deal that we look at?

Warrick: I don't believe that this is different because this particular project is connecting to Hwy. 265 and Stonebridge Road and has two future connections to the east and a future phase. That is the kind of connectivity that we look for in any development is to identify where an existing piece of property, when developed, can connect and where possible future connections would lead if there are adjacent undeveloped tracts of land that we believe will come through the review process at some point in time. We don't even expect those adjacent properties to come through in the near future even. Like I said, we have got connections from this particular project in three directions. The fact that there is an empty lot in a single family subdivision north of this, we did not feel that that merited a street. Like said before, it does change what the expectations were as far as those people who purchased lots and built in the Hyland Park subdivision when they felt there was a single family lot in that location. It was and is used for access purposes but it is not a public street. It is a private access drive. The change in the character of that would be significant to what everyone expected when they moved into that area which is primarily single family homes with a large equestrian farm south of it. That is why we did not feel that this connection was critical. It was not the desire of the neighbors o the north to have this connection. They are truly the ones who would benefit the most if they chose to have a connection in that location because Hyland Park is a one way in and one way out subdivision. That was really the process that we went through in realizing whether or not it was

appropriate. We felt that through the connections that were being achieved on the property we were meeting our mandate, if you will, for providing connectivity for future developments.

Shackelford: Thank you very much.

Hoover: I would like to focus on the Master Street Plan amendment issue. Do we have some discussion about that? I'm curious if we are recommending eliminating it from the Master Street Plan, why are we showing it on the vicinity map a road connecting?

Warrick: The applicant's request was to downgrade and relocate this street. Staff's recommendation is just to eliminate it from the Master Street Plan and allow it to be a local street. It is identified currently, there is a minor arterial identified currently connecting Crossover and Starr Drive. The applicant is proposing to relocate that slightly and to downgrade it to a collector street status. In reviewing their request to amend the Master Street Plan we looked to the study that the city commissioned recently for traffic and transportation study for the city. In that, the recommendation is not to have a higher level street, collector or above, in this location. Staff is recommending that it just be utilized as a local street and not be identified as a higher level street on the Master Street Plan.

Hoover: Is that what this says? Maybe I'm misreading it. It just says here eliminate Cliffs Blvd. eastern extension as a proposed minor arterial.

Warrick: This would not be the Cliffs Blvd. eastern extension. Due to the location of it, it would not be reasonable for it to be named Cliffs Blvd. because it is offset to the north. It does not intersection Cliffs Blvd. on the opposite side of Hwy. 265.

Hoover: This street is called Stone Mountain.

Anthes: On the Master Street Plan as it shows now it would actually connect across Hwy. 265. Two questions of staff, is there indeed a signal proposed at that intersection and what are the physical reasons on that site that we would like to shift that road to the north?

Warrick: We don't have the ability with this subdivision to connect in that location. The property owner doesn't own the property and we don't have control of the property. I am not aware of signalization being on the city's capital improvement program for this particular site.

Williams: Of course that is Hwy. 265 so the state would have to approve any traffic signal that we would ask them to install.

Anthes: I guess that's why I'm still confused. It doesn't appear that the connection to

Crossover Road is on this applicant's property either at this current location or at the north location, is that true or am I reading this map wrong? It appears to me from this map that the current Master Street Plan connection across Crossover Road or the new configuration located to the north, neither of those are on the applicant's property, is that true?

Warrick: That is true.

Anthes: If that is the case, why are we showing this thing shifted north misaligned with the intersection?

Warrick: Again, our Master Street Plan is a policy document and a guide. It is a line on the map and it is not an exact engineered location for a future street.

Anthes: I understand that but if it is a line on the map and it currently connects across and makes a four way intersection with Cliffs Drive and we had to physically take a pen or a pencil and move it up, what was the reason for that?

Warrick: The location of an opportunity for a development that would provide a connection.

Anthes: I thought you said they didn't own either location?

Warrick: I must not have understood you, I'm sorry. The area that is highlighted on your vicinity map that is in dark gray is the project site.

Anthes: Ok, so they do own the northernmost and that is the reason for the shift is because we have an opportunity to connect to Hwy. 265. That's all I have for now.

Ostner: My question Ms. Warrick, I wish I could ask BWR why they don't think we should have any connection across this area, the big drawing wherever it went. Do you know why? I know the grades are steep but there is just so much from Mission to Huntsville and from Starr to Hwy. 265 is nothing but local streets that don't have to connect by policy?

Warrick: How do you mean by policy they don't have to connect because we do have a policy of connectivity.

Ostner: We do but as a Master Street Plan policy we are saying no.

Warrick: The Master Street Plan identifies higher level streets. It doesn't mean that local streets would not serve a purpose of getting people from one place to another. We do, as I said, have a policy of connectivity. Keep in mind, this is a policy document, this is a recommendation. This is your plan. Please understand that we are just making a recommendation here. If you don't wish to change the Master Street Plan that is fine. We are making a

recommendation based on the study by transportation engineers and we need to rely on somebody to provide us with guidance. That is the information that is current that is available to us right now. Mr. Earff handed me this information, it is out of the traffic and transportation study, I made a statement with regard to signalization not being on the city's capital improvement plan. It is not but it is recommended in the city's traffic and transportation study for future improvements. I just wanted to clear that up. I didn't want to misstate anything but it is not in a capital projects list.

Ostner: Is that signal for a normal four way intersection?

Warrick: It is a table in the document. It is certainly not an engineered project.

Hoover: Do I have this correctly then that it would show up on the Master Street Plan if it is a collector or a higher level street. That does not exclude us connecting over to Starr Blvd. at a later date whenever that property is developed because of our connectivity ordinance or policy?

Warrick: That is correct.

Hoover: The only reason it is not on the Master Street Plan is they still can be recommending it in theory but they don't recommend that it be a higher level street?

Warrick: Correct.

Hoover: Does everybody understand?

Allen: Finally, yes.

Hoover: Is there any other discussion on this item or would someone like to make a motion?

Shackelford: I will go ahead and get it on the table. With what you just said was exactly what direction I was going when I talked about the connectivity of this subdivision. I think it is a lot more realistic to think that there will be connectivity through here as this property develops in neighborhood streets than there ever will seeing a minor arterial or a collector street built across this property. With that, I am going to support staff's recommendation and make a motion to approve ADM 03-29.00.

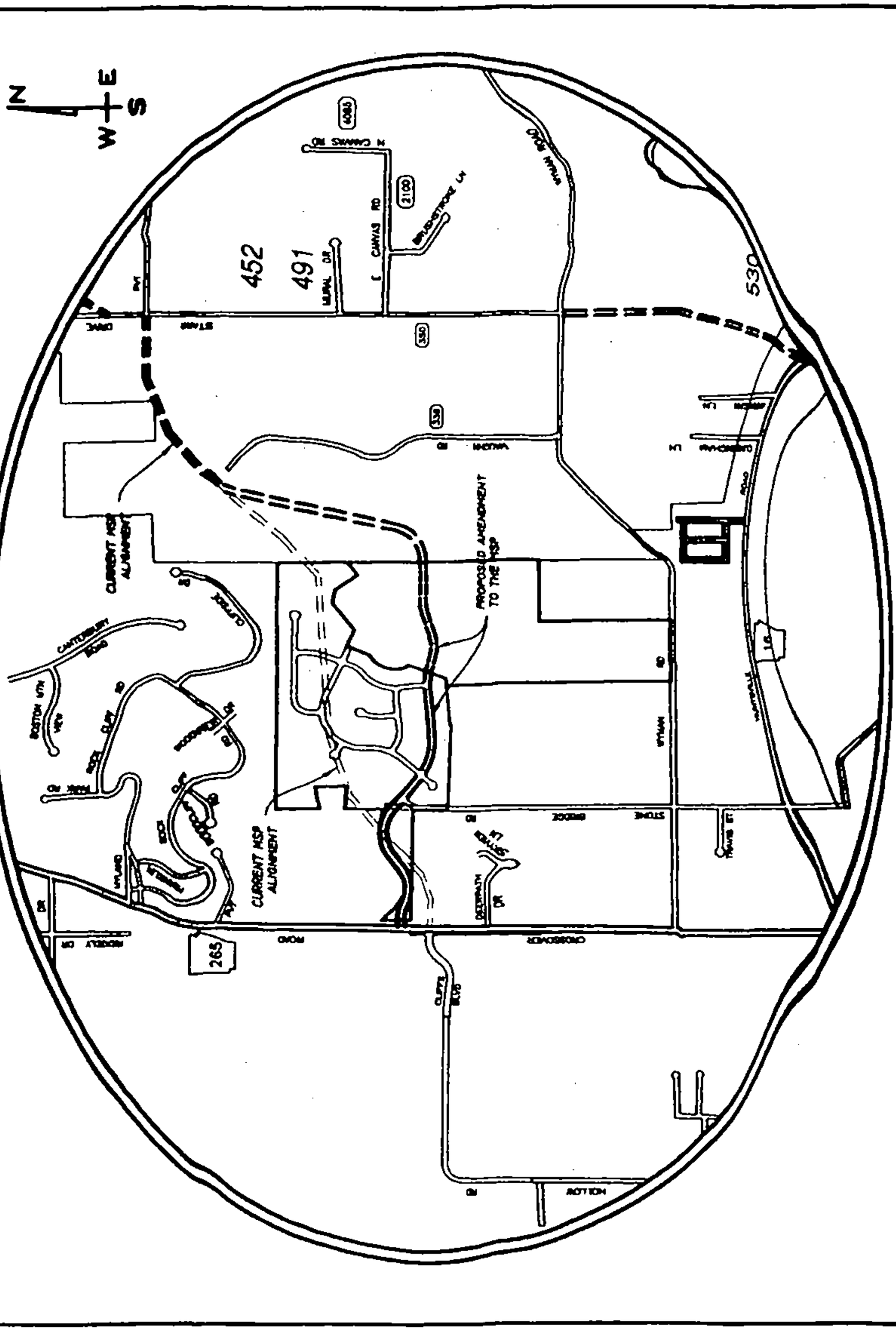
Hoover: I have a motion by Commissioner Shackelford, is there a second?

Bunch: I will second.

Hoover: A second by Commissioner Bunch. Is there more discussion? Seeing none, Renee?

**Roll Call:** Upon the completion of roll call the motion to approve ADM 03-29.00 was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

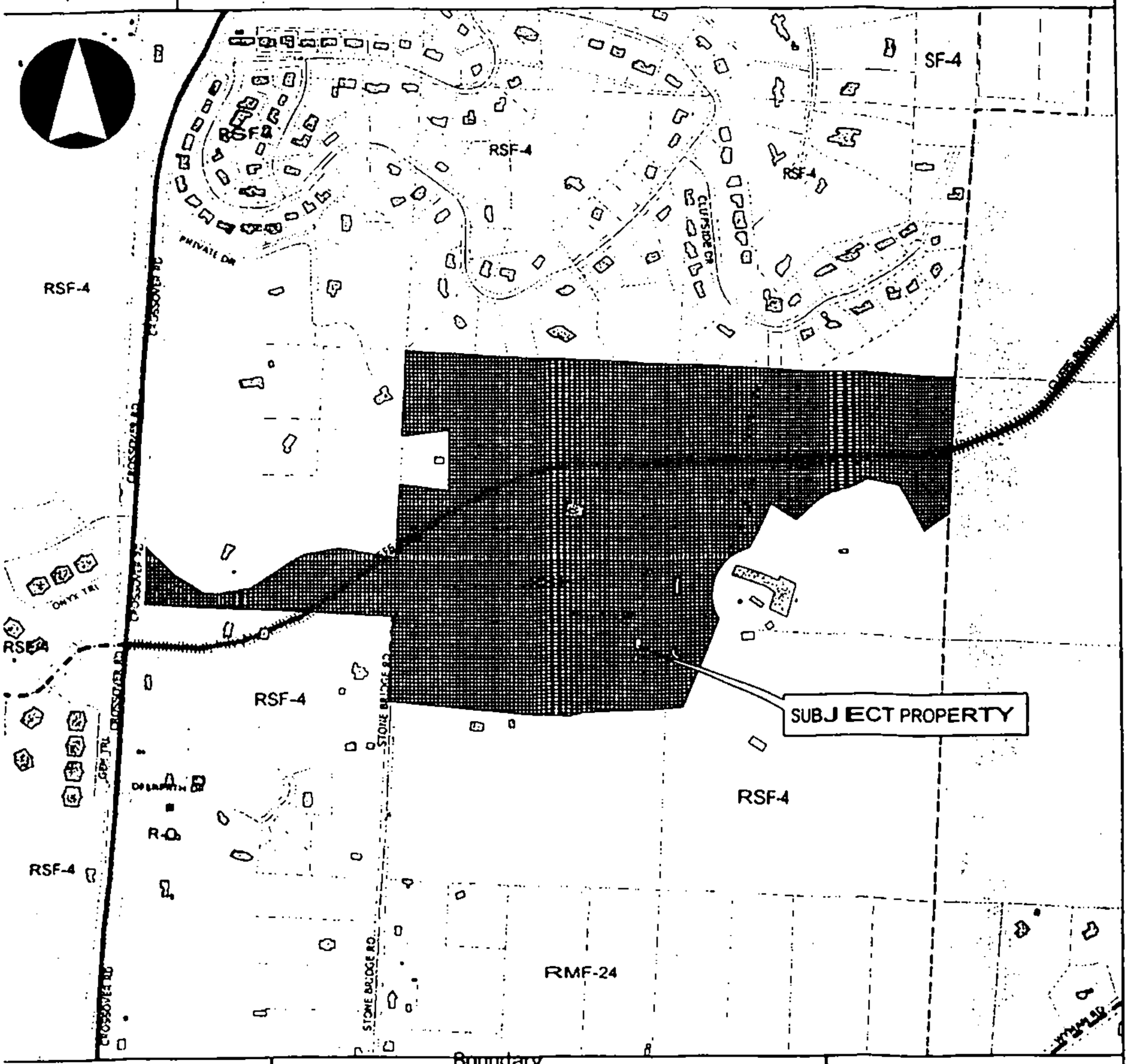



JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

PPL02-13.10

Close Up View

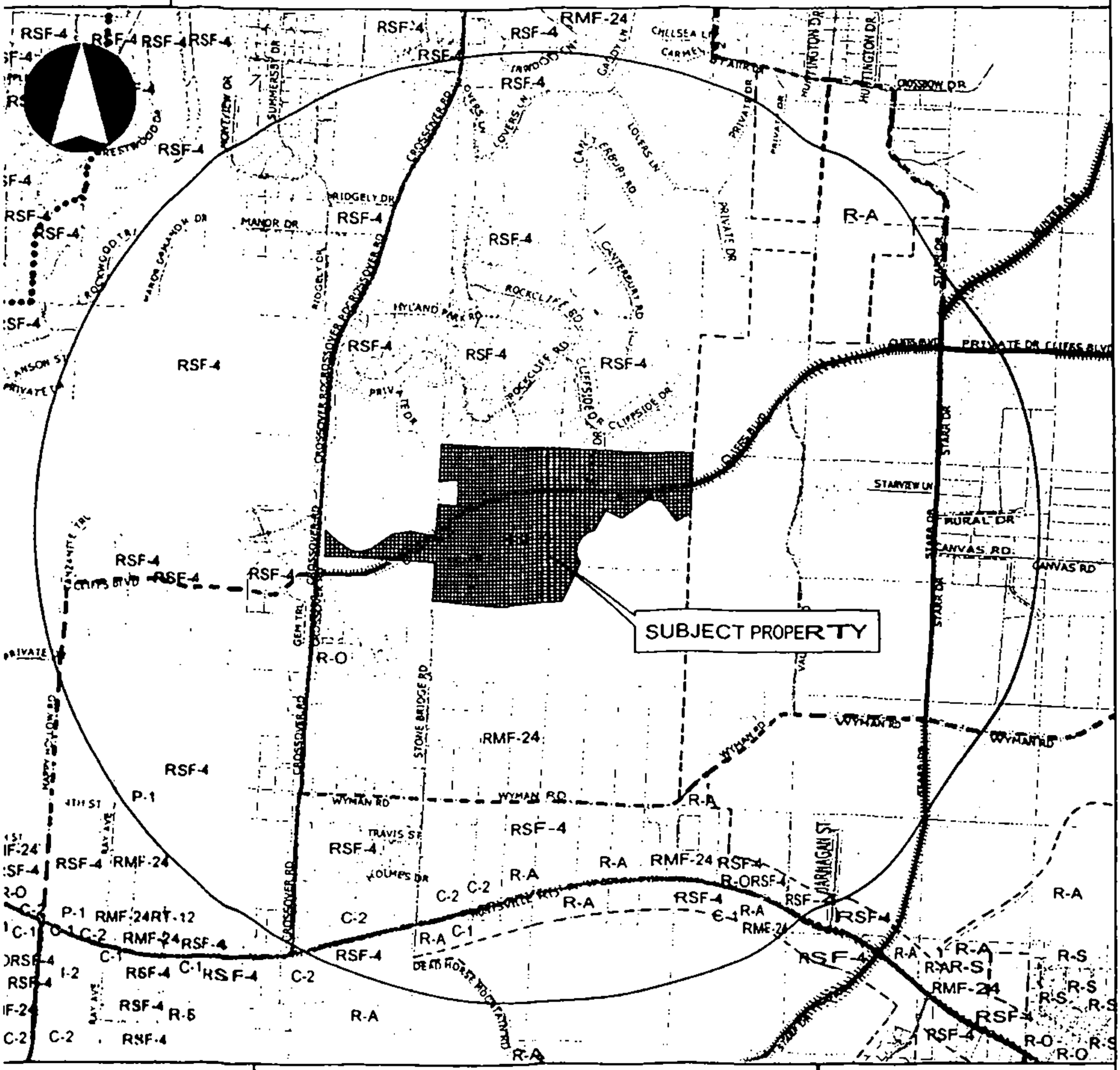
# STONE MOUNTAIN SUB DIVISION



PPL02-13.10

One Mile View

# STONE MOUNTAIN SUBDIVISION



# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: December 2, 2003

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Resolution approval.

SUMMARY EXPLANATION:

ADM 03-29.00 was submitted by Chris Brackett of Jorgensen & Associates on behalf of Bill Conner for property located south of Hyland Park and east of Crossover Rd. The property is zoned RSF-4, Residential Single-family, four units per acre and contains approximately 82.74 acres. The request is to amend the Master Street Plan to eliminate the eastern extension of Cliffs Boulevard, a proposed minor arterial.

STAFF RECOMMENDATION: Approval

Dawn T. Warrick — 11/04/03
Division Head — Date

Received in Mayor's Office 11/14/03
Date

[signature] — 11/14/03
City Attorney — Date

[signature] — 11-14-03
Department Director — Date

Cross Reference:

[signature] — 11-17-03
Finance & Internal Services Dir. — Date

Previous Ord/Res#: _____

Orig. Contract Date: _____

[signature] — 11-19-03
Chief Administrative Officer — Date

Orig. Contract Number: _____

[signature] — 11/18/03
Mayor — Date

New Item: Yes No

City Council Meeting of December 2, 2003

# CITY COUNCIL MEMO

TO: Mayor Dan Coody and the City Council

THRU: Hugh Earnest, Chief Administrative Officer
Stephen Davis, Finance & Internal Services Director

FROM: Michele Bechhold, Human Resources Director

DATE: November 25, 2003

SUBJECT: Replacement Pages for Hay Group Pay Plan Item

Corrected copies of the Proposed 2004 and 2005 Exempt Pay Ranges are attached. The corrections to the original documents include the following items.

- Maximum Hourly Rate Column for the Executive Grades is now correct.
- The 2005 Proposed Pay Ranges for Grades 10 -15 now reflect the 6.19% increase recommended by Hay.

On the original chart in the agenda packet, the 2005 Proposed Exempt Salary Ranges for Grades 10 - 15 represented a 5.1% increase over the existing pay rates. We have now corrected these midpoints to match the survey recommendation of 6.19%.

Dec 16th mtg

# RESOLUTION NO. _____

A RESOLUTION ADOPTING THE HAY GROUP'S RECOMMENDATION IN THE 2003 COMPENSATION PRACTICES UPDATE; IMPLEMENTING 50% OF THE RECOMMENDATION IN JANUARY 2004 AND THE REMAINING 50% IN JANUARY 2005.

**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 adopts the Hay Group's recommendation in the 2003 Compensation Practices Update.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby adopts City Staff's recommendation to implement 50% of the recommendation in January 2004, and the remaining 50% in January 2005.

**PASSED** and **APPROVED** this 16th day of December, 2003.

APPROVED:

By: _____
**DAN COODY, Mayor**

ATTEST:

By: _____
**SONDRA SMITH, City Clerk**

DRAFT

# 2004 PROPOSED EXEMPT PAY RANGES AND HOURLY RATES

| GRD PTS | GRD | ACES | MIN | MID | MAX | MIN HRLY | MAX HRLY |
|---|---|---|---|---|---|---|---|
| 1768 | | EX | 79,728 | 96,057 | 112,387 | 38.331 | 54.032 |
| 1124 | | EX | 66,723 | 80,389 | 94,055 | 32.078 | 45.219 |
| | | EXD | 69,213 | 83,389 | 97,565 | 33.275 | 46.906 |
| 1074 | | EX | 65,713 | 79,172 | 92,632 | 31.593 | 44.534 |
| 1028 | | EX | 64,784 | 78,053 | 91,322 | 31.146 | 43.905 |
| 994 | | EX | 64,098 | 77,226 | 90,354 | 30.816 | 43.440 |
| 904 | | EX | 62,280 | 75,036 | 87,792 | 29.942 | 42.208 |
| 839 | | EX | 60,968 | 73,455 | 85,942 | 29.311 | 41.318 |
| 732 | | EX | 58,807 | 70,852 | 82,896 | 28.272 | 39.854 |
| 702 | | EX | 58,201 | 70,122 | 82,042 | 27.981 | 39.443 |
| 682 | | EX | 57,797 | 69,635 | 81,473 | 27.787 | 39.170 |
| 677 | | EX | 57,696 | 69,513 | 81,331 | 27.739 | 39.101 |
| | | EXD | 60,186 | 72,513 | 84,841 | 28.936 | 40.789 |
| 580 | 15 | ER | 55,622 | 67,014 | 78,406 | 26.741 | 37.695 |
| | | EB | 56,452 | 68,014 | 79,576 | 27.140 | 38.258 |
| | | ED | 58,112 | 70,014 | 81,916 | 27.938 | 39.383 |
| 490 | 14 | ER | 48,060 | 57,904 | 67,748 | 23.106 | 32.571 |
| | | EB | 48,890 | 58,904 | 68,918 | 23.505 | 33.134 |
| | | ED | 50,550 | 60,904 | 71,258 | 24.303 | 34.259 |
| 410 | 13 | ER | 41,340 | 49,807 | 58,274 | 19.875 | 28.016 |
| | | EB | 42,170 | 50,807 | 59,444 | 20.274 | 28.579 |
| | | ED | 43,830 | 52,807 | 61,784 | 21.072 | 29.704 |
| 350 | 12 | ER | 36,298 | 43,733 | 51,168 | 17.451 | 24.600 |
| | | EB | 37,128 | 44,733 | 52,338 | 17.850 | 25.162 |
| | | ED | 38,788 | 46,733 | 54,678 | 18.648 | 26.287 |
| 290 | 11 | ER | 31,621 | 38,098 | 44,575 | 15.203 | 21.430 |
| | | EB | 32,451 | 39,098 | 45,745 | 15.602 | 21.993 |
| | | ED | 34,111 | 41,098 | 48,085 | 16.400 | 23.118 |
| 250 | 10 | ER | 28,220 | 34,000 | 39,780 | 13.567 | 19.125 |
| | | EB | 29,050 | 35,000 | 40,950 | 13.966 | 19.688 |
| | | ED | 30,710 | 37,000 | 43,290 | 14.764 | 20.813 |

# 2005 PROPOSED EXEMPT PAY RANGES AND HOURLY RATES

| GRD PTS | GRD | ACES | MIN | MID | MAX | MIN HRLY | MAX HRLY |
|---|---|---|---|---|---|---|---|
| 1768 | | EX | 85,496 | 103,007 | 120,518 | 41.104 | 57.942 |
| 1124 | | EX | 71,550 | 86,205 | 100,860 | 34.399 | 48.490 |
| | | EXD | 74,040 | 89,205 | 104,370 | 35.596 | 50.178 |
| 1074 | | EX | 70,468 | 84,901 | 99,334 | 33.879 | 47.757 |
| 1028 | | EX | 69,471 | 83,701 | 97,930 | 33.400 | 47.082 |
| 994 | | EX | 68,735 | 82,813 | 96,892 | 33.046 | 46.583 |
| 904 | | EX | 66,786 | 80,465 | 94,144 | 32.109 | 45.262 |
| 839 | | EX | 65,379 | 78,770 | 92,160 | 31.432 | 44.308 |
| 732 | | EX | 63,062 | 75,978 | 88,894 | 30.318 | 42.738 |
| 702 | | EX | 62,412 | 75,195 | 87,978 | 30.006 | 42.297 |
| 682 | | EX | 61,979 | 74,673 | 87,368 | 29.798 | 42.004 |
| 677 | | EX | 61,871 | 74,543 | 87,215 | 29.745 | 41.930 |
| | | EXD | 64,361 | 77,543 | 90,725 | 30.943 | 43.618 |
| 580 | 15 | ER | 57,288 | 69,022 | 80,756 | 27.542 | 38.825 |
| | | EB | 58,118 | 70,022 | 81,926 | 27.941 | 39.387 |
| | | ED | 59,778 | 72,022 | 84,266 | 28.740 | 40.512 |
| 490 | 14 | ER | 49,500 | 59,639 | 69,778 | 23.798 | 33.547 |
| | | EB | 50,330 | 60,639 | 70,948 | 24.197 | 34.109 |
| | | ED | 51,990 | 62,639 | 73,288 | 24.995 | 35.234 |
| 410 | 13 | ER | 42,578 | 51,299 | 60,020 | 20.470 | 28.856 |
| | | EB | 43,408 | 52,299 | 61,190 | 20.869 | 29.418 |
| | | ED | 45,068 | 54,299 | 63,530 | 21.667 | 30.543 |
| 350 | 12 | ER | 37,387 | 45,044 | 52,701 | 17.974 | 25.337 |
| | | EB | 38,217 | 46,044 | 53,871 | 18.373 | 25.900 |
| | | ED | 39,877 | 48,044 | 56,211 | 19.171 | 27.025 |
| 290 | 11 | ER | 32,194 | 38,788 | 45,382 | 15.478 | 21.818 |
| | | EB | 33,024 | 39,788 | 46,552 | 15.877 | 22.381 |
| | | ED | 34,684 | 41,788 | 48,892 | 16.675 | 23.506 |
| 250 | 10 | ER | 28,733 | 34,618 | 40,503 | 13.814 | 19.473 |
| | | EB | 29,563 | 35,618 | 41,673 | 14.213 | 20.035 |
| | | ED | 31,223 | 37,618 | 44,013 | 15.011 | 21.160 |

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Stephen Davis, Finance & Internal Services Director

FROM: Kevin Springer, Budget Manager

DATE: November 6, 2003

SUBJECT: **Proposed 2004 Annual Budget & 2004-2008 Capital Improvements Program**

**Recommendation:**
Consider the Proposed 2004 Annual Budget & 2004-2008 Capital Improvements Program for adoption by the December 18, 2003 City Council meeting.

**Discussion:**
The Proposed 2004 Annual Budget & 2004-2008 Capital Improvements Program documents were distributed to City Council on Friday, October 31 for consideration.

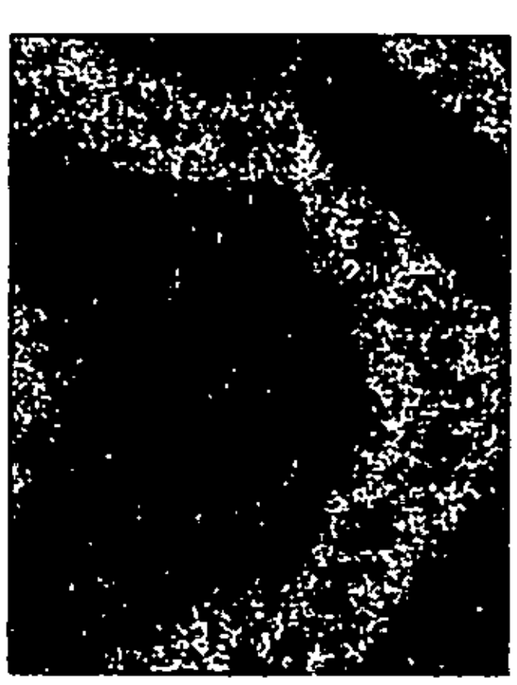
A brief overview of the proposed 2004 Annual Budget and 2004-2008 Capital Improvements Program documents is scheduled for **Wednesday, November 12** following the City Council agenda session that starts at 4:30 PM in room 326. Other meeting dates are scheduled as follows:

| Date | Budget Meeting |
|---|---|
| Tuesday, November 12 2003 | Budget & Capital Improvements Program Presentation / Zero Based Budget Presentation by the Parks & Recreation Division, the Fire Department, and the Police Department (agenda session) |
| Tuesday, November 18 2003 | City Council Meeting |
| Tuesday, November 25 2003 | Budget/CIP Working Session (agenda session) |
| Tuesday, December 2 2003 | City Council Meeting |
| Tuesday, December 9 2003 | Budget/CIP Working Session (agenda session) |
| Tuesday, December 16 2003 | City Council Meeting |

If you have any questions concerning the Proposed 2004 Annual Budget or the 2004-2008 CIP, please feel free to contact either Stephen Davis at 575-8330 or myself at 575-8226. Thank you for your attention to this matter.

Tabled to 12/16/03
Tabled to 12/2/03

# 2004



# City of Fayetteville, Arkansas

# Proposed Annual Budget

# and

# 2004-2008 Capital Improvements Program

**RESOLUTION NO. _____**

A RESOLUTION ADOPTING THE PROPOSED 2004 ANNUAL BUDGET & WORK PROGRAM AND THE 2004-2008 CAPITAL IMPROVEMENT PROGRAM.

**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 adopts the Proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program, attached as Exhibit "A".

**PASSED** and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

# STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18, 2003

**FROM:**

| Kevin Springer | Budget & Research | Finance & Internal Services |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:**

**Approve a resolution adopting the Proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvements Program.**

**COST TO CITY:**

| | | |
|---|---|---|
| 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 |

**BUDGET REVIEW:** X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 10-31-03

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — Date: 10/31/03
Internal Auditor — Date: 10/31/03
City Attorney — Date: 10/31/03
Purchasing Manager — Date: 10/31/03

**STAFF RECOMMENDATION:** Staff recommends approval of the Proposed 2004 Annual Budget & 2004-2008 CIP.

Division Head — Date
Department Director — Date
Finance & Internal Services Dir. — Date: 11-3-03
Chief Administrative Officer — Date
Mayor — Date: 11/3/03

**Received in Mayor's Office** — Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: **Yes** **No**

RECEIVED
10-31-03
AM

City Council Meeting of December 16, 2003

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Hugh Earnest, Chief Administrative Officer

**From:** Greg Boettcher, Water/Wastewater Director

**Date:** November 26, 2003

**Subject:** **WASTEWATER TREATMENT PLANT OPERATIONS CONTRACT**
Operations Management International Contract Amendment No. 10 (2004)

## RECOMMENDATION

Fayetteville City Administration recommends approval of "Amendment No. 10 to the Agreement for operations, maintenance and management services for the city of Fayetteville, Arkansas Wastewater Treatment Plant." This contract amendment totalling $4,373,573.00 provides services for 2004 and is included in the proposed Fiscal Year 2004 Budget.

## BACKGROUND

The City of Fayetteville's first private operating contract commenced in 1987 with this year marking 17 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. Said 5-year continuation was justified on the basis of changed sludge management requirements, using the five-year period to spread capital costs (belt filter/trailers/tractors) and enable landfill disposal of wastewater sludge for balance of 2003 without a budget adjustment. It was noted in May of 2003 that the full-year impact of the alternative sludge disposal method will represent an annual operations cost increase of approximately $435,000.00. This cost did not include an consideration of increased costs for resolution of the nutrient issues at the sludge management site.

The scope of services provided by OMI to the City of Fayetteville include the following:

1. Operate and maintain the Noland Wastewater Treatment Plant
2. Operate and maintain 33 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
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 as follows: 87.5% to city and 12.5% to OMI.

## DISCUSSION

The operating expenses for fiscal year 2004 reflect a substantial increase from 2003, the primary cause being the changed sludge management methods. The forced abandonment of liquid sludge application on the 540 acre sludge management site brought about greater expense for sludge disposal. The increased expenses include labor costs, capital costs, chemical costs, trucking costs, and landfill tipping fees. Coupled with the increased biosolids management expenses are costs for the optimization of nutrient use on the 540-acre site to maximize irrigation of effluent and hay crop production. To meet vegetation needs and conform to required agronomic practices, soil chemistry must be maintained at target levels using commercial fertilizer and lime. The cost elements that primarily drive the budget changes include:

| Cost Category | 2004 Costs |
|---|---|
| Dewatering/Landfilling Sludge | $564,027.00 |
| Irrigation Site Crop Management | 97,578.00 |
| Increased Biosolids Expenses | $661,605.00 |
| | |
| Reduced Digester Energy Costs | (120,000.00) |
| Reduced Sludge Equipment/Site Costs | ( 52,913.00) |
| Net Sludge Cost Increase | $488,692.00 |

These changed sludge management factors alone account for $488,692.00 of the $499,072.00 in cost change from the 2003 budget. The remaining small difference involves minor changes in labor, materials and supplies.

## BUDGET IMPACT

The full value of $4,373,573.00 of Contract Amendment No. 10 with Operations Management International is included in the proposed budget for Fiscal Year 2004. The increased costs of current sludge management practices were anticipated as a component of the operation costs of the Wastewater System Improvement Project, and are factored into the proposed rate change for wastewater services. The approval of Contract Amendment No. 10 is consistent with the city's financial management plan. The authorization of Amendment No. 10 will be conditioned upon the approval of the 2004 budget.

**RESOLUTION NO. _____**

A RESOLUTION APPROVING AMENDMENT NO. 10 TO THE CONTRACT WITH OPERATIONS MANAGEMENT INTERNATIONAL (OMI) IN THE AMOUNT OF $4,373,573.00 FOR THE OPERATION AND MANAGEMENT OF THE FAYETTEVILLE WASTEWATER TREATMENT PLANT FOR 2004.

**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. 10 to the contract with Operations Management International (OMI) in the amount of $4,373,573.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2004. A copy of Amendment No. 10, 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. 10 to the contract with OMI, contingent upon final approval of the FY2004 Budget.

**PASSED** and **APPROVED** this 16th day of December, 2003.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 16, 2003

FROM:

| Greg Boettcher | Water and Wastewater | Wastewater Treatment |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** Resolution approving Amendment No. 10 to the contract with Operations Management International (OMI) for 2004 in the amount of $4,373,573.00. Mayor's authorization to execute agreement is conditioned upon the City Council's approval of the Fiscal Year 2004 Budget.

**COST TO CITY:**

| $4,373,573.00 | $6,467,341.00 | Water/Wastewater |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 5400.5100.5328.00 | $0.00 | Wastewater Treatment |
| Account Number | Funds Used to Date | Program / Project Category Name |
| | $ 6,467,341.00 | Water and Sewer |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** ____ Budgeted Item ____ Budget Adjustment Attached

Barbara Freel — Budget Manager — 11/24/03 Date

**CONTRACT/GRANT/LEASE REVIEW:**

Marsha Farthing — Accounting Manager — 12/01/03 Date
Nancy Smith — Internal Auditor — 12/1/03 Date
D. J. Whit — City Attorney — 12/01/03 Date
P Alice — Purchasing Manager — 12/1/03 Date

**STAFF RECOMMENDATION:**

____ Division Head ____ Date
Greg Boettcher — Department Director — 11-26-03 Date
Nyle Davis — Finance & Internal Services Dir. — 12-2-03 Date
Lloyd Edwards — Chief Administrative Officer — 12-3-03 Date
Dan Coody — Mayor — 12/3/03 Date

**Received in Mayor's Office** 12/1/03 P.H. Date

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

New Item: **Yes** **No**

# AMENDMENT NO. 10
# TO THE
# AGREEMENT FOR OPERATIONS, MAINTENANCE, AND MANAGEMENT SERVICES FOR THE CITY OF FAYETTEVILLE, ARKANSAS WASTEWATER TREATMENT PLANT

**THIS AMENDMENT,** entered into this 24th day of November, 2003, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 and Operations Management International, Inc., (hereinafter "OMI") with offices at 9193 S. Jamaica Street, Suite 400, Englewood, Colorado 80112 is made and entered into for purposes of amending certain provisions of the "Agreement for Operations, Maintenance, and Management Services for the City of Fayetteville's Wastewater Treatment Plant," dated August 16, 1994 (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.

This is Amendment No. 10 to the Agreement dated the 16th day of August, 1994, between the City of Fayetteville and OMI.

**NOW THEREFORE,** The City of Fayetteville 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 the ninth year of this Agreement the City of Fayetteville shall pay to OMI the actual cost of services performed plus an annualized management fee of Seventy Nine Thousand Nine Hundred Fifty Seven Dollars ($79,957.00). 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 the calendar year 2004 shall be Four Million Three Hundred Seventy Three Thousand Five-Hundred Seventy Three Dollars ($4,373,573.00) annually. Details of said cost are shown in Appendix J. The base fee shall be negotiated each year in September, beginning in 2004 for calendar year 2005. Should the City of Fayetteville and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars ($20,000), in any year of this Agreement, specific approval will be obtained from the City of Fayetteville.

3. Article 4.4 is hereby deleted in its entirety and replaced with the following Article 4.4:

4.4 An administrative fee of 30 percent is added to personnel services and 10 percent to all other costs for administration, support, management and overhead, with the exception of electricity and lift station odor control direct expenses.

5. Appendices B, E, H, J and K are hereby deleted in their entirety and replaced with the attached Appendices B, E, H and J.

All other terms and conditions remain in effect in accordance with the Agreement referenced in this Amendment.

Both parties indicate their approval of this Amendment to the Agreement by their signatures below as of the date shown above.

Authorized Signature:

~~Roger B. Quayle~~ EDWARD F. FORBES
Executive Vice President

OPERATIONS MANAGEMENT
INTERNATIONAL, INC.

Date: 11/26/03

CL
11-24-03

Authorized Signature:

Dan Coody
Mayor

CITY OF FAYETTEVILLE

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. 6th Street |
| WW12 | 398 N. Double Springs Road |
| WW13 | 878 S. Stonebridge Road |
| WW14 | 1820 S. Armstrong |
| WW15 | 203 E. 29th Circle |
| WW16 | 3917 S. McCollum Road |
| WW17 | 4394 S. School |
| 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 Bohannan) |

| | |
|---|---|
| WW30 | 2324 Rupple Road |
| WW31 | 2318 Internet (Research Park) |
| WW32 | 478 N. Durango Place (Silverthorne) |
| WW33 | 4644 N. Crossover Road (Copper Creek) |
| WW34 | Airport South |
| WW37 | Clabber Creek |

c) All equipment, grounds, and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Sludge Management Site located east of the wastewater treatment facility across the White River:

d) The potable water SCADA system at the following locations:

| | | |
|---|---|---|
| W1 | 215 W. 24th 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 |
| | 1475 Cato Springs Road | 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 |
| 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 |
| 987 | Hesston Large Square Baler | 1998 |
| 988 | Hesston Wheel Rake | 1998 |
| 989 | M & W Wheel Rake | 1998 |
| 990 | New Holland 1411 Mower | 1998 |
| 991 | Polaris 500 4 X 4 | 1998 |
| 992 | Polaris 500 4 X 4 | 1998 |

Appendix H

THIRTY-DAY CHEMICAL INVENTORY

| Chemical | Purpose | 30-Day Supply |
|---|---|---|
| Liquid Alum | Phosphorus Removal | 2,200 Gallons |
| Ferrous Sulfate | Lift Station Odor Control | 10,000 Gallons |
| Liquid Oxygen | Effluent Dissolved Oxygen | 50,000 Cubic Ft |
| Polymer | Belt Filter Press | 6870 Pounds |

## Appendix J

## COST DETAIL

The annualized estimated costs for the calendar year of 2004 were calculated as follows:

| | Original 2003 | Modified 2003 | Proposed 2004 |
|---|---|---|---|
| Direct Labor & Benefits | $1,487,466 | $1,519,208 | $1,671,667 |
| Labor Markup | $520,613 | $455,762 | $501,500 |
| Electricity | $780,000 | $738,000 | $660,000 |
| Electrical Markup (0% Markup for 2003) | $0 | $0 | $0 |
| Existing Other Direct Costs | $709,012 | $692,083 | $768,057 |
| Other Direct Costs Markup | $70,901 | $69,208 | $76,806 |
| Additional Other Direct Costs | | $253,501 | $306,915 |
| Other Direct Costs Markup | | $25,350 | $30,692 |
| Subtotal | $3,567,992 | $3,753,112 | $4,015,637 |
| Fixed Fee | $92,509 | $73,031 | $78,139 |
| Lift Station Odor Control | $170,000 | $170,000 | $179,175 |
| Capital Item Amortization | | $100,622 | $100,622 |
| Total O & M Budget | $3,830,501 | $4,096,765 | $4,373,573 |
| SCADA Upgrade Project | $44,000 | $0 | $0 |
| Total Annualized Budget | $3,874,501 | $4,096,765 | $4,373,573 |
| Net Annualized Increase | | $222,264 | $499,072 |

The following are some of the major reasons for cost circumstances:

1. Projected decrease in electrical costs due to the change in sludge disposal option from land application to landfill. However, the reduction in cost is offset by additional costs incurred by the new sludge disposal method for truck maintenance and repairs, fuel, tipping fees, and turnpike fees

2. Continued increase in the cost of providing skilled professional labor in Northwest Arkansas' highly competitive job market, additional personnel for sludge hauling, as well as a remarkable increase in the cost of benefits.

City Council Meeting of December 16, 2003

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Gary Dumas, Director of Operations
Connie Edmonston, Director of Parks and Recreation CE

**From:** David Wright, Recreation Superintendent DW

**Date:** November 20, 2003

**Subject:** Resolution to approve the continued agreement between Parks and Recreation and the Fayetteville Boys and Girls Club to provide recreation for Citizens of Fayetteville and to waive competitive bidding for the payment to the Boys and Girls Club in 2004 for the provision of public recreation.

## RECOMMENDATION

Fayetteville Parks and Recreation Staff recommends to approve the contract with Fayetteville Boys and Girls Club to provide public recreation services for and waive competitive bid for services.

## BACKGROUND

The City of Fayetteville has provided financial support for the Fayetteville Boys and Girls Club since 1967. In 1999, the Parks and Recreation Staff and the Boys and Girls Club Staff re-evaluated their operations to determine if each were meeting the needs of the Citizens of Fayetteville in the most efficient possible manner. The results of the meetings were the attached "Working Agreement" between Parks and Recreation and the Boys and Girls Club. It is the intent of both agencies to work together for the common good of the citizens by not providing public funding for multiple competing program offerings. If the Boys and Girls Club were not providing recreational services for our youth as well as citizens, the City of Fayetteville would need to assume the responsibility.

## DISCUSSION

The 2004 budget includes a total of $250,000 to be transferred to the Fayetteville Boys and Girls Club. Of this transfer, $187,500 comes from Parks and Recreations Division, Parks Development Program and $62,500 comes from the General Government Department, Miscellaneous Division. A resolution of contractual services, as well as an ordinance to waive competitive bidding is required. The contract outlines the services the Boys and Girls Club is providing to the City and the citizens of Fayetteville. We are requesting a waiver of competitive bids to secure the continuity of services provided and because the Boys and Girls Club has adequately served our citizens since it was created.

The agreement for 2004 is similar to the 2003 agreement. However, there is one change. In the working agreement, performance measures have been added for evaluation of the City's funding. These are listed under item number 13 in the working agreement.

If you have any questions regarding the Agenda Request or the Working Agreement, please call me at 444-3481, or email dwright@ci.fayetteville.ar.us.

**ORDINANCE NO._____**

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE FAYETTEVILLE YOUTH CENTER INC. IN THE AMOUNT OF TWO HUNDRED FIFTYTHOUSAND DOLLARS ($250,000.00) TO PROVIDE PUBLIC RECREATION SERVICES FOR THE YOUTH AND CITIZENS OF FAYETTEVILLE FOR 2004.

**WHEREAS,** providing quality recreational opportunities to the youth and other citizens of our community is of mutual interest to the City of Fayetteville and the Fayetteville Youth Center, and;

**WHEREAS,** the Fayetteville Youth Center and the City of Fayetteville have had a close working relationship for many years, and;

**WHEREAS,** this relationship allows for a continuity of services vital to the efficient provision of recreational opportunities, and;

**WHEREAS,** were it not for the services offered by the Fayetteville Youth Center, the City of Fayetteville would be required to assume the duty of providing staff, programming, promotion, and development for youth recreational services.

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

Section 1. That the City Council for the City of Fayetteville, Arkansas hereby waives the requirements of formal competitive bidding and approves a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of Two Hundred Fifty Thousand Dollars ($250,000.00) to provide public recreation services for the youth of Fayetteville for 2004. A copy of said contract marked Exhibit "A" is attached hereto and made a part hereof.

**PASSED** and **APPROVED** this 16th day of December, 2003.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

DRAFT

# CONTRACT

***Between The City of Fayetteville***
***And***
***Fayetteville Youth Center, Inc.***

**WHEREAS,** the City of Fayetteville has long been associated with and worked with the Fayetteville Youth Center, Inc. to provide public recreation for the citizens of Fayetteville; and

**WHEREAS,** the Fayetteville Youth Center, Inc. has long provided public recreation to the youth and citizens of Fayetteville; and

**WHEREAS,** it remains in the best interest of the City of Fayetteville and its citizens to provide operating, promotion and development revenues to the Fayetteville Youth Center, Inc. in consideration for the substantial recreational programs provided by the Fayetteville Youth Center, Inc. to the youth and citizens of Fayetteville.

**NOW, THEREFORE, IT IS AGREED:**

The City of Fayetteville shall provide the sum of $20,833.33 monthly to the Fayetteville Youth Center, Inc. throughout the year of 2004 in consideration of the following duties and obligations to be performed by the Fayetteville Youth Center, Inc.:

A. The Fayetteville Youth Center, Inc. promises to be jointly responsible with the Fayetteville School System to provide staffing, programming, maintenance, promotion and development for the following facilities: Asbell Gymnasium, Holcomb Gymnasium, Vandergriff Gymnasium and the main facility of the Boys and Girls Club on Rupple Road. The Fayetteville Youth Center, Inc. agrees to use funding from the City to pay for gymnasium supervisors and custodians at these sites.

B. The Fayetteville Youth Center, Inc. promises to make substantial portion of its programs or facilities available to Fayetteville citizens (the public) at little or no cost for needy youth. Although basic membership fees may be required for many Fayetteville residents, no needy youth wishing to participate at the Fayetteville Youth Center, Inc. facility shall be denied access solely because he or she does not have sufficient funds to pay for a

regular membership. The Fayetteville Youth Center, Inc. shall report on a quarterly basis the approximate number of Fayetteville Citizens served by its programs and shall include the number of "scholarships" or free memberships provided to Fayetteville citizens.

C. The Fayetteville Youth Center, Inc. shall continue to follow the general Working Procedures and Responsibilities for the City of Fayetteville Parks and Recreation Division and The Fayetteville Youth Center, Inc. which is attached as Exhibit A.

CITY OF FAYETTEVILLE

BY: _____
DAN COODY, Mayor

FAYETTEVILLE YOUTH CENTER, INC.

BY: _____

_____
Title

ATTEST:

BY: _____
Sondra Smith, City Clerk

# EXHIBIT A

## RECREATION IN FAYETTEVILLE

## WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE FAYETTEVILLE YOUTH CENTER, INC.

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Division (Parks and Recreation) and the Fayetteville Youth Center, Inc., d/b/a Fayetteville Boys and Girls Club (hereinafter FYC).

WHEREAS, the parties are two of the providers of recreational programs for the citizens of Fayetteville and wish to define a working agreement which may be revised and modified each year upon mutual agreement between the Director of Parks and Recreation and the Executive Director of the Fayetteville Boys and Girls Club; and,

WHEREAS, it is the goal of both parties to work in cooperation to enhance the recreation facilities and programs offered by the parties and to act together in meeting the needs of the citizens of Fayetteville; and,

WHERAS, increase communications and a new set of operating procedures will assist with the working relationship and will benefit both agencies and their operations; and,

WHEREAS, Parks and Recreation believes the goals of Parks and Recreation and FYC would best be accomplished by defining and streamlining responsibilities and procedures; and, is therefore recommending the merging of facility and program management for all recreation offerings, thereby providing administrative accountability for all services provided to the citizens.

NOW, THEREFORE, in order to define and improve the current working relationship between Parks and Recreation and FYC, the following set of detailed operating procedures and responsibilities are hereby established.

1. FYC will be responsible for working with the Fayetteville School System to provide staffing, programming, maintenance, promotion and development for the following facilities: Asbell Gymnasium, Holcomb Gymnasium, Vandergriff Gymnasium and the Boys and Girls Club. FYC will be responsible for the hiring, evaluating, and supervising of gymnasium supervisors and custodians at Holcomb, Asbell, and Vandergriff Gymnasiums.

2. Parks and Recreation will be responsible for providing or approving the staffing, programming, maintenance, promotion and development for the city and school parks, including the following facilities which are utilized for sport programming; Asbell Soccer/Softball Complex, Lake Fayetteville Softball Complex, Gary Hampton Softball Complex, Lewis Street Soccer Complex, Walker Baseball/Soccer Complex, White River Baseball Complex, and the Wilson Park Softball Field. Parks and Recreation shall be responsible for outdoor facilities owned or leased by the City of Fayetteville, excluding the property leased to FYC pursuant to written agreements.

3. FYC will be responsible for providing or approving the management, staffing and promotions and development of the following programs and activities. FYC will coordinate with the Fayetteville School System for use of their facilities. FYC will be responsible for the majority of sports and activities held at indoor recreation facilities, including but not limited to the following:

- Basketball
- Baton
- Camps (Environment Study, Spring Break, Christmas Break, Summer)
- Cheerleading
- Dance
- Fishing Rodeo
- Flag Football (Youth)
- Golf
- Gymnastics
- Karate
- Ping Pong
- School Kids Connection
- Swim Lessons
- Volleyball
- Tackle Football
- Track
- Special Events
- FYC will not compete/duplicate with those services listed in paragraph 4.

4. Parks and Recreation will be responsible for providing or approving the management, staffing and promotion and development of the following programs and activities. Parks and Recreation will be responsible for the majority of sports and activities held at outdoor recreation facilities, including but not limited to the following:

- Baseball
- Softball
- Flag Football (Adult)
- Hobby Use Groups
- Sand Volleyball
- Soccer
- Special Events
- Swim Lessons
- Tennis Lessons

5. FYC agrees not to establish a program that competes/duplicates with an established program provided by Parks and Recreation. Moreover, FYC agrees to provide Parks and Recreation with information relating to any of its program including roster of players, coaches, rules of the league and similar relevant data upon request by Parks and Recreation. It is the intent of both parties to work together for the common good of the citizens of Fayetteville by not providing public funding for duplicate program offerings. It is understood that FYC and Parks and Recreation both currently provide swim lessons and aquatic programs and that both parties agree to work together for the common good for both parties.

6. In the event the FYC wishes to allow program which fall in the general description of paragraph 5 above, which does not believe competes with current Parks and Recreation program, FYC will provide advance notice of intent to start the program to Parks and Recreation with time to determine whether it is a competing program or not. In the event that FYC offers a program that the Parks and Recreation believes is a duplicate program within the meaning of this document, Parks and Recreation Staff shall give FYC written notices of its assessment. FYC shall either cease operating such program within 30 days of such notice or shall provide a written response to Parks and Recreation that disputes whether such program is in fact a competing program. If FYC fails to cease such program or respond to the assessment from Parks and Recreation, the City may discontinue funding for FYC on the 31st day after such notice. If FYC files a dispute, the issue shall be resolved by City Council and finding of City Council shall be final and not subject to appeal. If FYC fails to cease operation of such a program within 30 days of a decision requiring such cessation by City Council, then the City may stop annual funding to FYC.

7. The FYC Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.

8. It is understood and agreed that the City's annual purchase of services will be negotiated on a yearly basis.

9. The FYC Board of Directors is responsible for the management and operation of the annual funding allocation to FYC from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 75 percent of the funding must be expended for promotion and development of recreation.

10. As part of the annual funding, FYC agrees to make its facilities available to residents of the City of Fayetteville for a nominal daily fee without the need to purchase a membership to the club.

11. FYC shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director on or before April of each year. Such report shall detail FYC's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated below in number 13.

12. FYC shall comply with schedules and procedures established by the Budget and Research Division of the City of Fayetteville for annual funding requests.

13. Quarterly reports will be submitted to the Parks and Recreation Director on the following dates: April 10, July 10, October 10, and January 10 (2005). These reports will detail the following performance measures:

A. Increase club membership and youth served population numbers by five percent.
B. Provide a minimum of 30 open recreation hours per week at the Donald W. Reynolds Boys and Girls club facilities.
C. Provide a minimum of 10 youth instructional/educational programs.
D. Increase participation in youth instructional/educational programs by five percent.
E. Provide a minimum of three youth sports programs.

F. Increase participation in youth sport programs by five percent.
G. Implement three customer service surveys for Boys and Girls Club programs.
H. Apply for 10 grants/major corporate sponsorships to provide additional funding to operate the Fayetteville Boys and Girls Club facilities and programs.

14. The working procedures and responsibilities contained herein shall become effective January 1, 2004.

CITY OF FAYETTEVILLE

BY: _____

Attest:

BY: _____

FAYETTEVILLE YOUTH CENTER, INC.

BY: _____

Attest:

BY: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

x AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 16, 2003

**FROM:**

| David Wright | Parks and Recreation | Operations |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** A [redacted] Ordinance to approve an agreement with the Fayetteville Boys and Girls Club to provide public recreation for the citizens of Fayetteville and to waive competition bidding for the payment to the Fayetteville Boys and Girls Club in 2004 for the provision of public recreation.

**COST TO CITY:**

| $250,000.00 | $ 250,000.00 | Transfers Youth/Adult Center |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 2250.9250.5718.00 | | Parks Development |
| 1010.6600.5718.00 | $0 | Miscellaneous Division |
| Account Number | Funds Used to Date | Program / Project Category Name |
| | | Parks Development |
| n/a | $ 250,000.00 | General |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** xx Budgeted Item ____ Budget Adjustment Attached

Budget Manager — 11-24-03 Date

**CONTRACT/GRANT/LEASE REVIEW:**

Marsha Fawthrop — 11/24/03 Date — Accounting Manager
Nancy Smith — 11/24/03 Date — Internal Auditor
D. G. White — 11/24/03 Date — City Attorney
Alice — 11/24/03 Date — Purchasing Manager

**STAFF RECOMMENDATION:** Approval of Fayetteville Boys and Girls Club agreement and to waive competitive bidding for Fayetteville Boys and Girls Club.

Connie Edmondson — 11-19-03 Date — Division Head
Larry Lemons — 11/25/03 Date — Department Director
Steph Sims — 11-25-03 Date — Finance & Internal Services Dir.
Hugh Earnest — 11-27-03 Date — Chief Administrative Officer
Dan Coody — 12/03 Date — Mayor

**Received in Mayor's Office** 11/25/03 Date P.T.

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: **Yes** No

[redacted] 11-24-03

City Council Meeting of December 16, 2003

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Gary Dumas, Director of Operations
Connie Edmonston, Director of Parks and Recreation

**From:** David Wright, Recreation Superintendent

**Date:** November 20, 2003

**Subject:** Resolution to approve the continued agreement between Parks and Recreation and the Council on Aging, Inc. to provide recreation for Citizens of Fayetteville and to waive competitive bidding for the payment to the Council on Aging, Inc. in 2004 for the provision of public recreation.

---

## RECOMMENDATION

Fayetteville Parks and Recreation Staff recommends to approve the contract with Council on Aging, Inc., to provide public recreation services for and waive competitive bid for services.

## BACKGROUND

The City of Fayetteville has provided financial support for the Council on Aging, Inc., since the Hillcrest Towers were built in 1972. This cooperative agreement between the City of Fayetteville and the Council on Aging has been very successful. The Council on Aging provides recreational programs and meets the needs of our senior citizen residents. It is the intent of both parties to work in cooperation to enhance the recreation facilities and programs in our City, and not duplicating services in efforts to spend tax payers money as effectively as possible. If the Council on Aging were not serving our senior citizen population, the City would need to assume responsibility.

## DISCUSSION

The 2004 budget includes a total of $32,900 to be transferred to the Council on Aging, Inc. Of this transfer, $24,675 comes from Parks and Recreations Division, Parks Development Program and $8,225 comes from the General Government Department, Miscellaneous Division. A resolution of contractual services, as well as an ordinance to waive competitive bidding is required. The contract outlines the services the Council on Aging, Inc., is providing to the City and the citizens of Fayetteville. We are requesting a waiver of competitive bids to secure the continuity of services provided and because the Council on Aging, Inc., has adequately served our citizens since it was created.

The agreement for 2004 is similar to the 2003 agreement. However, there is one change. In the working agreement, performance measures have been added for evaluation of the City's funding. These are listed under item number 8 in the working agreement.

If you have any questions regarding the Agenda Request or the Working Agreement, please call me at 444-3481, or email dwright@ci.fayetteville.ar.us.

**ORDINANCE NO. _____**

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE COUNCIL ON AGING IN THE AMOUNT OF THIRTY-TWO THOUSAND NINE HUNDRED DOLLARS ($32,900.00) TO PROVIDE PUBLIC RECREATION SERVICES FOR THE SENIOR CITIZENS OF FAYETTEVILLE FOR 2004.

**WHEREAS,** providing quality recreational opportunities to the senior citizens of our community is of mutual interest to the City of Fayetteville and the Council on Aging, and;

**WHEREAS,** the Council on Aging and the City of Fayetteville have had a close working relationship for more than thirty years, and;

**WHEREAS,** this relationship allows for a continuity of services vital to the efficient provision of recreational opportunities, and;

**WHEREAS,** were it not for the services offered by the Council on Aging, the City of Fayetteville would be required to assume the duty of providing staff, programming, promotion, and development for senior citizen recreational services.

**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 waives the requirements of formal competitive bidding and approves a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of Thirty-Two Thousand Nine Hundred Dollars ($32,900.00) to provide public recreation services for the senior citizens of Fayetteville for 20034 A copy of said contract marked Exhibit "A" is attached hereto and made a part hereof.

**PASSED and APPROVED** this 16th day of December, 2003.

APPROVED:

By: _____
**DAN COODY**, Mayor

ATTEST:

By: _____
**SONDRA SMITH**, City Clerk

# CONTRACT

***Between The City of Fayetteville***
***and***
***Council on Aging, Inc.***

**WHEREAS,** the City of Fayetteville has long been associate with and worked with the Council on Aging, Inc. to provide public recreation for the citizens of Fayetteville; and

**WHEREAS,** the Council on Aging, Inc. has long provided public recreation To the senior citizens of Fayetteville; and

**WHEREAS,** it remains in the best interest of the City of Fayetteville and its Citizens to provide operating, promotion and development revenues to the Council on Aging, Inc. in consideration for the substantial recreational programs provided by the Council on Aging, Inc. to the senior citizens of Fayetteville.

**NOW, THEREFORE, IT IS AGREED:**

The City of Fayetteville shall provide the sum of $2,741.66 monthly to the Council on Aging, Inc. throughout the year of 2004 in consideration of the following duties and obligations to be preformed by the Council on Aging, Inc.:

A. The Council on Aging, Inc., promises to be responsible for providing staff, programming, promotion, and development for the Hillcrest Towers and Walker Park Community Centers. The Council on Aging, Inc. agrees to use funding from the City to pay for the promotion and development of recreational programs designed specifically for senior citizens.

B. The Council on Aging, Inc. promises to make substantial portions of its programs or facilities available to Fayetteville citizens (the public) at little or no cost for the needy senior citizens. The Council on Aging, Inc. shall report on a quarterly basis the approximate number of Fayetteville citizens served by its programs.

C. The Council on Aging, Inc. shall follow the general Working Procedures and Responsibilities for the City of Fayetteville Parks and Recreation Division and the Council on Aging, Inc. which is attached as Exhibit A.

City of Fayetteville

By: _____
**DAN COODY,** Mayor

Council On Aging, Inc.

By: _____

_____
Title

ATTEST:

By: _____
Sondra Smith, City Clerk

# EXHIBIT A

## RECREATION IN FAYETTEVILLE

## WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE COUNCIL ON AGING, INC.

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Division (Parks and Recreation) and the Council On Aging (hereinafter COA).

WHEREAS, the parties are two of the providers of recreational programs for the citizens of Fayetteville and wish to define a working agreement which may be revised and modified each year upon mutual agreement between the Superintendent of the Parks and Recreation and the Executive Director of the COA; and,

WHEREAS, it is the goal of both parties to work in cooperation to enhance the recreation facilities and programs offered by the parties and to act together in meeting the needs of the citizens of Fayetteville; and,

WHEREAS, increased communications and a new set of operating procedures will assist with the working relationship and will benefit both agencies and their operations; and,

WHEREAS, Parks and Recreation believes the goals of Parks and Recreation and COA would best be accomplished by defining and streamlining responsibilities and procedures; and, is therefore recommending the merging of facility and program management for all recreation offerings, thereby providing administrative accountability for all services provided to the citizens.

NOW, THEREFORE, in the order to define and improve the current working relationship between Parks and Recreation and COA, the following set of detailed operating procedures and responsibilities are hereby established.

1. COA will be responsible for providing staffing, programming, promotion and development of recreational programs for senior citizens which includes, but not limited to, recreational trips, arts and crafts, music and games.

2. Parks and Recreation will be responsible for providing or approving the staffing, programming, maintenance, promotion and development of the parks systems within the city and the recreational events occurring within the city for all ages.

3. The COA Executive Director and Parks and Recreation Superintendent shall have periodic meetings to ensure communication between the two entities.

4. It is understood and agreed that the City's annual purchase of services will be negotiated on a yearly basis. COA shall provide liability insurance for vehicles provided by the City of Fayetteville.

5. The COA Board of Directors is responsible for the management and operation of annual funding allocation to COA from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 75 percent of the funding must be expended for promotion and development of recreation.

6. COA shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director on or before April of each year. Such report shall detail COA's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated in number eight (8).

7. COA shall comply with the schedules and procedures established be the Budget & Research Division of the City of Fayetteville for annual funding requests.

8. Quarterly reports will be submitted to the Parks and Recreation Director on, or before, the following dates: April 10, July 10, October 10, and January 10 (2005). These reports will detail the following performance measures:

A. Increase the amount of adult citizens served yearly by five percent.
B. Provide 10 educational/recreational programs at the Community Adult Center and Fayetteville Senior Center.
C. Provide more than 200 meals per day in the meals on wheels program.
D. Provide community education through public relations and marketing by producing a marketing flyer for senior citizens and the general public.

9. The working procedures and responsibilities contained herein shall become effective January 1, 2004.

City of Fayetteville

By: _____
**DAN COODY,** Mayor

Council On Aging, Inc.

By: _____

_____
Title

ATTEST:

By: _____
Sondra Smith, City Clerk

STAFF REVIEW FORM - FINANCIAL OBLIGATION

x AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: December 16, 2003

**FROM:**

| David Wright | Parks and Recreation | Operations |
|---|---|---|
| Name | Division | Department |

**ACTION REQUIRED:** A~~resolution~~ ordinance to approve an agreement with the Council on Aging, Inc., to provide public recreation for the citizens of Fayetteville and to waive competition bidding for the payment to the Council on Aging, Inc., in 2004 for the provision of public recreation.

**COST TO CITY:**

| $32,900.00 | $ $32,900.00 | Transfers Youth/Adult Center |
|---|---|---|
| Cost of this request | Category/Project Budget | Program Category / Project Name |
| 2250.9250.5718.00=24675<br>1010.6609.5718.00=8225 | # #<br>$ - | Parks Development<br>Administration/Rec Programs |
| Account Number | Funds Used to Date | Program / Project Category Name |
| n/a | $ $32,900.00 | Parks Development<br>General |
| Project Number | Remaining Balance | Fund Name |

**BUDGET REVIEW:** xx Budgeted Item ___ Budget Adjustment Attached

Budget Manager — Date: 11.24.03

**CONTRACT/GRANT/LEASE REVIEW:**

Accounting Manager — Date: 11/24/03
Internal Auditor — Date: 11/24/03
City Attorney — Date: 11/24/03
Purchasing Manager — Date: 11/24/03

**STAFF RECOMMENDATION:** Approval of Council on Aging, Inc., agreement and to waive competitive bidding for Council on Aging, Inc.

Division Head — Date: 11-21-03
Department Director — Date: 11/25/03
Finance & Internal Services Dir. — Date: 11-25-03
Chief Administrative Officer — Date: 11-27-03
Mayor — Date: 12/3/03

**Received in Mayor's Office** — Date: 11/25/03 pH

Cross Reference:

Previous Ord/Res#: ___

Orig. Contract Date: ___

Orig. Contract Number: ___

New Item: **Yes** **No**

ENTERED 11-24-03

# CITY COUNCIL AGENDA MEMO

**To:** Mayor Coody and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

**From:** Dawn T. Warrick, AICP, Zoning and Development Administrator

**Date:** November 25, 2003

**Subject**: Repeal Ordinance No. 4518 (ANX 03-04.00)

---

## RECOMMENDATION

Planning Staff recommends approval of an ordinance repealing Ordinance No. 4518 which annexed approximately 1.08 acres into the City.

## BACKGROUND

The subject property is located on the north side of Mt. Comfort Rd. west of Rupple Rd. There is one duplex on the site. Surrounding properties are undeveloped. Owners of property to the north and west are also seeking annexation and rezoning at this time. Future development plans include a phase of Clabber Creek subdivision to the east, a church to the north and a single family subdivision to the west. The subject property is not included in proposed future development proposals and was only considered for annexation in order to eliminate the creation of an island which would be surrounded by the City.

## DISCUSSION

Ordinance No. 4518 was approved by the City Council on October 7, 2003. At the same time, two adjacent properties were also being considered for annexation, 18.38 acres to the west owned by James Coger and 3.95 acres to the north owned by Shiloh Community Church. At the City Council meeting, the church was permitted to withdraw its annexation request. Mr. Coger's property was annexed by Ordinance No. 4517.

The information that was included on materials submitted to the Washington County Clerk for consideration of the annexation in preparation of an order of annexation (release) which was approved by Judge Hunton was not properly processed at that level. The Stephens' name was not included in the original petition as a property owner and the legal description for this property was altered between county and city actions. Because of these procedural defaults, the County Attorney, Mr. George Butler has deemed this annexation void. It is appropriate therefore, for the City to repeal the annexation ordinance in order to clear the record and to properly reflect the status of this property as being located within Washington County and not within the corporate City Limits of Fayetteville.

## BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE REPEALING ORDINANCE NO. 4518 FOR THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF 1.08 ACRES LOCATED NORTH OF MT. COMFORT ROAD AND WEST OF RUPPLE ROAD OWNED BY CAROL STEPHENS.

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

Section 1. That the City Council hereby repeals 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 above described property is hereby located within the Planning Area of the City of Fayetteville, Arkansas.

**PASSED AND APPROVED** this ____ day of _____, 2003.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

DRAFT

**EXHIBIT "A"**
**ANX 03-04.00**

A PART OF THE FRACTIONAL N ½ OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SW ¼ OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST, THENCE S03°03'28"W 882.42 FEET TO A FOUND IRON PIN, AND THE POINT OF BEGINNING; THENCE S87°07'12"E 191.63 FEET, THENCE S03°01'57"W 244.64 FEET; THENCE N87°07'12"W 192.31 FEET; THENCE N03°11'30"E 244.64 FEET, TO THE POINT OF BEGINNING, CONTAINING 46,964 SQUARE FEET OR 1.08 ACRES MORE OR LESS, AND BEING SUBJECT TO THE RIGHT OF WAY OF MT. COMFORT ROAD ALONG THE SOUTH SIDE THEREOF AND ANY EASEMENTS, COVENANTS OR RETSRICTIONS OF RECORD OR FACT.

FILED

# ORDINANCE NO. 4518

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF 1.08 ACRES LOCATED NORTH OF MT. COMFORT ROAD AND WEST OF RUPPLE ROAD OWNED BY CAROL STEPHENS.

**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. Four.

**PASSED AND APPROVED** this the 7th day of October, 2003.

APPROVED:

By: _____
**Dan Coody, Mayor**

ATTEST:

By: _____
**Sondra Smith, City Clerk**

FILED
03 OCT 24 AM 9 23

Doc ID: 006635820002 Type: REL
Recorded: 10/24/2003 at 09:15:01 AM
Fee Amt: $11.00 Page 1 of 2
Washington County, AR
Bette Stamps Circuit Clerk
File 2003-00055993

**EXHIBIT "A"**
**ANX 03-04.00**

A PART OF THE FRACTIONAL N ½ OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SW ¼ OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST, THENCE S03°03'28"W 882.42 FEET TO A FOUND IRON PIN, AND THE POINT OF BEGINNING; THENCE S87°07'12"E 191.63 FEET, THENCE S03°01'57"W 244.64 FEET; THENCE N87°07'12"W 192.31 FEET; THENCE N03°11'30"E 244.64 FEET, TO THE POINT OF BEGINNING, CONTAINING 46,964 SQUARE FEET OR 1.08 ACRES, MORE OR LESS, AND BEING SUBJECT TO THE RIGHT OF WAY OF MT. COMFORT ROAD ALONG THE SOUTH SIDE THEREOF AND ANY EASEMENTS, COVENANTS OR RETSRICTIONS OF RECORD OR FACT.

RECEIVED
NOV 19 2003
PLANNING DIV.

GEORGE E. BUTLER JR.
County Attorney

# WASHINGTON COUNTY. ARKANSAS
## County Courthouse

280 North College, Suite 400
Fayetteville, AR 72701

November 18, 2003

Geoffrey Bates
4102 Ettington Drive
Rogers, AR 72758

Kit Williams, City Attorney
City Administration Building
113 W. Mountain
Fayetteville, AR 72701

City of Fayetteville, Planning Department
City Administration Building
113 W. Mountain
Fayetteville, AR 72701

RE: CC 2003-8; Coger, and CC 2003-7; Shiloh/Stephens
Annexations to the City of Fayetteville Filed by Geoffrey Bates

Ladies and Gentlemen:

This letter is to advise you of problems with the above stated annexations.

This should not have happened; henceforth, no order of annexation will be signed without first confirming that the legal description is the same in the petition notice and the proposed order. Furthermore, annexations to the City will be void if the City, in its accepting ordinance, changes the legal description.

It is my opinion that these two (2) annexations are in fact void, despite my decision to amend the County Court order in the Coger annexation to comport with the City's accepting ordinance.

Clearly, the Shiloh/Stephens annexation is void. Case law indicates that these can be attacked at any time as they void "ab initio"; that is, there is no statute of limitations.

Petitioners or their representatives must get their legal descriptions cleared by the City before they file a petition and notice with the County Clerk and present any documents to the County Judge for signature.

The Clerk is required to send these annexations to the Secretary of State and the Public Service Commission, and also to other agencies such as Northwest Arkansas Regional Planning.

The conflicting legal descriptions are going to have a ripple effect and create quite a bit of havoc, affecting such things as elections, assessed value, millage rollbacks, reappointment, and census data.

Attached hereto is a summary of the defects in the two (2) annexations; note, as I said earlier, the description in the Coger case has been amended to reflect the legal description as set out in the City's ordinance but other discrepancies still exist, as per the drawing attached hereto.

I would implore the Planning Department of the City of Fayetteville to not change any legal descriptions; if you think the description is wrong, please advise the petitioner of such and require them to start the process from scratch.

Please do not hesitate to contact me if you have any questions.

Sincerely,

George E. Butler, Jr.
County Attorney

GEB:ja

Encl. (3)

Cc: Jerry Hunton, County Judge
Karen Combs, County Clerk

**CC2003-8 Annex to Fay – Petitioner James Coger**
**Filed by Geoffrey Bates - Engineer (4/14/03) 750-2920**

790 - 4350

**Legal Description on Order of Annexation different from Legal on Fayetteville City Ordinance #4517**

**County Court Order of Annex also reflects 18.35 acres & Fay City Ord reflects 18.38 acres**

**Rene stated the Original legal on this one did not close & the City's GIS dept found error & Geoffrey Bates had to prepare another legal. THE COUNTY WAS NEVER NOTIFIED OF THE CORRECTION IN THE LEGAL DESCRIPTION.**

# Per Rene Thomas (575-8264) at City of Fayetteville Planning on 10/24/03

**CC2003-7 Annex to Fay – Petitioner Shiloh Community Church**
**Filed by Geoffrey Bates - Engineer (4/14/03) 750-2920**

**Legal Description on Petition for Annex, Notice of Hearing & Proof of Publication all reflected 5.0 acres**

**Decree of Annex filed on 5/19/03 had a different legal with 18.35 acres**
**Corrected Decree of Annexation on 6/3/03 had even another different legal with 3.89 acres**

**Fay City Ord #4518 had a totally different legal with 1.08 acres & the name of Carol Stephens attached.**

**Rene stated that the Shiloh Community Church was not annexed but Carol Stephens' property was annexed instead. She was not even listed on the original Petition for annex that was filed & the proof of publication was published under Shiloh Community Church with the 5. 0 acres.**

James Cogen



FILED
'03 OCT 30 PM 3 36
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

Memorandum

To: Washington County Clerk
280 North College, Suite 300
Fayetteville, AR 72701
ATTN: Karen Combs Pritchard

From: Jack Hemphill
Northwest Arkansas Regional Planning Commission
1311 A Clayton
Springdale, AR 72762

Date: October 28, 2003

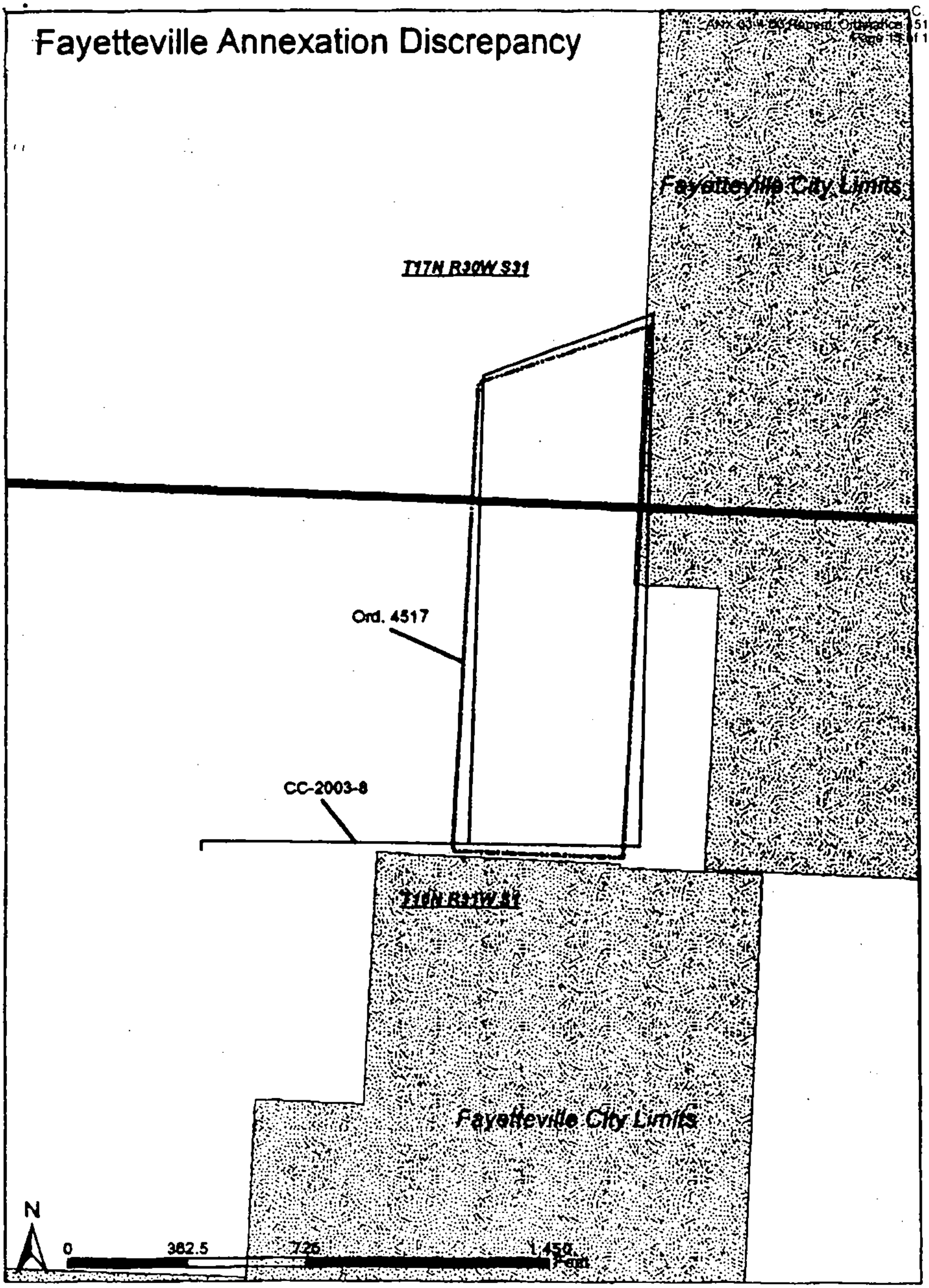
RE: CC-2003-8 and Fayetteville Annexation Ordinance No. 4517 Discrepancy.

I have reviewed the legal description for CC-2003-~~15~~ 8 and the Fayetteville Ordinance No. 4517. It appears that the legal descriptions are for the same piece of property from separate surveys.

Included is a map plotting both legal descriptions.

| Post-it® Fax Note 7671 | Date 10-30-01 | # of pages ▶ 2 |
|---|---|---|
| To Karen Pritchard | From Jack Hemphill | |
| Co./Dept. Co. Clerk | Co. NWARPC | |
| Phone # | Phone # | |
| Fax # 444-1894 | Fax # | |

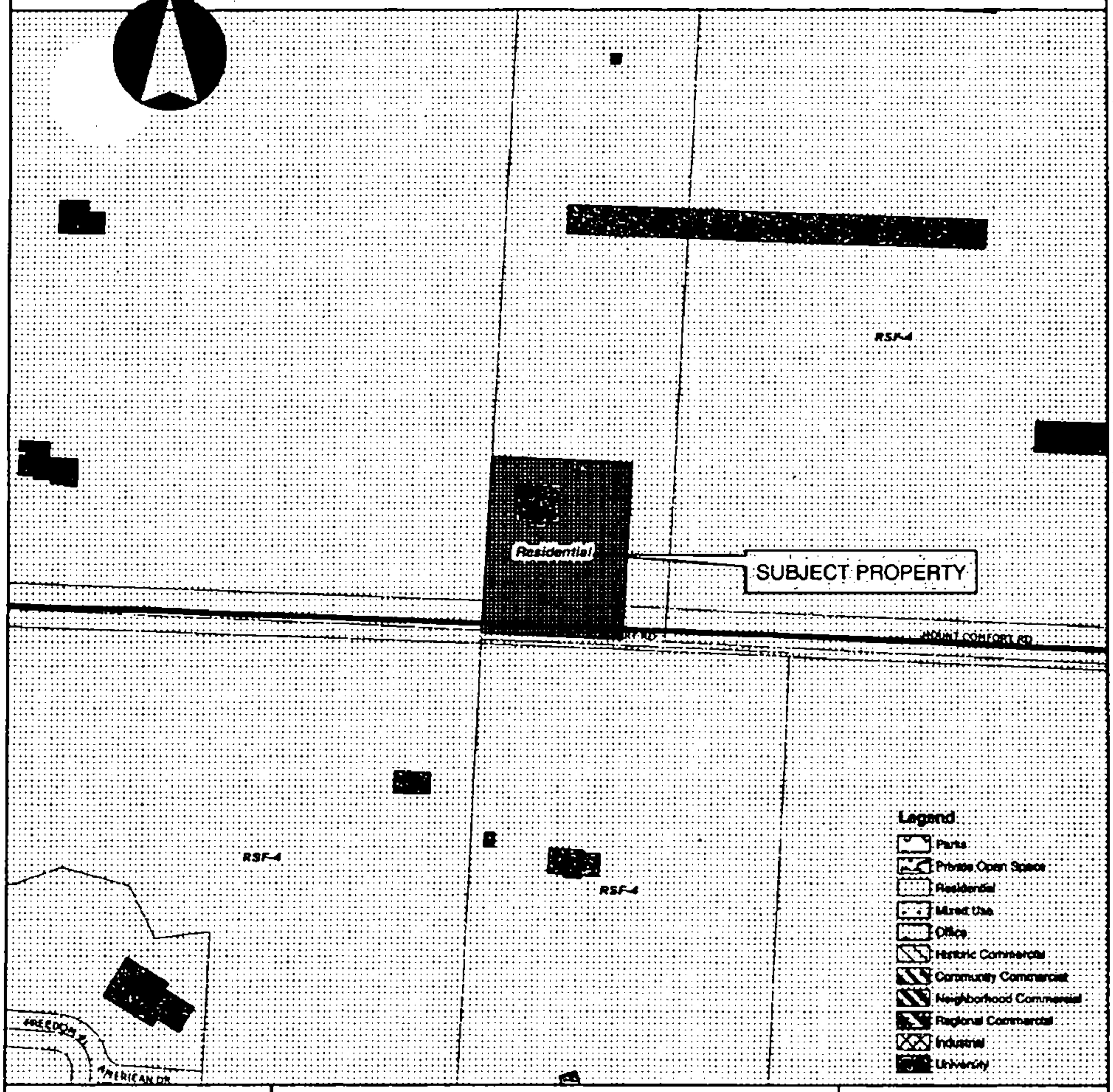
# Fayetteville Annexation Discrepancy



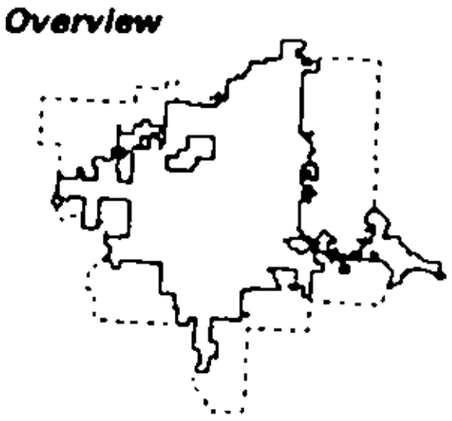
RZN03-27.00

# STEPHENS

***Future Land Use***




***Overview***



***Legend***

**Subject Property**

RZN03-27.00

**Streets**

Existing

Planned

**Boundary**

Planning Area

Overlay District

City Limits

Outside City

**Master Street Plan**

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

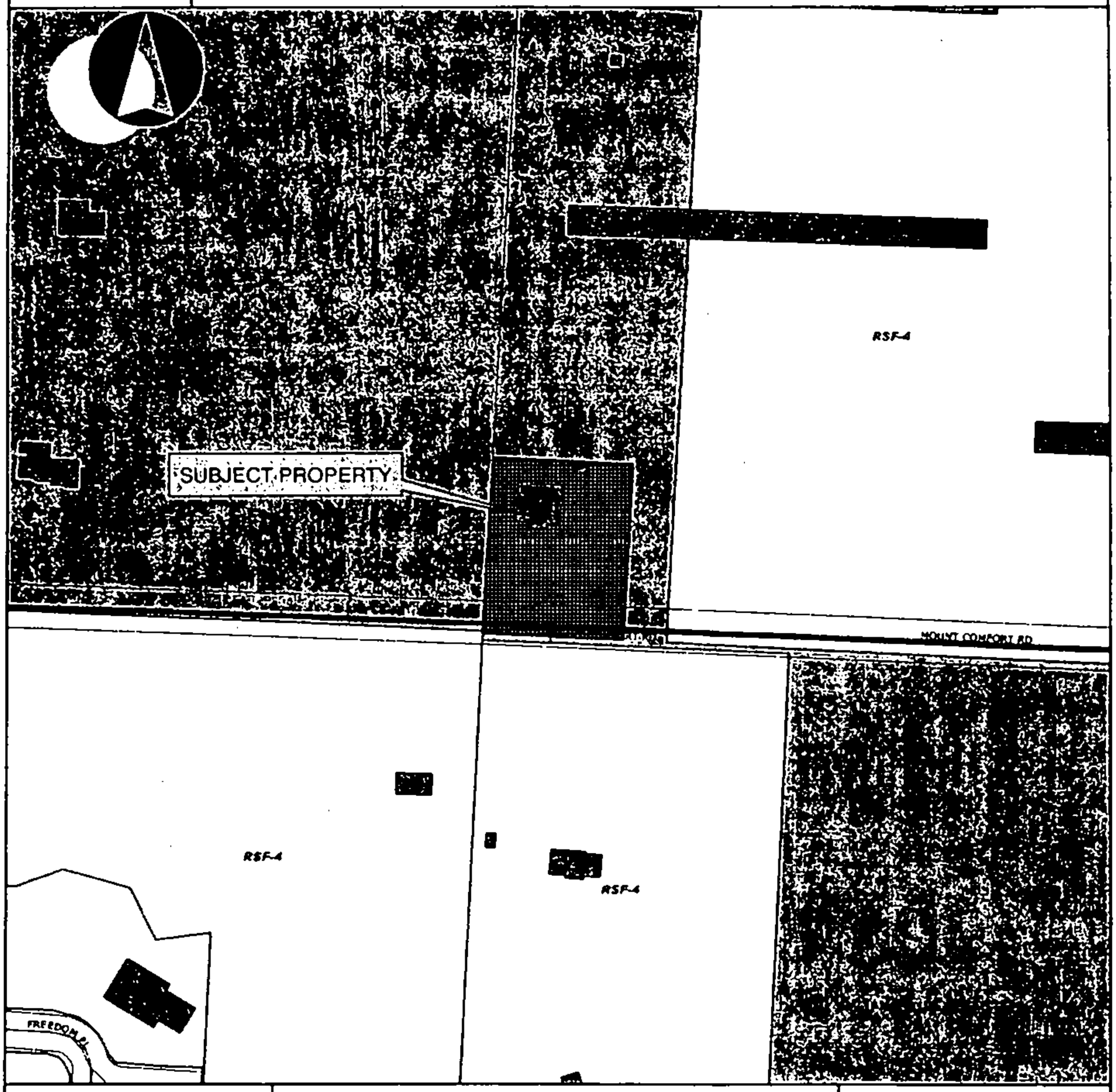
0 75 150 300 450 600

Feet

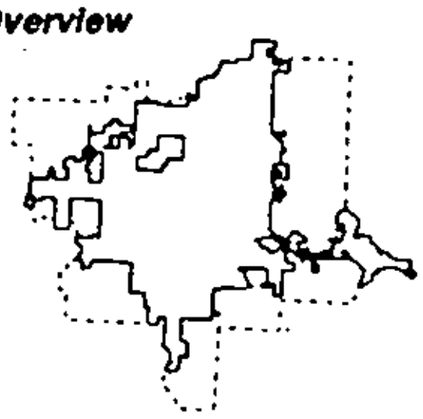
RZN03-27.00

*Close Up View*

# STEPHENS




*Overview*



***Legend***

**Subject Property**

RZN03-27.00

**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 75 150 300 450 600

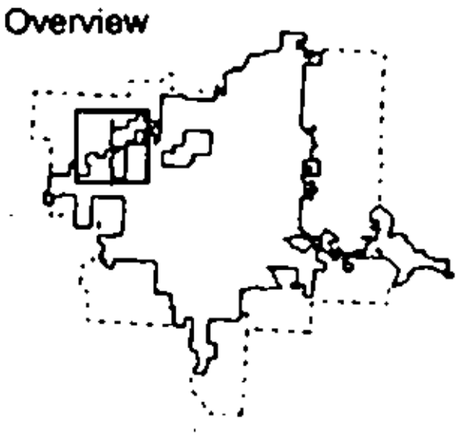
Foot

RZN03-27.00

One Mile View

# STEPHENS

Overview



Legend

Subject Property
- RZN03-27.00

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

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: December 16, 2003

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

An ordinance repealing Ordinance No. 4518 approved October 7, 2003 for ANX 03-04.00 as submitted by Geoff Bates of Keystone Consultants on behalf of Carol Stephens for property located at 4270 Mt. Comfort Road and containing approximately 1.08 acres.

STAFF RECOMMENDATION:
Staff recommends approval.

Dawn L Warrick 11/25/03
Division Head Date

11/26/03
City Attorney Date

11-25-03
Department Director Date

12-1-03
Finance & Internal Services Dir. Date

Hugh Ernst 11-27-03
Chief Administrative Officer Date

Mayor Date

Received in Mayor's Office 11/27/03 P.M.
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

CERTIFIED 1-26-04

# CITY COUNCIL AGENDA MEMO

**To:** Mayor Coody and City Council

**Thru:** Tim Conklin, Community Planning and Engineering Services Director

**From:** Dawn T. Warrick, AICP, Zoning and Development Administrator

**Date:** November 25, 2003

**Subject:** Rezoning request for the City of Fayetteville (R-A to RSF-4)

---

## RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 1.95 acres of property from R-A, Residential Agricultural to RSF-4, Residential single family 4 units/acre.

## BACKGROUND

*Property description:* The subject property is 1.95 acres zoned R-A, Residential Agricultural. It is bordered to the north by the Planning Area and to the south, east and west by the proposed Stonebridge Meadows Phase II subdivision, which is zoned RSF-4, Single-family residential - 4 units/acre. This tract of land was dedicated to the City of Fayetteville as park land for Stonebridge Meadows Phase I. Meadows Enterprises, Inc. requested to rezone the property surrounding this tract of land from R-A to RSF-4 following the dedication. Planning Commission recommended approval of the rezoning on April 14, 2003, and the City Council approved it on May 6, 2003. A PPL for Stonebridge Meadows Phase II was submitted on September 22, 2003, and with this submittal the applicant requested that the park land dedication for Stonebridge Meadows Phase I and Phase II be combined into one 5.45 acre tract of land east of the existing 1.95 acre park. The 1.95 acre tract is proposed to be deeded back to Meadows Enterprises, Inc. with final plat approval for Stonebridge Meadows Phase II at which time it is intended to be used for single-family residential lots according to the approved preliminary plat. In order for this to take place, the land must be rezoned from R-A to RSF-4.

*Proposal:* The applicant proposes to rezone the 1.95 acre tract in anticipation of exchanging land with Meadows Enterprises, Inc. If this occurs, the land will be developed as part of the Stonebridge Meadows Phase II subdivision. The requested zoning will provide for additional residential development at a maximum density of 4 units per acre.

## DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on Monday, November 24, 2003.

**BUDGET IMPACT**

None.

**ORDINANCE NO. _____**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 03-37.00 AS SUBMITTED BY THE CITY OF FAYETTEVILLE FOR PROPERTY LOCATED SOUTH OF GOFF FARM ROAD AND EAST OF STONEBRIDGE MEADOWS.

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

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

**From R-A, Residential Agricultural to RSF-4, Residential Single-Family, Four Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.**

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

**PASSED AND APPROVED this _____ day of _____, 2003.**

**APPROVED:**

**By:_____**
**DAN COODY, Mayor**

**ATTEST:**

**By: _____**
**Sondra Smith, City Clerk**

DRAFT

**EXHIBIT "A"**
**RZN 03-37.00**

PART OF THE SW ¼ OF SECTION 19, TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING IN THE SOUTHWEST CORNER OF SAID SECTION 19, THENCE NORTH 0°07'06" WEST 1321.99 FEET; THENCE EAST 614.37 FEET TO THE POINT OF BEGINNING: THENCE SOUTH 89°57'06" EAST 566.28 FEET; THENCE SOUTH 150.00 FEET; THENCE NORTH 89°57'06" WEST 566.28 FEET; THENCE NORTH 150.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.95 ACRES, MORE OR LESS.

DRAFT

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of November 24, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

## PLANNING DIVISION CORRESPONDENCE

| | |
|---|---|
| TO: | Fayetteville Planning Commission |
| FROM: | Dawn Warrick, Zoning & Development Administrator, AICP |
| THRU: | Tim Conklin, AICP, Community, Planning & Engineering Services Director |
| DATE: | November 19, 2003 |

**RZN 03-37.00: Rezoning (City of Fayetteville, pp 608)** was submitted by City of Fayetteville for property located off Goff Farm Road. The property is zoned R-A, Residential Agricultural, and contains approximately 1.95 acres. The request is to rezone the property to RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

**RECOMMENDATION:**

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

| | | | |
|---|---|---|---|
| **PLANNING COMMISSION ACTION:** | **Required** | **YES** | |
| | **Ø Approved** | | **⊙ Denied** |
| **Date: November 24, 2003** | Bunch/Shackelford 2 9-0 | | |
| **CITY COUNCIL ACTION:** | **Required** | **YES** | |
| | **⊙ Approved** | | **⊙ Denied** |
| **Date: _____ (1st reading if recommended)** | | | |

**Comments:** _____

**BACKGROUND:**

*Property description:* The subject property is 1.95 acres zoned R-A, Residential Agricultural. It is bordered to the north by the Planning Area and to the south, east and west by the proposed Stonebridge Meadows Phase II subdivision, which is zoned RSF-4, Single-family residential - 4 units/acre. This tract of land was dedicated to the City of Fayetteville as park land for Stonebridge Meadows Phase I. Meadows Enterprises, Inc. requested to rezone the property surrounding this tract of land from R-A to RSF-4 following the dedication. Planning

Commission recommended approval of the rezoning on April 14, 2003, and the City Council approved it on May 6, 2003. A PPL for Stonebridge Meadows Phase II was submitted on September 22, 2003, and with this submittal the applicant requested that the park land dedication for Stonebridge Meadows Phase I and Phase II be combined into one 5.45 acre tract of land east of the existing 1.95 acre park. The 1.95 acre tract is proposed to be deeded back to Meadows Enterprises, Inc. with final plat approval for Stonebridge Meadows Phase II at which time it is intended to be used for single-family residential lots according to the approved preliminary plat. In order for this to take place, the land must be rezoned from R-A to RSF-4.

If the City Council denies this request to rezone the property, PPL 03-17.00 Stonebridge Meadows Phase II shall be resubmitted as a preliminary plat showing the 1.95 acre tract zones as Residential Agricultural.

*Proposal:* The applicant proposes to rezone the 1.95 acre tract in anticipation of exchanging land with Meadows Enterprises, Inc. If this occurs, the land will be developed as part of the Stonebridge Meadows Phase II subdivision. The requested zoning will provide for additional residential development at a maximum density of 4 units per acre.

*Request:* The request is to rezone the subject property from R-A, Residential Agricultural to RSF-4, Residential Single-family - 4 units per acre.

**SURROUNDING LAND USE AND ZONING**

| Direction | Land Use | Zoning |
|---|---|---|
| North | Rural / Agricultural | Planning Area |
| South | Proposed Residential Single-family | RSF-4, Residential Single-family – 4 units per acre |
| East | Proposed Park Land Dedication | RSF-4, Residential Single-family – 4 units per acre |
| West | Proposed Residential Single-family | RSF-4, Residential Single-family – 4 units per acre |

**INFRASTRUCTURE:**
Access to the site is from River Meadows Drive, an undeveloped road which has been identified on the plans for Stonebridge Meadows Phase II Subdivision preliminary plat. Access to existing water and sewer facilities will be available to the site with the development of the subdivision.

**LAND USE PLAN:** General Plan 2020 designates this site Residential. Rezoning this property to RSF-4, Residential Single-family – 4 units per acre, is consistent with the land use plan and compatible with surrounding land uses in the area.

## FINDINGS OF THE STAFF

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

**Finding:** **The proposed rezoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans. Surrounding properties are residential or agricultural in nature. The subject property provides for an extension of an existing single family subdivision and potentially a larger tract of park land for the surrounding subdivisions.**

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 because it is consistent with the surrounding property recently rezoned RSF-4 and the City's adopted General Plan 2020. Because of previous action taken on the property, it is currently identified as Open Space on the Future Land Use Map.**

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

**Finding:** **The maximum development allowable on the property if rezoned will be seven single family homes. Therefore, the proposed rezoning will slightly increase the amount of traffic generated by the property. This increase should not create or 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:** **This property is within the City's service area.**

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;

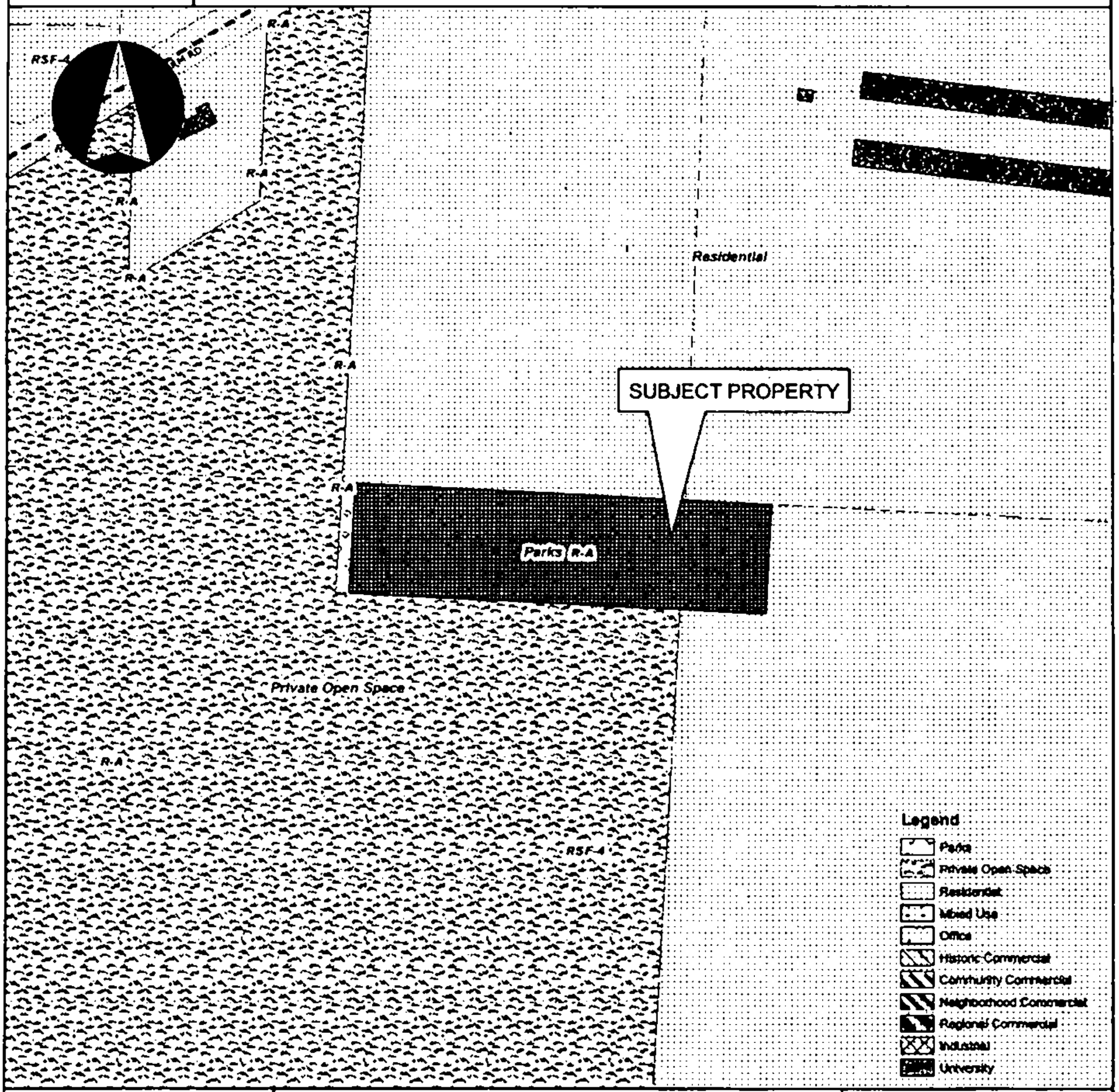
   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

**Finding:** **N/A**

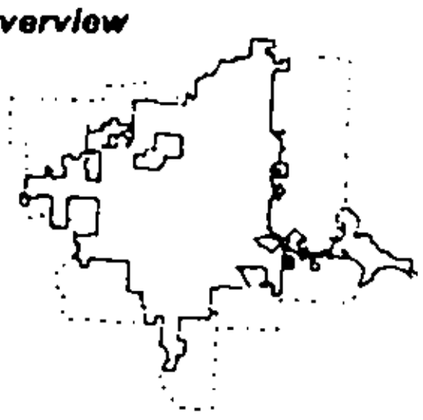
RZN03-37.00

*Future Land Use*

# CITY OF FAYETTEVILLE




*Overview*



*Legend*

Subject Property

RZN03-37.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

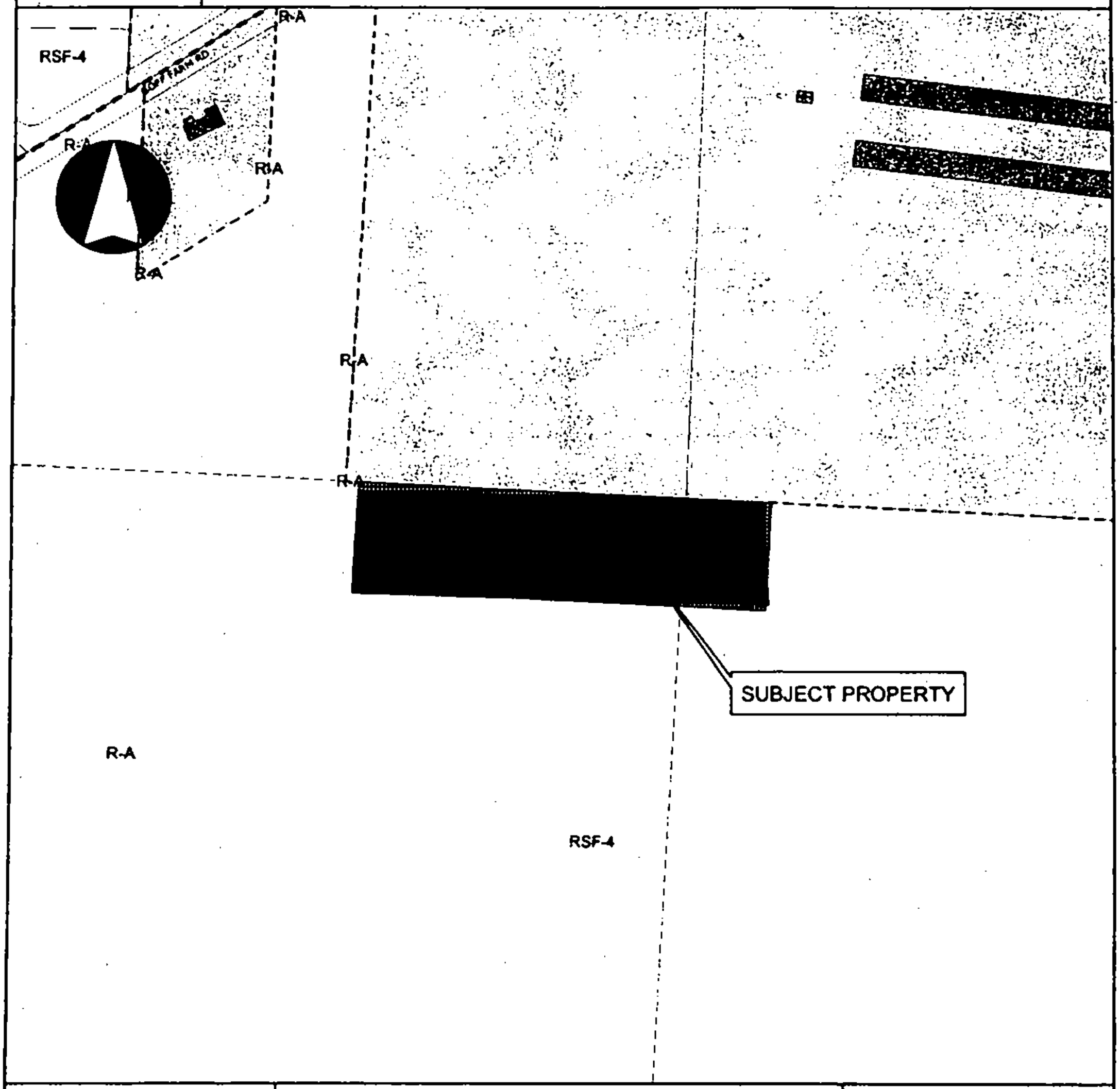
0 75 150 300 450 600

Feet

RZN03-37.00

*Close Up View*

# CITY OF FAYETTEVILLE




*Overview*

*Legend*

**Subject Property**
RZN03-37.00

**Streets**
Existing
Planned

**Boundary**
Planning Area
Overlay District
City Limits
Outside City

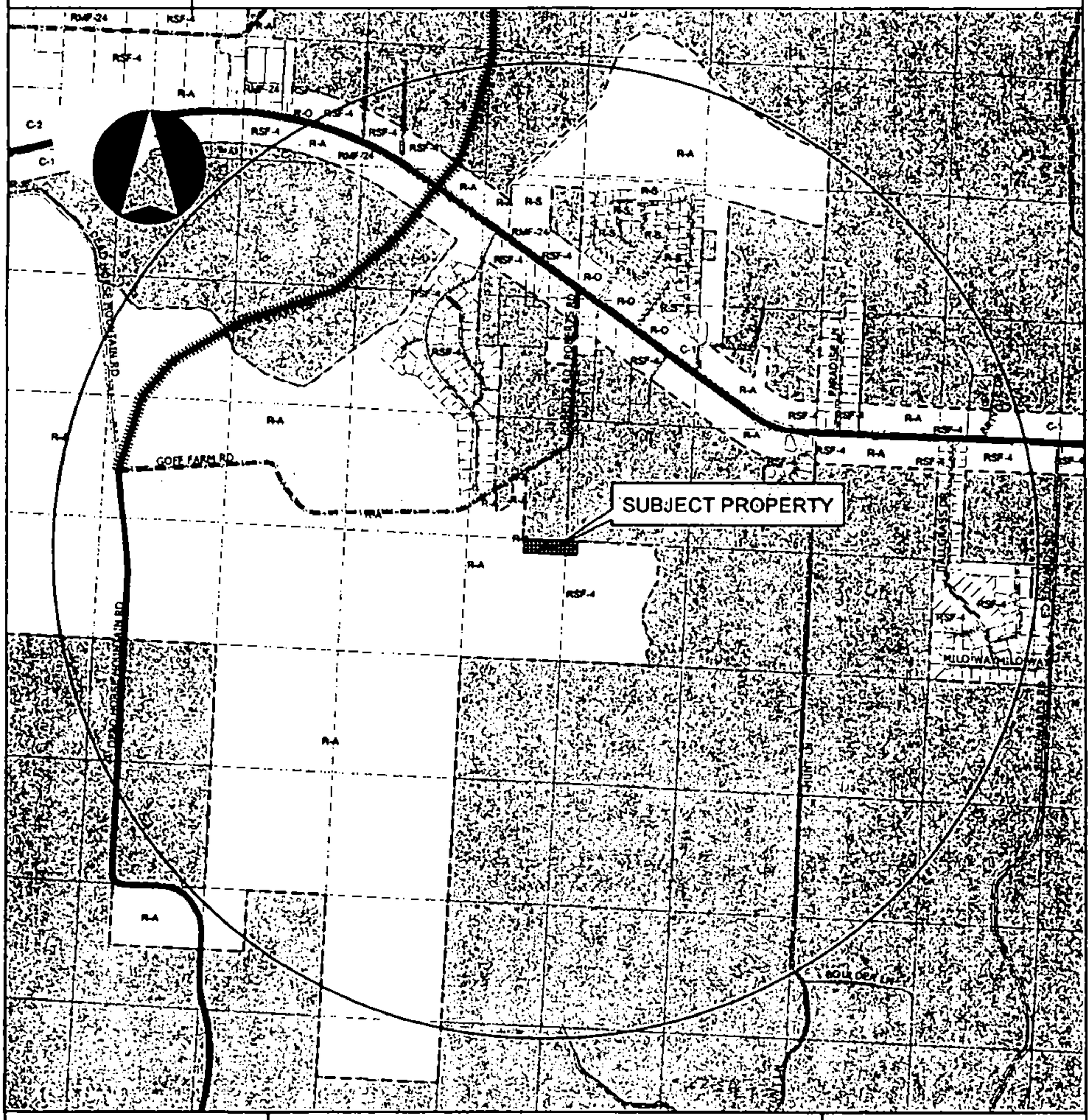
**Master Street Plan**
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 75 150 300 450 600
Feet

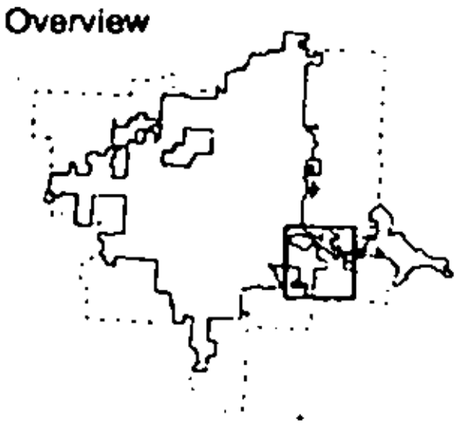
RZN03-37.00

One Mile View

# CITY OF FAYETTEVILLE




Overview



Legend

Subject Property
RZN03-37.00

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

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: December 16, 2003

FROM:

| Dawn Warrick | Planning | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 03-37.00 was submited by the City of Fayetteville for property located south of Goff Farm Road and east of Stonebridge Meadows. The property is currently zoned R-A, Residential Agricultural, and contains approximately 1.95 acres. The request is to rezone the property to RSF-4, Residential Single Family, four units per acre.

STAFF RECOMMENDATION: Approval

Dawn T. Warrick 11/25/03
Division Head Date

11.26.03
City Attorney Date

11-25-03
Department Director Date

12-1-03
Finance & Internal Services Dir. Date

11-27-03
Chief Administrative Officer Date

12/03/03
Mayor Date

Received in Mayor's Office 11/27/03 pm
Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

RECEIVED
11-26-03

City Council Meeting of December 16, 2003

# CITY COUNCIL AGENDA MEMO

**To:** Mayor and City Council

**Thru:** Hugh Earnest, Chief Administrative Officer

**From:** Tim Conklin, Community Planning and Engineering Services Director T.C.

**Date:** November 25, 2003

**Subject:** Traffic & Transportation Study
Final Submittal

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## RECOMMENDATION

Staff recommends that City Council accept the Traffic & Transportation Study dated October 2003 as prepared by Bucher, Willis & Ratliff (BWR).

## BACKGROUND

The Traffic & Transportation Study was "kicked off" with a Public Workshop held in the Town Center on January 29th. The Notice to Proceed was issued earlier in October 2002 and the consultant was busy collecting traffic and population data prior to conducting the workshop. Citizen input gathered at the workshop was used as a framework to guide the consultant in specific areas of resident concern.

Public Meetings were held on June 26th, August 18th, and August 26th for the consultant to present their findings and receive additional citizen comment. A final detailed workshop was held with City Council on October 20th to review the entire Traffic & Transportation Study with emphasis on the Master Street Plan, proposed typical sections, intersection and roadway deficiencies, and proposed improvements to mitigate the identified traffic deficiencies.

## DISCUSSION

Staff recommends accepting the Traffic & Transportation Study as prepared and submitted by BWR. In the future, staff will prepare ordinances based on the policies drafted by BWR and incorporated within the study. Staff will present individual ordinances and policies to City Council for approval covering ***Access Management***, ***Development Assessment***, ***Traffic Calming*** and ***Smart Growth***. Staff will also finalize

the ***Master Street Plan*** developed by BWR and also present this to City Council for adoption.

## BUDGET IMPACT

The act of accepting the Traffic & Transportation Study will not generate any immediate expenditure of funds. However, ***Chapter 4, Implementation***, has already been used by City staff in the development of the 2004 - 2008 Capital Improvement Program.

Future implementation of the recommended Traffic Calming Policy may necessitate creation of a budget to administer the program, e.g. performing traffic counts, speed studies, traffic studies; installation of signs; construction of speed humps, traffic diverters, and etc. as outlined in ***Appendix C: Residential Traffic Calming Toolbox*** or to set aside a portion of the CIP budget for this program.

**RESOLUTION NO. _____**

A RESOLUTION ACCEPTING THE TRAFFIC AND TRANSPORTATION STUDY DATED OCTOBER, 2003 AND PREPARED BY BUCHER, WILLIS & RATLIFF.

**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 accepts the traffic and transportation study as submitted and attached to this document as Exhibit "A".

**PASSED** and **APPROVED** this _____ day of December, 2003

APPROVED:

By: _____
DAN COODY, MAYOR

ATTEST:

By: _____
SONDRA SMITH, CITY CLERK

DRAFT

# STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: December 16, 2003

FROM:

| Tim Conklin, AICP | Comm. Planning & Eng. Svcs. | CP&E |
|---|---|---|
| Name | Division | Department |

ACTION REQUIRED: Resolution Approval

SUMMARY EXPLANATION:

To adopt a resolution to formally accept the Traffic and Transportation Study as prepared by Bucher, Willis & Ratliff.

STAFF RECOMMENDATION: Approval

Division Head — Date

City Attorney — 11/26/03 Date

Department Director — 11-25-03 Date

Finance & Internal Services Dir. — 12-1-03 Date

Chief Administrative Officer — 11-27-03 Date

Mayor — 12/03/03 Date

Received in Mayor's Office 11/27/03 Date P.H

Cross Reference:

Previous Ord/Res#: 164-02

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No x

ENTERED 11-26-03

City Council Meeting of December 16, 2003

**CITY COUNCIL AGENDA MEMO**

To: Mayor and City Council

From: Chris Bosch, Fire Chief CB

Date: December 1, 2003

Subject: Resolution approving the purchase of one E-One Fire Pumper through LEECO Fire Equipment.

## RECOMMENDATION

The Fire Department recommends approval of a resolution, which provides for the purchase of a new Fire Apparatus. This apparatus has been budgeted in the 2004 CIP.

## BACKGROUND

In 2003, the Fire Department requested and received Council approval for the purchase of three fire pumpers and one ladder unit with E-One Fire Apparatus, through LEECO Fire Equipment. Inc. At that time, the Department also requested permission to enter into a long-term bid waver for future purchase of fire apparatus, in an effort to establish consistency in the current fleet. As part of this program, the Fire Department has planned for the replacement of one fire apparatus each year, through the annual Capital Improvements Budget, which is funded through the sale tax capital fund.

## DISCUSSION

The Fire Department is requesting approval of this purchase, at this time, in an effort to lock-in the 2004 purchase and secure 2003 pricing. This piece of equipment will assist the Fire Department by allowing for the replacement of an additional apparatus, as planned in the apparatus purchase plan, which was presented in the spring of 2003.

## BUDGET IMPACT

The 2004 cost of this piece of equipment, which was budgeted in the upcoming Capital Improvements Budget is $365,026.62; however, the 2003 price of this apparatus is $347,645.83. By contracting to purchase this apparatus on or before December 19, 2003, the Fire Department can save $17,380.79 on the overall cost. The funds saved through this endeavor can then be utilized for other projects in the 2004 CIP.

# LEECO, Inc.

Fire Equipment Sales
P.O. BOX 210
HIGHWAY 124 EAST
DAMASCUS, AR 72039

America's E-ONE Fire Truck

800-233-5053
Office 501-335-7111
Fax 501-335-7458


November 26, 2003

Fire Chief Chris Bosch
**CITY OF FAYETTEVILLE**
Fire Department
113 West Mountain
Fayetteville, Arkansas 72701

Dear Chief Bosch:

Thank you for your interest in E-ONE fire apparatus. As you know, the trucks that you have on order are currently being equipped here at LEECO, INC., and we anticipate delivering them to you soon. I have attached a photograph of a pumper for your inspection and enjoyment.

We have attached complete specifications and proposals/contracts for one or two more pumpers identical to this one. The price difference from $346,880.83 each to $347,645.83 each reflects the additional $765.00 equipment that your Fire Department has requested.

Please be aware, that the pricing for $347,645.83 for one pumper and $695,291.66 for the purchase of two pumpers can remain firm only until December 19, 2003. At that time, we expect a price increase of approximately 5% per our original agreement. Purchase of these pumpers on or before that date would assure the City of Fayetteville, Arkansas a savings of $17,380.79 for the purchase of one pumper and $34,761.58 for the purchase of two pumpers. As you can see, this is substantial savings for the City.

If you should need additional information, or have any questions, please do not hesitate to contact me at your convenience.

Sincerely,

Mrs. Carolyn S. Lee
Mrs. Carolyn S. Lee, Owner
LEECO, INC. – E-ONE Dealer

CSL:lm
Attachments

# CONTRACT PURCHASE AGREEMENT

This agreement is made this _____ day of _____, 2003, by and between LEECO, INC. Fire Equipment, 1408 Highway 124 East, P. O. Box 210, Damascus, Arkansas 72039 (hereinafter "Company") and the City of Fayetteville, 113 West Mountain, Fayetteville, Arkansas 72701 (hereinafter "Buyer").

1. **Purchase.** The Company agrees to sell, and the Buyer agrees to purchase, ONE (1) Emergency One, Inc. (E-ONE) Custom Pumper and equipment as described in the Company's Proposal and the Specifications attached hereto and hereby incorporated by reference (the "Apparatus"), all in accordance with the terms and conditions of this Agreement. Any changes to the Specifications or pricing attached hereto will be executed by the Company only if documented and signed by both parties.

2. **Delivery**. The Apparatus shall be delivered to the Company's staging area, in approximately 230 calendar days after execution of this Agreement by Buyer and the receipt and execution of same by the Company at its offices in Damascus, Arkansas. It is agreed that such delivery is subject to delays caused by strikes, inability to obtain materials, and other causes beyond the control of the manufacturer (E-ONE).

3. **Price.** Buyer agrees to pay a Purchase Price of Three hundred Forty Seven Thousand, Six-Hundred Forty Five Dollars and Eighty Three Cents ($347,645.83). This Purchase Price is exclusive of all Federal, State or local taxes of any nature after completion of the necessary paperwork, and will remain firm only until December 19, 2003. Buyer agrees that the terms of payment shall be cash/check due upon delivery and acceptance at the City of Fayetteville, Arkansas.

4. **Title.** The ownership and risk of loss shall pass from Company to Buyer upon delivery and acceptance of the apparatus. The Buyer further agrees that the Apparatus will not be placed in active service until the full purchase price has been paid to the Company. Title will be issued to the Buyer after payment has been made and the appropriate paperwork is returned to manufacturer (E-ONE) for issuance of proper MSO.

5. **Warranty.** The Company warrants each new item of Apparatus manufactured by it against defects in material and workmanship, for a period of one year from the date of delivery. Certain additional extended warranties are applicable to certain components of the Apparatus as described in the Statements of Warranty previously provided to the Buyer. This warranty is in favor of the original user/purchaser, in accordance with the Apparatus Builder (E-ONE) preprinted Statements of Warranty which are attached to the Agreement or have otherwise been delivered to Buyer. With respect to any item of Apparatus that are not manufactured by the Apparatus Builder (E-ONE), such items shall not be warranted by the Company but shall be subject to the warranty provided by the manufacturer.

6. **Entire Agreement.** This Agreement, including its attachments and exhibits, constitutes the entire understanding between the parties relating to the subject matter contained herein. No agent or representative of the Company has authority to make any representations, statements, warranties or agreements not herein expressed and all modifications or amendments of this agreement, including its attachments and exhibits, must be in writing signed by an authorized representative of each of the parties.

**IN WITNESS WHEREOF**, The Company and the Buyer have caused this Agreement to be executed by their duly authorized representatives as of the date set forth by each.

**CITY OF FAYETTEVILLE, ARKANSAS**

By:_____

Title:_____

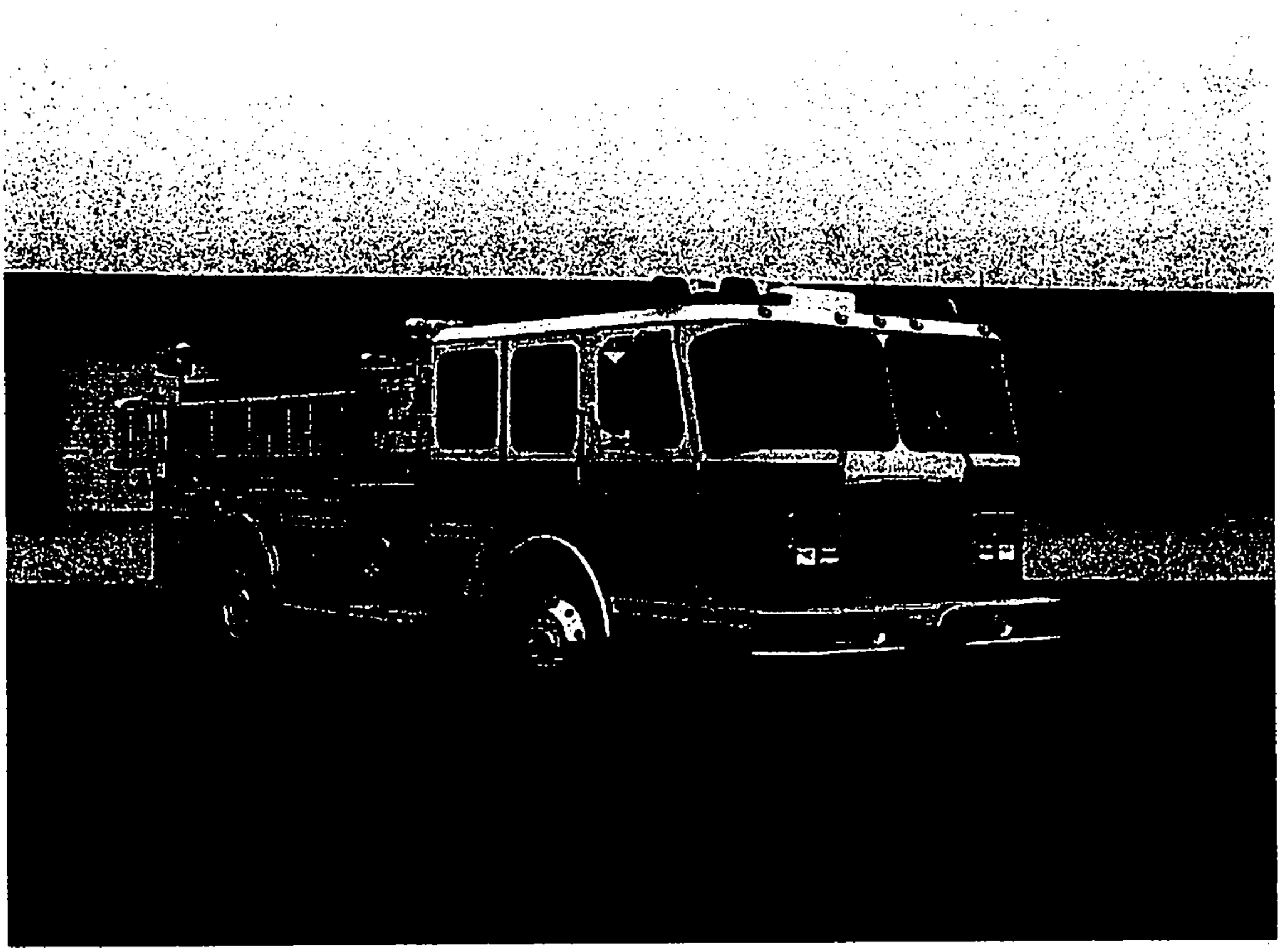
Date:_____

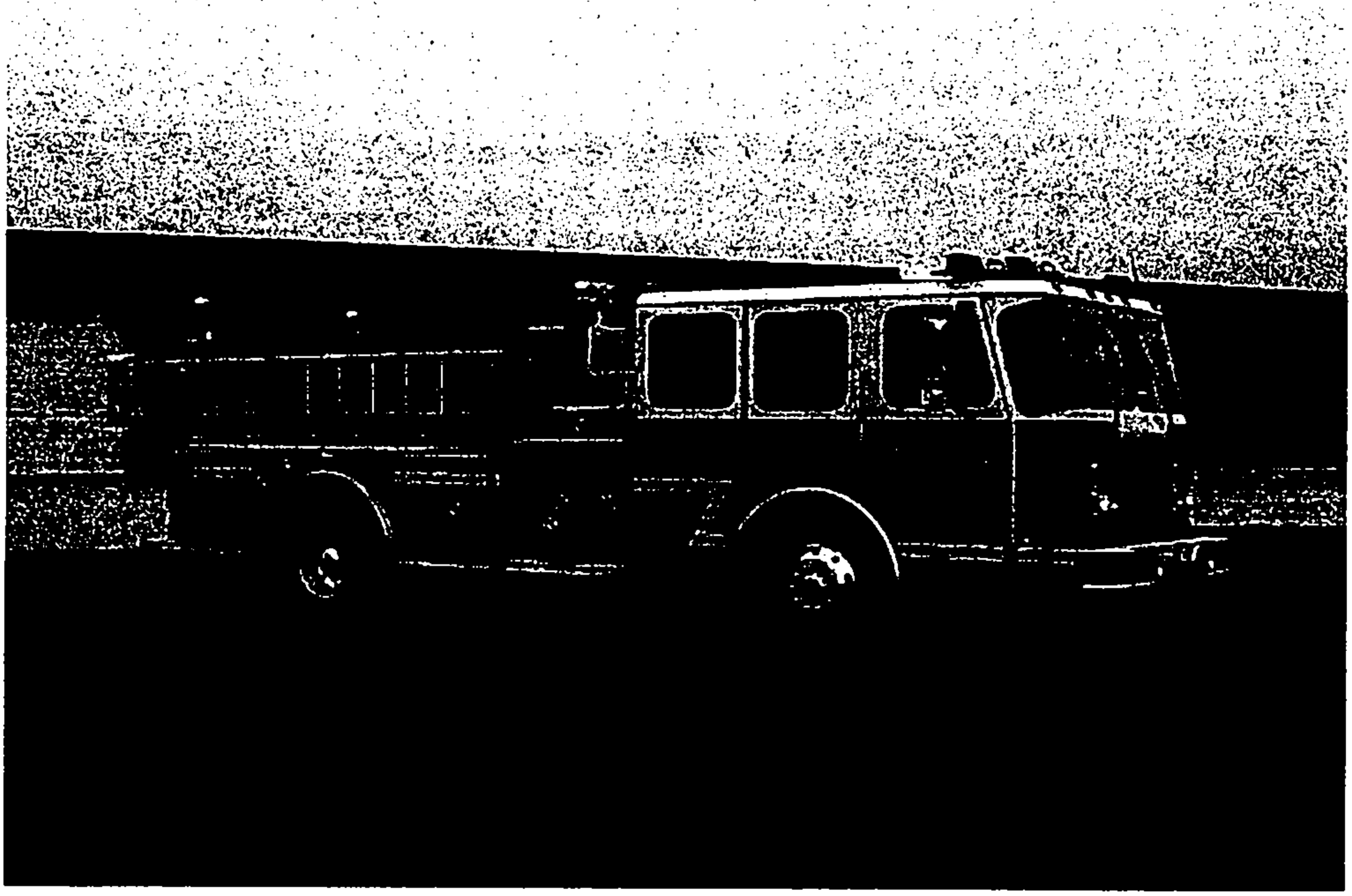
**LEECO, INC. Fire Equipment Sales**

By:_____

Title:_____

Date:_____





# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DATE: **December 17, 2003**

RE: **Passed Resolutions and Ordinances from City Council meeting of December 16, 2003**

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

Enclosed are:

1. **Vanco Engineering Flash Mixer Purchase for Noland Plant:** Resolution approving purchase of a flash mixer for Noland Wastewater Treatment Plant in amount of $21,310.00 from lowest qualified bidder, Vanco Engineering Company; and approving budget adjustment in amount of $55,000.00 for same;

2. **EDC Corp. Bid Award and Contract approval:** Resolution approving contract w/EDC Corp for AIMS Parking Management System in amount of $34,357.26 w/project contingency of $3,435.74 and approval of budget adjustment in amount of $37,793.00;

3. **Jim Black Contract:** Resolution awarding a contract to Jim Black in amount of $31,719.00 to operate Lake Fayetteville Boat Dock for calendar year 2004, with five one-year renewal options;

4. **Green Anderson Contract Amendment – Installation of Emergency Generator for City Administration Building:** Resolution approving amendment #1 w/Green Anderson Engineers, Inc. in amount of $3,100.00 for engineering services related to design of standby emergency generator system for City Administration Building;

5. **Jerry Sweetser Construction Contract:** Resolution approving construction contract w/Jerry E. Sweetser, Inc. in amount of $397,868.25 for construction of Broyles Road from Wedington Drive to Persimmon Place Subdivision; approving 15% contingency in amount of $59,680.75; and approving budget adjustment in amount of $457,549.00 for same;

6. **Waiver of Building Permit Fees and Development Fees for Habitat for Humanity:** Resolution waiving building permit fee and other developmental fees for homes constructed by Habitat for Humanity;

7. **ADM 03-29.00 Master Street Plan Amendment – Cliffs Blvd.:** Resolution approving amendment to Master Street Plan relocating Cliffs Blvd. and reducing it to a collector street between Hwy. 265 and Starr Dr. as shown on Exhibit "A";

8. **Hay Group Salary Survey:** Resolution adopting most of Hay Group's recommendations in the 2003 Compensation Practices Update with exception that percentages within the 2003 Merit Matrix remain the same; implementing 50% of the recommended increase in matrix for uniformed employees in January 2004 and the remaining 50% in January 2005 and implementing all of recommended increase for non-uniformed employees in January 2004;

9. **2004 Annual Budget:** Resolution adopting proposed 2004 annual budget and work program as amended and the 2004-2008 Capital Improvement Program;

10. **OMI Contract Amendment #10:** Resolution approving Amendment #10 to contract w/OMI in amount of $4,373,573.00 for operation and management of Fayetteville Wastewater Treatment Plant for 2004;

11. **Boys & Girls Club Agreement and Bid Waiver:** Ordinance waiving formal competitive bidding and approving contract between City of Fayetteville and Fayetteville Youth Center, Inc. in amount of $250,000.00 to provide public recreation services for youth and citizens of Fayetteville for 2004;

12. **Council on Aging Agreement and Bid Waiver:** Ordinance waiving requirement of formal competitive bidding and approving contract between City of Fayetteville and Council on Aging in amount of $32,900.00 to provide public recreation services for senior citizens of Fayetteville for 2004;

13. **ANX 03-4.00 – Repeal Stephens Annexation:** Ordinance repealing Ordinance No. 4518 for annexation to City of Fayetteville of 1.08 acres located north of Mt. Comfort Road and west of Rupple Road, owned by Carol Stephens;

14. **RZN 03-37.00:** Ordinance rezoning property described in Rezoning Petition RZN 03-37.00 as submitted by City of Fayetteville for property located south of Goff Farm Road and east of Stonebridge Meadows;

15. **Traffic & Transportation Study:** Resolution accepting Traffic and Transportation Study dated October 2003 and prepared by Bucher, Willis & Ratliff;

16. **LEECO Fire Equipment:** Resolution approving purchase of one Emergency One, Inc. pumper apparatus from LEECO, Inc. in amount of $347,645.83; and approving budget adjustment in amount of $377,646.00 for same.

**Tentative Agenda**
**For**
**City Council Meeting**
**December 16, 2003**

A meeting of the Fayetteville City Council will be held on December 16, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Fayetteville Natural Heritage Committee Presentation.**

**A. CONSENT:**

1. **Approval Of The Minutes:** Approval of the October 21, 2003, November 18 and December 2, 2003 meeting minutes.

2. **Vanco Engineering Flash Mixer Purchase for the Noland Plant:** A resolution approving the purchase of a flash mixer for the Noland Wastewater Treatment Plant in the amount of $21,310.00 from the lowest qualified bidder, Vanco Engineering Company; and approving a budget adjustment in the amount of $55,000.00 for same.

3. **EDC Corporation Bid Award No. 03-68 and Contract Approval:** A resolution to approve a contract with EDC Corporation for the AIMS Parking Management System in the amount of $34,357.26, with a project contingency of $3,435.74, and approval of a budget adjustment in the amount of $37,793.00.

4. **Jim Black Contract - Operation of the Lake Fayetteville Boat Dock:** A resolution awarding a contract to Jim Black in the amount of $31,719.00 to operate the Lake Fayetteville Boat Dock for calendar year 2004, with five one-year renewal options.

5. **Green Anderson Contract Amendment – Installation of an Emergency Generator for City Administration Building:** A resolution to approve amendment # 1 of the agreement with Green Anderson Engineers, Inc. in the amount of $ 3,100.00 for engineering services related to design of a standby emergency generator system for the City Administration Building.

6. **Jerry Sweetser Construction Contract – Construction of Broyles Road:** A resolution approving a construction contract with Jerry D. Sweetser, Inc. in the amount of $397,868.25 for the construction of Broyles Road from Wedington Drive to Persimmon Place Subdivision; approving a 15% project contingency in the amount of $59,680.75; and approving a budget adjustment in the amount of $457,549.00 for same.

## B. OLD BUSINESS:

1. **ADM 03-29.00 Amend Master Street Plan – Cliffs Boulevard Eastern Extension:** A resolution approving an amendment to the Master Street Plan relocating Cliffs Boulevard and reducing it to a collector street between Highway 265 and Starr Drive as shown on Exhibit A.

2. **Hay Group Salary Survey: A resolution:** A resolution adopting the Hay Group's recommendation in the 2003 compensation practices update; implementing 50% of the recommendation in January 2004 and the remaining 50% in January 2005.

3. **2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.
   ***This Resolution was tabled at the November 18, 2003 City Council meeting until the December 2, 2003 City Council meeting.***
   ***This resolution was tabled at the December 2, 2003 City council meeting to the December 16, 2003 City Council meeting.***

## C. NEW BUSINESS:

1. **OMI Contract Amendment No. 10:** A resolution approving Amendment No. 10 to the contract with Operations Management International (OMI) in the amount of $4,373,573.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2004.

2. **Fayetteville Boys and Girls Club Agreement to Provide Public Recreation:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2004.

3. **Council on Aging Agreement and Bid Waiver to Provide Public Recreation for the Citizens of Fayetteville:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $32,900.00 to provide public recreation services for the senior citizens of Fayetteville for 2004.

4. **ANX 03-4.00 – Repeal Ordinance 4518 Carol Stephens Annexation:** An ordinance repealing Ordinance No. 4518 for the annexation to the City of Fayetteville, Arkansas, of 1.08 acres located north of Mt. Comfort Road and west of Rupple Road owned by Carol Stephens

5. **RZN 03-37.00 – Stonebridge Meadows:** An ordinance rezoning that property described in rezoning petition RZN 03-37.00 as submitted by the City of Fayetteville for property located south of Goff Farm Road and east of Stonebridge Meadows.

6. **Traffic and Transportation Study:** A resolution accepting the traffic and transportation study dated October, 2003 and prepared by Bucher, Willis & Ratliff.

7. **LEECO Fire Equipment:** A resolution approving the purchase of one E-One Fire Pumper from LEECO Fire Equipment in the amount of $347,645.83

**D. INFORMATIONAL:**

**Council Tour: December 15, 2003**

**Citizen Survey Distribution**

# Tentative Agenda
# For
# City Council Meeting
# December 16, 2003

A meeting of the Fayetteville City Council will be held on December 16, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Fayetteville Natural Heritage Committee Presentation at the City Council Meeting.**

**A. CONSENT:**

1. **Approval Of The Minutes:** Approval of the October 21, 2003, November 18 and December 2, 2003 meeting minutes.

**B. OLD BUSINESS:**

(3) 1. **2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program. ***This Resolution was tabled at the November 18, 2003 City Council meeting until the December 2, 2003 City Council meeting. This resolution was tabled at the December 2, 2003 City council meeting to the December 16, 2003 City Council meeting.***

(1) ~~2.~~ **ADM 03-29.00 Amend Master Street Plan – Cliffs Boulevard Eastern Extension:** A resolution approving ADM 03-29.00 amending the Master Street Plan by removing the Eastern extension of Cliffs Blvd. between Crossover Road and Starr Drive.

(2) Hay

**C. NEW BUSINESS:**

1. **OMI Contract Amendment No. 10:** A resolution approving Amendment No. 10 to the contract with Operations Management International (OMI) in the amount of $4,373,573.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2004.

Consent 2. **Vanco Engineering Flash Mixer Purchase for the Noland Plant:** A resolution approving the purchase of a flash mixer for the Noland Wastewater Treatment Plant in the amount of $21,310.00 from the lowest qualified bidder, Vanco Engineering Company; and approving a budget adjustment in the amount of $55,000.00 for same.

Consent 3. **EDC Corporation Bid Award No. 03-68 and Contract Approval:**

Consent

4. **Jim Black Contract for the Operation of the Lake Fayetteville Boat Dock:**

Consent

5. **Fayetteville Boys and Girls Club Agreement to Provide Public Recreation:**

6. **Council on Aging Agreement and Bid Waiver to Provide Public Recreation for the Citizens of Fayetteville:**

7. **RZN 03-37.00** Ord

~~8. Right of Way Sign at Dickson and St Charles Street:~~

9. **Traffic and Transportation Study:**

Old Business

10. **Hay Group Salary Survey**

11. **ANX 03-4.00**

~~12. Township Builders~~

13. **Leeco Fire Equipment**

Consent Check w/ Fire

~~14. Green Anderson Contract Amendment – Installation of an Emergency Generator for City Administration Building:~~

Kit has

~~15. Council on Aging – Operation of Fayetteville Senior Center:~~

Consent

16. **Jerry Sweetser Construction Contract:**

## D. INFORMATIONAL:

**Council Tour: December 15, 2003**

Citizen Survey Distribution