

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

---

## FINAL AGENDA CITY COUNCIL JANUARY 16, 2001

A meeting of the Fayetteville City Council will be held on January 16, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street Fayetteville, Arkansas.

### A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES:** Approval of the minutes from the December 19, 2000 City Council Meeting.
2. **BID 00-79:** A resolution awarding a contract to Harrison Davis Construction Co. of Fayetteville for their low bid of \$1,982,600.00 for the construction of the Fayetteville Senior Center. An approval of a budget adjustment in the amount of \$78,083.00 which is funded by the Council on Aging.
3. **LAND PURCHASE:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Rosie Dorsey, Rowie Howard, William Barker and Alice McClelland for the purchase of 18.88 acres of land off Huntsville Road in the amount of \$151,000.
4. **GRANT APPLICATION:** A resolution authorizing the Mayor to apply for a federal grant to continue funding of the 4<sup>th</sup> Judicial District Drug Task Force.

### B. OLD BUSINESS

1. **RZ00-25.00:** An ordinance approving rezoning request RZ00-25.00 as submitted by Dennis Caudle for property located at 1192 Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial. This ordinance was left on the first reading at the January 2, 2001.

**C. NEW BUSINESS**

1. **FIRST NIGHT:** A resolution approving a budget adjustment in the amount of \$15,000.
2. **FOI:** Informational item on the Freedom of Information Act.
3. **INTERIM CITY ATTORNEY:** Interviews with Interim City Attorney candidates.

city council 1/16/00

|          |   |  |  |  |  |
|----------|---|--|--|--|--|
|          |   |  |  |  |  |
| Thiel    | ✓ |  |  |  |  |
| Young    | ✓ |  |  |  |  |
| Zurcher  | ✓ |  |  |  |  |
| Trumbo   | ✓ |  |  |  |  |
| Davis    | ✓ |  |  |  |  |
| Santos   | ✓ |  |  |  |  |
| Jordan   | ✓ |  |  |  |  |
| Reynolds | ✓ |  |  |  |  |
| Coody    | ✓ |  |  |  |  |

|                |                        |  |  |  |  |
|----------------|------------------------|--|--|--|--|
| <u>Consent</u> | RZ<br>BD.              |  |  |  |  |
| Thiel          | <del>✓</del> abstained |  |  |  |  |
| Young          | ✓                      |  |  |  |  |
| Zurcher        | ✓                      |  |  |  |  |
| Trumbo         | ✓                      |  |  |  |  |
| Davis          | ✓                      |  |  |  |  |
| Santos         | ✓                      |  |  |  |  |
| Jordan         | ✓                      |  |  |  |  |
| Reynolds       | ✓                      |  |  |  |  |
| Coody          |                        |  |  |  |  |

7-0-1



|           |               |      |  |  |  |
|-----------|---------------|------|--|--|--|
| R200-2500 | cy 310<br>KS. | PASS |  |  |  |
| Thiel     | ✓             | ✓    |  |  |  |
| Young     | ✓             | ✓    |  |  |  |
| Zurcher   | ✓             | ✓    |  |  |  |
| Trumbo    | ✓             | ✓    |  |  |  |
| Davis     | ✓             | ✓    |  |  |  |
| Santos    | ✓             | ✓    |  |  |  |
| Jordan    | ✓             | ✓    |  |  |  |
| Reynolds  | ✓             | ✓    |  |  |  |
| Coody     |               |      |  |  |  |

8-0.

6-2-0.

|               |           |  |  |  |  |
|---------------|-----------|--|--|--|--|
| 1st<br>NIGHT. | KS<br>LG. |  |  |  |  |
| Thiel         | ✓         |  |  |  |  |
| Young         | ✓         |  |  |  |  |
| Zurcher       | ✓         |  |  |  |  |
| Trumbo        | ✓         |  |  |  |  |
| Davis         | ✓         |  |  |  |  |
| Santos        | ✓         |  |  |  |  |
| Jordan        | ✓         |  |  |  |  |
| Reynolds      | ✓         |  |  |  |  |
| Coody         |           |  |  |  |  |

8-0.

| <i>crim attorney</i> | <i>Executive Summary</i><br><i>RD RZ</i> | <i>CS # 165000</i><br><i>BT</i> | <i>Kit Williams</i><br><i>BT</i> |  |  |
|----------------------|------------------------------------------|---------------------------------|----------------------------------|--|--|
| Thiel                | ✓                                        | ✓                               | ✓                                |  |  |
| Young                | ✓                                        | ✓                               | ✓                                |  |  |
| Zurcher              | ✓                                        | ✓                               | ✓                                |  |  |
| Trumbo               | ✓                                        | ✓                               | ✓                                |  |  |
| Davis                | ✓                                        | ✓                               | ✓                                |  |  |
| Santos               | ✓                                        | ✓                               | ✓                                |  |  |
| Jordan               | ✓                                        | ✓                               | ✓                                |  |  |
| Reynolds             | ✓                                        | ✓                               | ✓                                |  |  |
| Coody                |                                          |                                 |                                  |  |  |

8-0-0. 5-3-0. 8-0-

|          |  |  |  |  |  |
|----------|--|--|--|--|--|
|          |  |  |  |  |  |
| Thiel    |  |  |  |  |  |
| Young    |  |  |  |  |  |
| Zurcher  |  |  |  |  |  |
| Trumbo   |  |  |  |  |  |
| Davis    |  |  |  |  |  |
| Santos   |  |  |  |  |  |
| Jordan   |  |  |  |  |  |
| Reynolds |  |  |  |  |  |
| Coody    |  |  |  |  |  |

admitted  
10:45.

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## FINAL AGENDA CITY COUNCIL JANUARY 16, 2001

A meeting of the Fayetteville City Council will be held on January 16, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street Fayetteville, Arkansas.

### A. CONSENT AGENDA

- PASS*  
*Remain* → ①
1. **APPROVAL OF THE MINUTES:** Approval of the minutes from the December 19, 2000 City Council Meeting.
- 4-01
2. ✓ **BID 00-79:** A resolution awarding a contract to Harrison Davis Construction Co. of Fayetteville for their low bid of \$1,982,600.00 for the construction of the Fayetteville Senior Center. An approval of a budget adjustment in the amount of \$78,083.00 which is funded by the Council on Aging.
- 5-01
3. ✓ **LAND PURCHASE:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Rosie Dorsey, Rowie Howard, William Barker and Alice McClelland for the purchase of 18.88 acres of land off Huntsville Road in the amount of \$151,000.
- 6-01
4. ✓ **GRANT APPLICATION:** A resolution authorizing the Mayor to apply for a federal grant to continue funding of the 4<sup>th</sup> Judicial District Drug Task Force.

### B. OLD BUSINESS

- PASS*  
*4287*
1. ✓✓✓ **RZ00-25.00:** An ordinance approving rezoning request RZ00-25.00 as submitted by Dennis Caudle for property located at 1192 Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial. This ordinance was left on the first reading at the January 2, 2001.



C. NEW BUSINESS

*PAGS*  
*7-01*  
*No action*

1. **FIRST NIGHT:** A resolution approving a budget adjustment in the amount of \$15,000.
2. **FOI:** Informational item on the Freedom of Information Act.
3. **INTERIM CITY ATTORNEY:** Interviews with Interim City Attorney candidates.

**MINUTES OF A MEETING  
OF THE  
FAYETTEVILLE CITY COUNCIL  
DECEMBER 19, 2000**

A meeting of the Fayetteville City Council was held on December 19, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**PRESENT:** Mayor Hanna, Aldermen Reynolds, Austin, Davis, Trumbo, Daniel, Santos, Young, and Russell, City Attorney Jerry Rose, City Clerk Heather Woodruff, Staff, Press, and Audience.

**EMPLOYEE OF THE MONTH**

Mr. Steven Hale was awarded employee of the month.

**EMPLOYEE OF THE YEAR**

Ms. Debbie Bryan was awarded employee of the year.

**CONSENT AGENDA**

**MINUTES**

Approval of the minutes from the November 21, 2000 City Council meeting.

**WILSON PARK POOL**

A resolution awarding Bid No. 00-75A to Heckathorn Construction for the Wilson Park Pool Improvements Project. The construction costs are \$258,263 plus a project contingency amount of \$28,737. The total amount requested is \$287,000 with an attached budget adjustment.

*RESOLUTION 163-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**MCCLELLAND ENGINEERS**

A resolution approving an amendment to the engineering contract with McClelland Consulting Engineers to extend the contract an additional year; Task Orders No. 3-6 and the associated budget adjustment in the amount of \$143,664.00.

*RESOLUTION 164-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**EARNEST LANCASTER EXTENSION**

A resolution approving Change Order No. 1 in the amount of \$23,838.00 for the construction contract with Harrison Davis Construction for the extension of the Earnest Lancaster Drive.

*RESOLUTION 165-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*



### **SEWER REHABILITATION**

A resolution approving the contract with Heller Co. for sanitary sewer rehabilitation, Illinois Basin 16, and White River Minisystem 9A in the amount of \$501,4000 and a 10% contingency.

*RESOLUTION 166-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

### **CABLE TV**

A resolution approving the extension on the Cable TV contract to February 28, 2001 to allow for further negotiation of a franchise agreement.

*RESOLUTION 167-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

### **COMMUNITY ACCESS TELEVISION**

A resolution accepting a contract with the Community Access Television for public access television services.

*RESOLUTION 168-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

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

### **NOMINATING COMMITTEE REPORT**

Airport Board: Frank Sperandeo  
Michael Andrews

Audit Board: Adam Motherwell  
Marty Bryan  
Wesley Murtishaw

Parks & Recreation Advisory Board:  
Wade Colwell  
Gail Eads  
Bob Shoulders  
Rex Dufour

Tree & Landscape Advisory Committee:  
George Cowen  
Peter Loris  
Beverly Melton  
John DuVal  
Lynn Rogers

**Alderman Young moved to appoint the following people to committee. Alderman Reynolds seconded the motion.**

Airport Board: Frank Sperandeo, appointed to a five-year term

Michael Andrews, appointed to a two-year term

Audit Board: Adam Motherwell, appointed to a three-year term

Marty Bryan, appointed to a two-year term

Wesley Murtishaw, appointed to a one-year term

Parks & Recreation Advisory Board:

Wade Colwell, re-appointed to another two-year term

Gail Eads, re-appointed to another two-year term

Bob Shoulders, re-appointed to another two-year term

Rex Dufour, appointed to a two-year term

Tree & Landscape Advisory Committee:

George Cowen, re-appointed to another two-year term

Peter Loris, re-appointed to another two-year term

Beverly Melton, re-appointed to another two-year term

John DuVal, appointed to a two-year term

Lynn Rogers, appointed to a two-year term

**Upon roll call the motion carried unanimously.**

## **OLD BUSINESS**

### **RZ 00-27.00**

An ordinance approving rezoning request RZ 00-27.00 submitted by Hilda and Edward Hurtado, on behalf of Dewitt C. Goff for property located at 1819 South School. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.80 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the first reading at the December 5, 2000 City Council meeting

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

**Alderman Santos moved to suspend the rules and move to the third and final reading.**

**Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.**

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

**Mayor Hanna asked shall the ordinance pass. Upon roll call the motion carried unanimously.**

**ORDINANCE 4283 AS RECORDED IN THE OFFICE OF THE CITY CLERK.**

## **WIRELESS COMMUNICATION**

An ordinance approving an amendment to the Wireless Communication Facility Ordinance 4178. The ordinance was left on the first reading as amended.

Mayor Hanna stated there was another amendment to the ordinance.

Mr. Conklin stated Section 2 has been added with regard to the definition of original tower height. There had been some debate over how they looked at a structure and how they determined the height. The new definition did not include any antennas. It has been his interpretation that "existing structure", was the structure itself, not the structure and the antenna. He believed by adding "not including any antennas" clarified the intent.

**Alderman Russell moved to amend the ordinance to include Section 2 as presented. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.**

Alderman Reynolds stated he had a letter from a resident requesting the ordinance be left on the second reading.

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

Mr. Jeff Dangeau, Arkansas Western Gas, stated they found the amendment acceptable. He urged the Council to pass the ordinance. He presented drawings of their proposed tower structure.

Alderman Davis stated there would be vegetation around the fence. He stated the ordinance allowed them to replace the existing tower of 170 feet, plus an additional 20 feet of antennas.

Alderman Young stated according to this there would be nothing above 190 feet.

Mr. Conklin asked how the proposed tower was going to compare to the existing tower with regard to color and lighting.

Mr. Dangeau replied the color would be a natural aluminum gray color. They would not have to light the tower at 190 feet.

Mr. Conklin added when a tower exceeded 200 feet then they would have to put a strobe light on the tower. He asked if they would have to use the red and white color scheme on this tower.

Mr. Dangeau explained the reason they painted a tower red and white was so an airplane could see it during the day. The current tower did have a beacon on it. It was not mandated by the FFA to do that. One of the neighbors had asked for the tower to be lighted years ago. There would not be a beacon on the proposed tower. They had to break 199 feet before they had to light a tower. In response to questions from Alderman Davis, he stated the existing tower was approximately 40-50 years old. They do begin to lose structural strength after that many years. There were currently 17 antennas on the existing tower. They had installed a combiner which



would lessen the load.

Ms. Sue Conrand, an area resident, stated she lived near the tower. She questioned the type of fencing around the tower. Currently, there was chain link fencing near Ruth and Rockwood. Would they be able to see through the wooden fencing and would their view be blocked to Rockwood Trail?

Mr. Conklin replied the fencing would be placed 25 feet back. He would be working with Arkansas Western Gas on the location of the fence to make sure it would not block visibility. The fence would be a solid wood board fence. The ordinance also required landscaping in front of the fence. From the street back they would have landscaping, then there would be a six-foot high fence.

*THE ORDINANCE WAS LEFT ON THE SECOND READING AS AMENDED.*

#### **GRADING AND DRAINAGE**

An ordinance approving amendments to the City's Grading and Drainage ordinances. The ordinance was left on the first reading.

**Alderman Trumbo moved to suspend the rules. Alderman Young seconded the motion. Upon roll call the motion carried unanimously.**

*Mr. Rose read the ordinance.*

Ms. Colene Gaston, an area resident, stated that no where in the ordinance did it define what a "project not requiring detention" was. She felt that needed to be clear, if they were going to create an exemption for such projects. She would like to add a provision that before the grading permit was issued that the City require a copy of their State of Arkansas Department of Environmental Quality Storm Water Construction Permit. This was a permit that was required before any grading on property greater than five acres occurred. She felt they needed to ask for a copy of this permit and the Storm Water Pollution Prevention Plan, which was required for that permit. It was her understanding that often the City Engineer would ask to see it anyway. She felt it should be a requirement before the grading permit was issued. In another section she questioned the definition of detention and when it was required. She questioned the wording, when it referenced "the Plan".

Mr. Rose stated what Ms. Gaston has proposed were some amendments to the ordinance before them. He wished she had made her comments before the second reading of the ordinance. This had been before committees on a number of occasions, it then went to the Ordinance Review Committee, and had been placed on its first reading two weeks ago. He asked the Council if he should prepare the amendments.

In response to questions, Mr. Beavers stated the existing ordinance required detention, unless deemed otherwise by the engineer. The existing ordinance also adopts a manual. The manual gave the guideline on when detention could be waved. They looked at the protection of the down

stream properties. They did not have a specific definition, but they did in the manual. The State permit was not required by ordinance, but it was standard practice that they did ask for that. It was in their manual.

Mr. Venable stated he thought everything had been settled. They had been working on this ordinance all summer and fall.

Ms. Kay DuVal, an area resident, stated she had presented her concerns during the Ordinance Review Committee meeting. She had sent her changes by mail. She felt there needed to be some substantive changes to the ordinance. It was her feeling that the draft had been voted on too quickly. She presented her changes in written form.

Mayor Hanna stated they would leave the ordinance on the second reading.

Mr. Rose explained they had several options, they could consider the ordinance before them and vote on it, up or down. Two, they could amend from the floor. He did not recommend that to them very often. It was difficult to draft from the floor, especially if the changes were of some discussable merit. They could refer this back to a committee to hear the suggestions and then bring that product back to the City Council.

Alderman Davis stated he would like to see the amendments from Ms. Gaston before they decided what to do.

*ORDINANCE WAS LEFT ON THE SECOND READING.*

## **2001 BUDGET**

A resolution adopting the 2001 Annual Budget and Work Program.

Alderman Davis stated he had a problem with Amendment No. 2. When they were given the budget for the transit and parking for the University, between the two different departments, there was a \$103,536.00 profit. They were asking for an additional \$10,000 from the City. They were having a difficult time this year meeting the budget demands that they had. He could not see giving someone else an additional \$10,000 when their overall program showed a profit of \$103,000.

Alderman Trumbo stated the Razorback Transit was a vital service. He did not think that there was any connection between them funding an additional \$10,000 and the City getting reimbursed for police officers at the football game. He did not think that the City could afford an additional \$10,000.

Mr. Steve Davis, Budget Manager, stated at the City Council budget retreat, the staff had been asked to prepare three amendments to the proposed budget for the City Council to consider. He explained the way the current budget stood they were using \$646,000 of General Fund Reserves. He was not sure that there was a program that they could cut without reducing services in that area to fund any of these additional items. If they wanted to add money to any particular item,



they would be dipping further into their General Fund Reserves.

Alderman Davis asked Mr. Davis what his comments were about going into their General Fund Reserves.

Mr. Davis replied as a practice it was not very good. For this budget year, it was not going to hurt the City very much. It would bring their reserves from about 8.7 to about 8.1 million. City Council next year would need to look at what were the core City services and what levels they could fund and what reserve fund level did they not want to go below. Their current budget policy had a ten percent fund balance to be held in reserves at all times. He thought that was inadequate. He thought sixty days expenditures or fifteen percent, was more adequate. There could be any kind of natural disaster or elongated snow removal process, that could cost them a great deal of money. There could be flooding situations that could cause them to dip into the reserves at any time.

#### Amendment to CAT

**Alderman Young moved to increase the budget for Cable Access by \$6,000. Alderman Russell seconded the motion. Upon roll call the motion carried unanimously.**

#### Amendment to U of A Transit

**Alderman Russell moved to amend the budget for U of A Razorback Transit as stated in Amendment 2, in the amount of \$10,000. Alderman Young seconded the motion. Upon roll call the motion carried by a vote of 5-3-0. Reynolds, Austin, and Davis voting nay.**

#### Amendment to Airport Museum

**Alderman Reynolds moved to increase the Air Museum funding. Alderman Austin seconded the motion.**

Mr. John Kalagias, Director of the Arkansas Air Museum, presented clippings from the promotional events that the Museum had sponsored. The major hit to the Airport had been the rerouting of Hwy 71, now, 540. Before people would see the museum and stop, now they could not see it and it was hard to find. It had cut their attendance by more than half. They had tried to pick up their business by creating special events. The special events had gone very well. They had a short fall of approximately \$17,000 this year. He had held back the money from Air Fest, which was suppose to go into their endowment account. The foundation account, when he got there, was approximately \$2,000. There was \$120,000 now. They were building that account so one day they would be self sufficient. They had money in reserves, but he did not want to spend it. He wanted to put the money into the foundation so some day they could be self sufficient. This museum was a private non-profit museum.

Mr. Davis stated the staff would need direction from the Council on which fund to take this money from. Their options were the Airport Fund or General Fund. Budget was recommending

the money come from the General Fund.

It was a consensus of the Council to take the money from the General Fund.

**Upon roll call the motion carried unanimously.**

Amendment to Downtown Dickson Enhancement Project

Ms. Bootsie Ackerman stated they had requested \$35,000. \$25,000 was approved. She asked them to reconsider the additional \$10,000 funding. They had hired a part time person to work as a special events coordinator. They were wanting to increase her hours to increase their services and support to their many festival events.

**Alderman Trumbo moved to approve the \$10,000 additional funding for DDEP. Alderman Austin seconded the motion. Upon roll call the motion carried 6-0-1. Reynolds abstaining.**

Alderman Russell asked Mr. Davis to explain why the City had reduced funding for First Night.

Mr. Davis stated in reviewing the balance sheet for expense ledger, they noted there was a \$3,000 carry forward from the last year and an item called saving for salaries. It appeared that they had a \$22,000 carry over on a little over \$100,000 budget. An approximate 20% carry over.

**Alderman Trumbo moved to pass the budget as amended. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.**

*RESOLUTION 169-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

## **2020 LAND USE PLAN**

A resolution adopting the General Plan 2020, Future Land Use Plan, and Master Street Plan.

Mr. Conklin explained the General Plan 2020 had been adopted five years ago. Staff was directed to bring forth revision to these planning documents every five years. He presented the final drafts of the plans. He explained the changes which had been made. There had been some discussion on the eastern by-pass. That issue would be brought back to the Planning Commission on January 22, 2001. He would also be bringing forward an ordinance which would not require right-of-way dedication where the line was shown for the by-pass.

**Alderman Santos moved to adopt the plans. Alderman Russell seconded the motion. Upon roll call the motion carried unanimously.**

*RESOLUTION 170-00 A-C AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

## **NEW BUSINESS**

### **BOYS AND GIRLS CLUB**

A resolution of intent to levy a two mil tax on Real and Personal Property within the City of Fayetteville for two years for the Fayetteville Boys and Girls Club.

Alderman Trumbo stated the Council had approved a two-mil tax for two-years with a sunset provision for the Senior Center. The Boys and Girls Club had received a ten-million dollar grant from the Reynolds Foundation. They had to raise approximately two-million dollars in order to get the Reynolds Foundation grant.

Mr. John Benberg, Boys and Girls Club, stated they had already been to Council to present the proposed new facility. The grant from the Reynolds Foundation did not fund anything outside of ten feet. There was a substantial supplemental fund-raising challenge that they had to meet. Some of which had to be done on a short time frame.

Alderman Trumbo stated the resolution proposed tonight did not bind the City Council to the two mils. They did that every October. This was only a good faith resolution which would give their group the ability to tell the Reynolds Foundation that they were intending on providing two mils to the funding of this project.

Mr. Tom Stockland stated he felt their relationship was very fundamental in getting them through the application process. This was yet another step. It would be important to the Reynolds Foundation to see that support and to their other fund raising efforts.

Alderman Trumbo asked what this facility would do for Fayetteville.

Mr. Stockland stated this facility and the program that went with it can be a major positive factor in the quality of life for this community for a long time to come. They were looking to raise generations of young people. They would have better tools. They would do better in school. They had better leadership skills. They were more prepared for their first employment experience or to higher learning. They would not be on the streets. They were not involved in risky behavior. They could gain computer experience.

In response to questions regarding transportation to the facility, Mr. Stockland stated many years ago the neighborhood which surrounded their current facility was different. Now the area was primarily college students. They did not have nearly the walk up participation that they use to have. They were currently landlocked. It was very difficult to get oversized vehicles in and out. They did not have room for growth on site. The new location would provide a wonderful location. It was right off Hwy 540. It was fairly accessible from just about everywhere. They had a new permanent branch location at Jefferson Elementary. They were looking to expand the yellow bus traffic and other transit means. The new facility would have a combination of what they currently had and using a number of other partners transportation wise to get kids where they wanted them to be able to go. They had to be complete by the end of summer 2003. They could not turn a spade until they received their restrictive maintenance endowment raised. They



had front end pressure and a finite time frame imposed on them by the Reynolds Foundation.

Alderman Davis asked them to place on the front of their publications their opportunities for scholarships.

Mr. Stockland stated they were in the process of redoing their web site and their new publications would have the scholarships more visibly noted. In response to questions he stated they were working with their architect for better numbers. They were currently estimating 15 million dollars. 9.2 million dollars would be coming from the Reynolds Foundation. The building would be about 10.5 million. In addition, 1.5 million on the outside for construction cost. In addition, they had to raise an endowment of \$1,860,000 which would be to maintain the facility in Class A condition. That was one of the Reynolds requirements. That was also the part they were having trouble with. They went out to raise money, people were asking how much the City was going to put in. If the two mils were to pass it would have them in excess of twelve million dollars between the City and the Reynolds Foundation. Then they would raise less than three million dollars. They felt that was a doable deal. Time was of the essence for them.

Alderman Davis stated it was his understanding that two mils in one year equaled roughly a million dollars.

Alderman Trumbo stated that they needed to keep in mind that they would vote next October, one year at a time increments. What they needed to keep in mind was the request to go forward was the two mils for two years on one year renewals. It would kick in after the Senior Center's two mils.

Alderman Davis stated they were looking at roughly fourteen million dollars for the facility.

Mr. Stockland stated one thing they had done in getting the HMR money, the Parks had asked that our funding won't be increased by inflation. What that did was slowly squeeze them and they had to find ways to replace that money. They were trying to get an operational endowment.

Alderman Russell stated he would like to offer some words of caution. What concerned him was the speed. The resolution meant that they intended to support the milage, however, they did not know what the City was going to do until they passed the ordinance in October.

Mr. Stockland stated he understood the City could go back and say that they had changed their minds and they were not going to support them.

Alderman Russell stated that technically it was possible that it would not happen.

Mr. Stockland stated there were a lot of things they were going forward on in good faith. He was not uncomfortable doing that, but he would like some indication if they were opposed to doing that.

Alderman Russell stated he was not opposed to doing that, one of the good things they were doing was funding a project with property tax revenue instead of another sales tax increase. There has not been a lot of constituent input to them and there has not been a lot of public input from the City Council level yet.

Mr. Stockland stated he understood that.

Alderman Santos stated that what bothered him was that they were trying to declare the intent of other people who were not here yet. Ms. Thiel had called him and asked for them to table the item until the new Council came on board.

Mr. Stockland stated it was hard to raise three million dollars in eight months, it was harder to raise in seven months.

Alderman Davis stated the only advantage he could see was if they were to pass the resolution tonight, it did give him the ability to go to people in late December before the tax year ends and tell them that he did have a commitment from the City of Fayetteville. Some people were looking to give gifts at the end of the year. That may be to their advantage to do it tonight.

Mr. Stockland stated it was easier to get gifts of appreciation before December 31.

Alderman Davis added if they were looking for funds in August, a lot of people did not begin to look at giving away funds until the month of December, once they found out what their tax base was.

Alderman Santos stated he would prefer that the public would have a chance to vote this in, rather than having them vote it in for them. He did not think there was any trouble at all having it pass. He would feel more comfortable having the public vote it in. How could they do it, where they were not lying about it. They could not promise intent for people who were not here.

Alderman Trumbo replied it was up to the individual Aldermen to make up their own minds. They had the authority to implement the two mils. It was whether or not as an individual the public should vote on it and not eight City Aldermen.

Alderman Austin stated he had received comments from citizens in Ward One. They were in favor of this because it was non-binding on the future Council. It was needed. It was a good faith effort on the part of the Youth Center and Boys and Girls Club.

**Alderman Austin moved to pass the resolution.**

Mr. Erf asked specifically what the Boys and Girls Club will spend the Fayetteville tax payer money for. What were they going to use the money for?

Mr. Stockland replied the money would be used for first the remaining bricks and mortar inside the building. It would be used to put fields in. They had \$300,000 from the City in a future

budget for parking lots. The other amenities around the building, whether landscaping or trails. If for some reason they were able to do it for less than what they thought at this point the remaining would go into the operational endowment.

**Alderman Davis seconded the motion. Upon roll call the motion carried by a vote of 7-0-0.**

*RESOLUTION 171-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

### **COST SHARE AGREEMENT**

An ordinance approving a cost-share and a bid waiver in the amount of \$82,350.00 with the developer's of Hopkin's Retail Center for the installation of a 12" waterline across Wedington Drive and along the west side of Garland Avenue.

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

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

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

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

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

**Mayor Hanna asked shall the ordinance pass. Upon roll call the motion carried unanimously.**

*ORDINANCE 4284 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

### **OMI**

A resolution approving Amendment No. 6 to the OMI Contract for the operation and management services, Fayetteville Wastewater Treatment Plant at the total cost of \$3,715,901.00.

Mr. Venable stated the contract they were working under now was originally approved in 1994 and ran through December of 1999. A new five year provision was signed at that time and was approved to continue on. This year was the first year under that. This would be the second year of the second five-year contract.

**Alderman Russell moved to approve the resolution. Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.**

*RESOLUTION 172-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*



### **TROLLEY OPERATIONS:**

A resolution approving Amendment No. 3 with the Jones Transportation deleting operating days and increasing payment rate by 6% with the renewal agreement for Trolley operations for the period January 1, 2001 through December 31, 2001.

**Alderman Davis moved to approve the resolution. Alderman Reynolds seconded the motion.**

Mr Jeff Erf stated the total projected cost of the trolley route was approximately \$127,000. The 2000 budget contained \$109,000 in funding, and therefore to continue funding and the minimum of services an additional \$18,000 would be needed. Where did the money come from?

Mr. Maguire replied they expected the budget to require an amendment during the year for potential fuel increase cost. They would have to come back to Council and ask for the additional money, unless the price of fuel went down.

Mr. Erf stated that per passenger the cost was over \$3.00 per person.

Mr. Maguire replied Ozark Regional Transit ran approximately \$9.00 per person.

Mayor Hanna added they ran into that when they ran into sparse population in rider ship.

**Upon roll call the motion carried unanimously.**

*RESOLUTION 173-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

### **HMR TAX**

An ordinance amending Section 3520 of the Code of Fayetteville, regarding the HMR Tax.

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

Ms. Marlin Johnson stated in their packet they would see a list of other cities that collected HMR tax and they did collect from convenient stores. There was a key they keyed in on which was the deli items and those would be the items that would be taxed.

Alderman Santos stated he had always thought of this as a luxury tax. He would be a lot more comfortable if they did not go after things that were not luxury and were not bought by people out of town. He thought deli items from convenient stores and grocery stores were.

Ms. Johnson stated the reason they were bringing this to them was to bring their City Ordinance into compliance with State Law. It was a fairness issue to tax on premise items as well as off premise consumption items.

Alderman Austin asked if they had resolved their collection issue.

Ms. Johnson stated the City collected their tax. Last month there was approximately \$20,000 that the City had not collected for the A&P commission.

A Fayetteville resident residing at 200 W. Lafayette, stated he owned a pizza shop in town. They spent five months paying state, federal, and local taxes. In November the A&P Commission announced they had a record collection of revenue, a \$117,000 in one month. When they had voted for the Town Center they had said that there would not be an increase in HMR Tax. They were already asking for a tax increase. This increase would be regressive tax on the poor citizens. It was going to be a very confusing tax and it was going to be very expensive for them to collect. A lot of this money did go to a lot of good organizations, but they needed to make a point that a lot of this was the responsibility of the private sector. It was an endless parade of people wanting money.

Mr. Randy Zurcher, an area resident, asked the Council to leave this on the first or second reading tonight.

Mr. Joe Fennel, A&P Commission, explained the reason they wanted to change the ordinance was because the law had changed since it was enacted in 1977. All they wanted was for the rules in Fayetteville to reflect the State rules. They were also talking about getting current on the collection of the tax. The way they had collected the tax in the past is not working as well as it can work. They needed money to continue to help people do good projects.

In response to questions, Mr. Rose stated their present ordinance had every thing in it that could be taxed in way of what could be taxed as to what was in the existing statute in 1977. It tracked it word for word. What they had before them tracked word for word what could be taxed out of the State statute. There was no variance from their passing here and what State law specifically allowed to be taxed. In 1977 the law specifically allowed this tax to be levied by the City Council without public vote. In 1977 it was levied by the City Council, however, someone chose to referendum to the people. There was a referendum held on it and it passed. He did not think that the law required them to tax these things, but it allowed them to.

Ms. Johnson stated the problems came in with interpretation of what is prepared food.

Alderman Santos stated it needed to be more clearly defined.

Mr. Fennel stated another problem with this was the catering business. They did not realize any benefit from them. They were missing a lot of legitimate tax revenue out there that could be doing a lot of positive things in this community.

Ms. Terry Easton, an area resident, asked when the Town Center tax was passed by the citizens was there a promise there would not be a sales tax increase.

Mr. Rose stated he did not recall any promises regarding the HMR Tax and Town Center, but he was not sure.



Alderman Young stated the HMR Tax was set, however, this was a variation on it. He did not recall anything one way or another.

Mr. Rose stated they could collect up to three pennies for an HMR tax. This City has chosen only one penny for an HMR tax. It may have been said in that context, if it had been said.

Alderman Young stated what they were proposing was to apply that same one cent on these other businesses.

Ms. Easton stated she had a problem with the tax being placed on coffee and other styrofoam items. It was a regressive situation. She suggested the item be tabled to give some time for citizens

Ms. Johnson stated there had not been a new HMR Tax since 1977. The only vote that they had was the bond issue to build the Town Center, which was from existing HMR revenue.

Alderman Young asked who made the determination about the restaurant.

Mr. Rose stated it was the Finance Department.

*ORDINANCE WAS LEFT ON THE FIRST READING.*

#### **TREE SETTLEMENT**

A resolution approving a settlement agreement in Serafini, et al. vs. City of Fayetteville, Arkansas, et al., CIV 2000-536.

Alderman Trumbo stated he would like to see them table the item until the new Administration was sworn in, rather than this City Council.

**Alderman Trumbo moved to table the resolution. Alderman Santos seconded the motion. Upon roll call the motion failed by a vote of 4-3-0.**

Mr. Rose stated there needed to be a majority of the those elected to the Board for the passage of a motion. It required five for passage.

Mr. Sam Campbell stated when someone who sued the City they were suing the taxpayer. Has the person suing the City been damaged.

Mr. Rose stated the damages that were alleged are not monetary damages. The damages that they claim is that the ordinance has been illegally interpreted by the City of Fayetteville.

Mr. Campbell stated the settlement would mean that the case would not go to trial. For a private group to settle a lawsuit, it affected his pocket. He could not understand why they would settle. He stated they should dispense with the settlement.

Mr. Dan Coody stated whatever they decided tonight, chances were that it was going to come up before the next City Council. He thought they would be looking at the same discussion in two weeks.

Mr. Clay Fulcher, Attorney for the plaintiffs, stated this settlement would not cost anybody in Fayetteville any more money. This was going to be a proposal out of existing City budget. A compromise meant finding common ground. The settlement was for \$550,000. The City was under no obligation to continue to allocate money after 2002 to the proposed Tree Preservation Fund. The plaintiffs did not get the money. The City kept their money. The City got to keep their money and simply agreed to allocate \$550,000 out of its existing budget to be spent on tree preservation, trails and green space. It was the City Council who would determine how to spend the money which would be allocated to the Tree Preservation Fund. The committee they proposed to set up would only advise the City Council on perspective parcels of land or areas to invest these funds. No attorney is going to pocket any money nor receive any percentage of a jury award because the plaintiffs were not seeking damage. The settlement was not some form of punishment, rather it was for additional green space, trails and green space for all the citizens to enjoy. The fund would represent less than one-third of one percent of Fayetteville's annual budget. Argus provided the City with an estimate of \$800,000 per year in increase tax revenue. There was another item which related to the Landscape Administrator sending out another letter to architects and engineers restating that Fayetteville has a Tree Ordinance and that trees must be preserved. Special efforts must be taken to preserve trees larger than twenty-four inches and that the Landscape Administrator needs to be brought into the development process at an earlier stage to ensure the preservation of trees.

Mayor Hanna stated the first offer he made and suggested that they could take one years sales tax generated from that development to purchase tree easements or conservation easements. They had figured it out in budget and it was approximately \$400,000. This is tax money they were talking about. It was not a new tax. When they take this money and obligate it for tree easement and building trails they are taking it away from other things that are more important to the City. Right now there were more important things than allotting money for green space. It will take away from other projects. There was no doubt about it. The one thing that concerned him was that he had been told that if they did reach an agreement and settle this lawsuit before they went to trial the next time they started another project out there another lawsuit could be filed. This could go on. He thought that they would be better off to go to court and to let the judge make the decision on whether or not they enforced the ordinance properly.

Mr. Campbell stated this was anti-tree. If they were to tell a landowner who had trees on his land that he had fewer rights than the landowner down the street that did not have any trees. It would not be long before the trees would begin to thin out. The real issue was whether they settled it in the corner or did they go to trial. They should not settle it in secret, but in open court.

Ms. Terry Easton expressed her concern about the green space in Fayetteville.

Ms. Margo Clark, an area resident, stated she had a copy of the agreement in principle that he signed in October 27, 2000. She thought that they had reached a settlement. What changed?



Mayor Hanna replied what had changed was what he had heard from the people who read that and heard it and were concerned about how they spent their tax money. He had not been involved in the negotiations.

Alderman Trumbo stated when he first saw the agreement he was not in favor of it.

In response to concerns of Ms. Clark, Mr. Rose stated that the Mayor and everyone understood that in signing the agreement that in no way they were committing this City Council to anything. The agreement in principle as he recalled was a document that was signed at the request of Argus to ensure them that the negotiations had some chance of success. If it did not then they did not want to give up their trial date.

Mr. Bob Jordan, an area resident, stated that probably the tree issue was the deciding factor in the election they just had. What they had before them was a great opportunity for them. The impact would be minimal because it would be coming out of sales taxes that had not been generated. The citizens of Fayetteville were going to gain in green space. This was money that they had, but it was money that would be used to benefit the citizens of Fayetteville.

Alderman Reynolds stated everyone that had called him had asked him to vote no and for the suit to go to trial.

Alderman Young stated he had not had anyone call him that supported the settlement.

Alderman Reynolds stated if they were to settle it, what had they accomplished. They did not know if they were right or wrong. He voted with their legal department who said they were right in doing that. A judge or jury needed to tell them if they were right or wrong.

Alderman Trumbo stated they had no finality and open discretion and enforcement. They still had developments that were below the canopy percentage. He wanted to see some finality and direction.

Alderman Davis stated it appeared that replacement is still acceptable to meet the canopy. Nothing had changed.

Alderman Young stated people were concerned that there were no attachments to the settlements. If it were to go to court the judge would not rule on some of the things in the attachments. There was no meat in the attachments. He suggested rewriting the attachments. Their concern was not the money, but that there was no determination.

Alderman Trumbo stated ninety percent of the trees on the new library site were going to be cut down. He saw this happening all over again for their library. Until they had some direction, they would be dealing with this again.

Alderman Austin asked Mr. Fulcher if he would receive a fee if this was settled and where would this come from.

Mr. Fulcher replied, no, he would not.

Ms. Andrea Fournet, 1214 N. Shady Lane, asked why the Mayor did not like it. She asked why they had such a hard time giving them money for trees when they did not have any problem giving them money for roads.

Mayor Hanna stated he had people tell him that if they spent the money on the trees that they would file suit against the City for using their money in a way that it had been designed. Their sales tax money was designated. 75% to Capital Improvements, 25% to General Government. Was that a Capital Improvement? There were two things wrong with the settlement. First it called for the first \$275,000 in 2001, and the store would not be producing revenue in 2001, so the money was going to have to come from somewhere else. He assumed it would be in 2002. That money would have to come from reserves or another project. He did not like that. No one had taken him up on his offer in the spring because they all wanted to protest the trees.

In response to questions, Mr. Rose stated there were two ways the new Council could hear the settlement again. One, they could change the settlement in some way to what they were presenting was a different thing than what was being presented tonight. Secondly, they could have a member of the majority make a motion for reconsideration. The problem then becomes, what if one of the new members, who has not had a chance to vote on this, decided they wanted to bring it up for consideration. It was his opinion that they can. It would require a two-thirds vote for reconsideration.

Ms. Fran Alexander, an area resident, stated she wanted to know who had called them. She stated she wanted to know how many calls and who they were and why they were not down here to talk. She resented the Council telling them that they had received calls. They could not see them. They could not hear them. They did not know even if they were citizens. They did not know what they were basing their decisions on.

Alderman Austin stated he would represent the people that talked to him personally whether it was in person, on the telephone or at the Council meeting. He did not think they should be disqualified as a citizen just because they did not come to the Council meetings. That was what he was required to do. He did not feel any guilt at all and he did not feel that he needed to explain beyond that.

Ms. Alexander replied for them to say, "citizen has called me" negates their input. She also wanted them to know that the people who called them did not really know the issue the way the people who have set there did. Trent, continued to talk about percentages. The percentages were not up to interpretation. A number was a number, however, they could make a judgement call, which was the job of the Landscape Administrator. They could say whether or not a project can be built or they did not want to make it fit. What Ms. Hesse's job was, was to make that call. She did not call that interpretation. That was a judgement call based on whether she felt that the structure could be put on the site and still maintain the percentage or not. She had tried to tell them about the library situation. Which was a completely different situation. It was also a judgment call. It was also based on a lot of factors about the health of the trees which were there

and maintaining their health with the structure. It was also a downtown in-fill situation. The things they did not understand about urban forestry was appalling. The Ad Hoc Committee was trying to get this into a language where it would not be so twisted. But it all went back to the flexibility of whether the building could be built on the site with the preservation or not. They had not taken that out of it so far. She wanted to address the damage. Every single time they did something on the land, they made an injury. This City has just agreed to 1.3 million dollars of injury for private enterprise. The settlement was a tiny amount of money to start putting bandages on the injuries. They had to understand urban forestry enough to understand this was a health issue. They were having ozone alerts in Tulsa and Little Rock. What made them think that ozone problems could read the boundary lines for Northwest Arkansas. It was very serious. That was when they would start to hurt economically.

Alderman Trumbo stated he differed with her on this topic. He thought this needed to go to trial. Under oath Ms. Hesse had stated that Argus had complied with the ordinance. He thought that they should all know where their ordinance stood and how it should be implemented. He noted St. Paul Church was going to cut down a tree for an addition. Some of the people he knew thought that was a double standard.

Ms. Alexander stated it was very difficult to create an ordinance that was going to apply to every single place.

Alderman Trumbo stated they were always going to have someone upset on any development whether it was a nonprofit or a developer.

Ms. Alexander stated they were misrepresenting the percentage, they did not know about the judgement call. She expected when they came out with their final document, she expected public input. They were not there for two days every week.

Mr. Tom McKinney, Sierra Club, stated usually after the upheavals in Fayetteville there has been a change in the make up of the City Council. This time he thought the City Council had a chance to do something that was very positive, this settlement. He suggested they table the item and take it up in two weeks. He thought it would heal a lot of wounds. He thought those citizens deserved the settlement. All they needed was for the Council to come up with an ordinance that worked. It needed to be very clear in its language.

Mr. Ron Cursely, 129 Elis, stated he had been arrested in one of the trees in the CMN Business Park. He was here to ask them to not support the settlement. He did not feel that the settlement addressed any of the issues that caused the lawsuit. He thought that was far more valuable than green space that might be spent in some way that was very vaguely defined. They knew that if a settlement was accepted, it cleared the path for the trees to come down on Lot 7. He would like to see that prevented. He was one of the people that called and asked them not to support the settlement.

Alderman Trumbo asked him if he would be as tenacious to save all the trees where the library is going in?



Mr. Cursely stated he did not believe the public's perception had not changed. He thought the public believed something was wrong. He thought unless there was a change of the tree ordinance, he thought they could expect another brew-ha-ha. He would predict another citizen outcry, unless they resolved the questions in the lawsuit.

Mr. Grisham, St. Pauls Church, stated he thought they needed to make distinctions when talking about the ordinance. It was a very different thing when they were talking about commercial development of three hundred acres and a church like theirs. They were able to place their new building at a place to the best advantage of the whole city. They were not taking out any trees of real significance. They acted on the ordinance just as it was intended to, to help people like them. It was not a comparable situation. They had the support of the Landscape Administrator. They had no rare trees. They were downtown and an in fill situation. They needed to be able to work with some flexibility. They could have placed a building in the middle of the green space without knocking any trees down and kept the canopy. They were not in the same factual circumstances. He liked the flexibility. He like the seriousness of enforcing it especially on new development. When they were on the size of lot that they had, they did not have flexibility.

Alderman Trumbo stated he did not know if it was apples and oranges. Bridgeport, a new subdivision on Wedington, had 11.5 existing canopy and they only preserved 6%. Cedar Lake Apartments went from 38% down to 4%. There was a wide variety of percentages that different people had different views on. Did they discriminate on trees just because of where they are?

Mr. Grisham stated one of the difference he saw between St. Pauls and CMN was the situation where the buildings could be built without destroying a lot of trees.

Alderman Austin stated there seemed to be some situational ethics involved.

Mr. Grisham stated he thought the City wanted to have the flexibility to take into consideration each of those situation.

Ms. Cindy Sager, 1907 Harold, stated she was a plaintiff. Stated she was very much for the settlement. People had worked very hard to bring this together. She encouraged them to accept the settlement. She stated they looked forward to settling this.

Mr. Loran Wheeler, 1635 W. Shadow Ridge, stated he was also a plaintiff. The City offered them a settlement. He assumed the City had the money. It was also his understanding that there was no sales tax involved in the settlement. The current funds they were talking about were not sales tax. It was also his understanding that the sales tax from Khols could not be segregated out for a special use. He had been told the money exists and it was a matter of putting it in a separate account. He thought they had a right to know who the people were who were opposed to this settlement. He did not think there was anything wrong with the current ordinance. It looked straight forward to him. It was enforcement. It did not make any difference how many ordinances were written if they did not enforce them.



**Alderman Trumbo moved to deny the settlement. Alderman Reynolds seconded the motion.**

Alderman Russell stated the settlement would not address some of the issues that caused the lawsuit. The only thing that going to court would tell them would be whether the City broke the law on the CMN development. He stated he would like to go out on a note of compromise. He would have supported tax money to be allocated for these purposes. The new City Council and the new Administration can allocate money for these purposes. They can also amend the tree ordinance to make it more clear.

**Upon roll call the motion carried by a vote of 5-2, Santos and Russell voting nay. Daniel absent for vote.**

*RESOLUTION FAILED.*

#### **SEWER CLAIM**

A resolution approving a settlement of a sewer backup claim at 3216 King Cross in the maximum amount of \$24,124.89 and approval of a budget adjustment.

**Alderman Santos moved to approve the resolution and to only pay for the items touched or damaged by the sewer. Alderman Young seconded the motion.**

Mr. David Jurgens, Water and Sewer Superintendent, stated he only wanted to pay for the things that were physically touched by the sewer. There were still a lot of unknowns. He thought the appropriate number was below the \$24,000.

Alderman Davis stated some of the items were ridiculous. Boys clothing, forty sweaters?

Mr. Jurgens stated when they left the site they took everything that was wet. None of the other clothing in the house was wet or damaged.

**Upon roll call the motion carried unanimously.**

Meeting adjourned at 11:30 p.m.

**MINUTES OF A MEETING  
OF THE  
FAYETTEVILLE CITY COUNCIL  
JANUARY 16, 2001**

A meeting of the Fayetteville City Council was held on January 16, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street Fayetteville, Arkansas.

**PRESENT:** Mayor Dan Coody, Aldermen, Reynolds, Thiel, Young, Zurcher, Trumbo, Davis, Santos, and Jordan, City Attorney Jerry Rose, City Clerk Heather Woodruff, Staff, Press, and Audience.

**CONSENT AGENDA**

**APPROVAL OF THE MINUTES:** Approval of the minutes from the December 19, 2000 City Council Meeting. *(Removed at the request of the City Clerk)*

**BID 00-79:** A resolution awarding a contract to Harrison Davis Construction Co. of Fayetteville for their low bid of \$1,982,600.00 for the construction of the Fayetteville Senior Center. An approval of a budget adjustment in the amount of \$78,083.00 which is funded by the Council on Aging.

*RESOLUTION 4-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**LAND PURCHASE:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Rosie Dorsey, Rowie Howard, William Barker and Alice McClelland for the purchase of 18.88 acres of land off Huntsville Road in the amount of \$151,000.

*RESOLUTION 5-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**GRANT APPLICATION:** A resolution authorizing the Mayor to apply for a federal grant to continue funding of the 4<sup>th</sup> Judicial District Drug Task Force.

*RESOLUTION 6-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**Alderman Zurcher moved to approve the consent agenda. Alderman Davis seconded the motion. Upon roll call the motion carried by a vote of 7-0-1. Thiel abstained.**

Alderman Thiel explained she was abstaining from the Consent Agenda because her and her



husband owned Thiel Construction Management which was working with Darrell Rantis on the Senior Center Project.

## **OLD BUSINESS**

**RZ00-25.00:** An ordinance approving rezoning request RZ00-25.00 as submitted by Dennis Caudle for property located at 1192 Rupple Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial. This ordinance was left on the first reading at the January 2, 2001.

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

**Alderman Young moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.**

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

Alderman Santos stated he thought the plan for that part of the town had changed and he felt that it did fit in with what was going in out there.

Alderman Jordan asked if the owner was planning to put up a fence.

Mr. Conklin stated the city had a Bill of Assurance for this rezoning. The Bill of Assurance did state that the Planning Commission would take a look at what type of screening is appropriate when the conditional use was applied for the storage facility. In regard to the distance from the street, it was 138 feet from Wedington to the new boundary line, which would be developed. It was approximately .88 acres.

Alderman Thiel stated her biggest concern was the curb cut which had been made and the fact that there was a driveway built back to this. The owner had stated he was not going to use that and had put up a temporary gate. She was concerned that people would be using the driveway in a few years. The fact that the garage doors faced out to the street also concerned her. She wished there was some assurance that they could have that the drive would never be used.

Mr. Conklin stated there had been a Bill of Assurance which had been entered into in 1990 that stated that access to the storage facility would be from Rupple Road and not Wedington. As with all Bills of Assurances, the staff had to monitor them and make sure that they were being enforced. In this instance, when it was discovered that the Highway Department built a curb cut and a drive back to the facility they brought it to the owners attention. The owner had blocked the drive. That Bill of Assurance was still in effect, if he violated the Bill of Assurance, then the City would take enforcement action to correct the situation.

Alderman Davis stated they could look at the curb cut as being a prudent business decision. The drive would help Mr. Caudle in future development. He did not look at it as a negative on the owners part. He hoped that with the Bill of Assurance the owner was looking toward the future

and that the curb cut would help with his development cost. Curb cuts were expensive.

Mr. Conklin stated that was the owners explanation, that when the Highway Department came in and widened Wedington Road they had asked him what his future plans were and if he would need a curb cut. The Bill of Assurance did not discuss having a curb cut on Wedington. It talked about a driveway to the storage facility, which had been blocked off at this time.

Alderman Reynolds stated that what bothered him was that the owner had agreed to enter from Ruppel, then there had been a gate put up facing Wedington. When this proposal first came through it was for all heated units. Those plans had been changed to include some without climate control. He was not going to support this request.

Alderman Zurcher asked if staff still supported their staff findings in their report.

Mr. Conklin stated the staff still agreed with their findings. This past fall he had brought forward an ordinance to allow additional commercial uses in C-1 zoning in order to provide neighborhood type retail services for the residential homes in that area and other C-1 areas. Typically they had argued that they needed C-2 in order to allow different types of uses. He tried to correct that this past fall. If this was shown as commercial on their Land Use Plan, the staff would be recommending C-1 and not C-2 zoning. C-2 zoning was required in order to have the storage use on this property. With regard to compatibility and their Land Use Plan, it did not meet their current Land Use Plan, which had been adopted December 19, 2000.

Alderman Zurcher asked if staff still supported their finding on traffic.

Mr. Conklin stated that they still supported that finding. With regard to potential and future traffic it was always difficult to determine at the rezoning time. There were many different uses in C-1 and C-2 that would be on this property. It was always difficult to make a finding that it will cause traffic congestion and danger.

Alderman Davis stated he assumed that Ruppel Road would have a stop light in the future.

Mr. Dennis Caudle, owner, stated when the highway was being constructed the State had told him that was the time to put in the driveway to serve that property. They were fixing to build on the lot adjacent to it and there would be no access to that property. As far as the gate being put in, it was put in at that time for the emergency entrance. They could read the minutes from 1990, the Fire Chief required fire hydrants. It was to be used as an emergency exit. It was not going to be used as an entrance or an exist. It was strictly for emergency use. The fence would be moved when the new building was constructed.

Alderman Young stated another concern was changing the use from climate controlled to just regular storage.

Mr. Caudle stated that was never changed. It was climate controlled in the middle and the outer was regular storage units. This design would help insulate the building and secure the

intersection.

Alderman Young stated they had been under the impression that it was all climate controlled.

Mr. Caudle stated he thought that they had discussed it when they discussed the doors facing the highway. A true climate controlled building had no doors on the outside.

Mr. Conklin stated when they had worked on the Bill of Assurance with the applicant, that was when he discovered that this facility also included the mini-storage units on the north and south sides. As with all Bills of Assurance, the staff could not request or require the applicant to sign. It had to be voluntarily offered by the applicant. They had modified the Bill of Assurance and put in a "climate controlled facility and/or mini-storage units." That was what Mr. Caudle had agreed to and that was the Bill of Assurance being offered. He was concerned when he discovered that this also contained mini-storage because at Planning Commission they had discussed the type of assurance being offered. There were three or four places in the minutes where he had talked about the applicant offering them a climate controlled storage facility Bill of Assurance that the property would be used for this purpose. Now they were discussing mini-storage and climate controlled. He thought one of main arguments had been that he had existing mini-storage and that was a new use that was needed in Fayetteville and it was a climate controlled facility. It was one of the things the Planning Commission had considered when they recommended that the property be rezoned to C-2.

Alderman Zurcher stated he was inclined to decline this request. The City had a 2020 Plan and if they decided it was not a good plan for them, then they needed to go back and change it. Until that happened, he felt pretty good about sticking to that plan.

Alderman Davis asked what percentage of the facility was going to climate controlled.

Mr. Caudle replied it was approximately half climate controlled and half regular type storage, similar to the existing buildings. He added there was a need for this type of storage in the area. If there was a misunderstanding, that was exactly what it was, a misunderstanding. There was a strong need for the additional units. There would not be a unit available to rent, of any nature, during the summer season. West Side Storage was completely full during the summer months, from April to August. This building would contain eighty-four units. Forty of those would be climate controlled. The climate controlled would be inside the building surrounded by the regular units.

Mr. Conklin stated it was his understanding the building would look like a mini-storage building surrounding the perimeter of the building, then within the center of the building would be the climate controlled storage facility.

In response to questions from Alderman Thiel, Mr. Conklin stated there was 138 feet in front of the proposed storage facility, which was enough for a professional office building with parking. In regards to screening, Mr. Caudle did have some proposed screening for the site. Staff would also be making a recommendation to the Planning Commission. The Planning Commission



would also debate the type of screening required for this facility.

Mr. Caudle stated the screening that he was most attracted to was the concrete pillars with regular privacy type fence between them.

Alderman Jordan stated he had thought it was all going to be climate controlled. He wondered how much of that swayed the Planning Commission.

Mr. Bob Estes, Planning Commissioner, stated he recalled that they had discussed that it was climate controlled. It was his recollection that the area had been rezoned some time ago for this purpose. He recalled that it was to be climate controlled. It was not a determining factor in his vote. What was, was the rezoning some years ago for this purpose.

Alderman Davis stated that in today's society there were many people who had to travel across town to store their extra possessions in a storage unit. It was not a high traffic use. If traffic were to drive by during the day, they would never see a lot of cars sitting there. As far as traffic problems, there really should not be a whole lot of congestion due to this. In time, they would see a stop light at Ruppel Road.

Alderman Zurcher stated there was probably more C-2 land in Fayetteville than what could be used in the next few years.

Mr. Conklin stated there was quiet a bit of land zoned C-2 that was undeveloped or could be redeveloped.

**Mayor Coody asked shall the ordinance pass. Upon roll call the motion carried by a vote of 6-2-0. Zurcher and Reynolds voting nay.**

*ORDINANCE 4287 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

## **NEW BUSINESS**

**FIRST NIGHT:** A resolution approving a budget adjustment in the amount of \$15,000. Alderman Trumbo stated this resolution was being brought forward by himself and Randy Zurcher.

Dr. David Williams was there to make a few comments about First Night and how it impacted various families.

Mr. Williams stated for the past thirty years he had been in the business of restoring mental health to communities and individuals. One reality for the past ten years was that they had a lot more individuals and communities suffering from mental disorders and community violence. Research was continuing to report it as a problem. People were continuing to feel less connected and less safe than they did ten years ago. He was interested in communities that connected more. It was his belief that the First Night event was one of those real ways that they did as the



governing body that created ways for people to feel more connected, for them to feel safer. It was an opportunity for people to be united and lifted and inspired by the diversity of arts and celebration that both helped their diversity be more of a strength and their enjoyment more of their daily life or whether it was more of an opportunity for them to get out on the streets and say "hi" to their neighbors.

Ms. Joanne Comiskey stated she had the opportunity to work with the children at Washington Plaza on the giant puppet. It had been a group project. The puppet had been designed by the children. This project was a wonderful example of how the children had worked together. They became a community. What they would see at First Night was only one aspect of what they had done. They had come up with new ideas and expressed themselves. She had enjoyed working with the children.

Ms. Rebecca Weaver, Washington Plaza manager, stated this was the second year for the kids at their complex for them to work on a First Night Project. It was wonderful to see how the kids had grown from working on these projects. She stated she thought the kids received a sense of community involvement and being apart of their community. That was what they all wanted. This was the ounce of prevention that they all hoped for. It costs a lot less for the ounce of prevention than for the pound of cure.

Alderman Davis asked what the total cost was to put on First Night.

Alderman Trumbo stated their total budget was approximately \$115,000. They would be having it March 31 this year. He hoped they would be able to incorporate more with the University of Arkansas and bring in the University. They were hoping for fifteen to twenty thousand visitors this year.

Ms. Tobi Kaufman, First Night, explained the story of April Fools Eve. There were dozens of youth groups involved in First Night. They had other outreach programs. This was their youth outreach program. They also had Button Outreach. They distributed 15,000 buttons to low income families and at-risk youth. They also had multi-cultural outreach. They were of the highest quality. They could be very proud of the kinds of performers that were performing in their community. This was an area that they wished to expand. They also had Community Outreach. They worked to present an event to the community that was as high quality and low costs as possible. They wanted the event to be affordable and accessible. What they charged for the buttons did not even begin to cover the expenses. They wanted to subsidize them. In addition their Community Outreach meant they had approximately two hundred and fifty volunteers that worked on First Night. They encouraged families to come and volunteer as families.

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

*RESOLUTION 7-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**FOI: Informational item on the Freedom of Information Act.**

Mayor Coody stated he had requested an informational tutorial on the Freedom of Information laws so they could all do a better job knowing what the press should expect and what the public should expect.

Mr. Rose introduced Professor John Watkins, University of Arkansas. He has written *The Arkansas Freedom of Information Act, Third Edition*. Without question this book was the bible on the Freedom of Information Act in the State of Arkansas. It was the source that City Attorneys across this state went to when they had an FOI question.

Mr. John Watkins stated he had given talks on the Freedom of Information Act whenever anyone asked him to. He was willing to do more than just this session. He wanted to primarily answer questions on the Freedom of Information Act. He wanted to let them know that things were likely to get a bit more complicated after this session of the General Assembly. He and Jerry Rose had been appointed by the Governor to serve on the Electronic Records Study Commission. That commission had been charged with recommending to the General Assembly changes to the Freedom of Information Act to bring it into the electronic age. The current act had been passed in 1967 for a paper environment. They were in a totally different environment now and the act needed to catch up. This will be the most significant change in the law since its enactment. There was going to be a learning curve for everyone if the proposal was to become law. His experience had been with school districts and county bodies. Most of the questions involving FOI involved meetings. The act had two parts. One deals with records. One deals with meetings. It seemed that the meeting part raised most of the questions. In part it had not been interpreted very much by the Supreme Court. What they had to go on by way of guidance were opinions of the Attorney General. The Attorney General's opinions were not law. They were simply the opinions of the State's attorney on what the law was. Lots of issues involving meetings were unsettled, which meant there was not a black and white answer.

Alderman Thiel asked if it was legal for two aldermen to talk one-on-one about an issue.

Mr. Watkins replied that had not been directly answered under the act. There was a popular misconception about this. The FOI did not say a word about how many members of a governing body needed to be present before the act kicked in. He quoted from the act, "accept as otherwise specifically provided by law all meetings of the governing bodies of municipalities and various other entities shall be public meetings." What was a "governing body"? They, the Council, was for sure. There was nothing in the statute that defined how many members had to be present before there was a meeting for FOI purposes. The Supreme Court had ruled that they did not need a quorum present before the FOI applied. The court had not addressed the issue about less than a quorum, but less than two. The Attorney General had answered that question in an opinion in 1999. Mark Pryor had stated that he believed the inquiry would focus on not the number of attendees at the meeting, but instead on the extent to which the facts suggest the potential evasion of the Freedom of Information Act. Routine discussion of public business by two members of the governing body did not violate the FOI. In other words, it was possible for two members of the council to discuss official business as long as there was not an attempt to do



so for the purpose of evading a public discussion. For instance, there was a Supreme Court case that involved an entity that had met on a certain issue and voted on it. There had been a motion to petition by one of the interested parties to reconsider. The executive secretary of the body called each member one at a time, and asked how they voted on the reconsideration. The Arkansas Supreme Court had said that was a violation of the FOI. That voting should have been done in public. Not by a series of phone conversations. Building on that opinion the Attorney General had reasoned that there was a potential for abuse involving successive meetings of two members, in person or on the phone. On the other hand, government would grind to a halt if every time a question arose they would have to call a public meeting. What the Attorney General had proposed was a case-by-case basis. There may be case where a discussion between two aldermen was just fine. As an example, as resident of Ward 4 he called an Alderman from Ward 1 because he knew him and asked for his help. Then the Alderman from Ward 1 called Ward 4 alderman to tell him of the citizens complain. This is an example of a conversation between two aldermen involving a matter of official city business. If the FOI were to apply to this conversation, they could not have city government. The Attorney General has recognized this. They could talk among themselves about City business, but they could not do so in a way where they would decide the issue before they got to the City Council chambers. Those decisions had to be made in public where the public could listen and see what they had to say about those issues. It was a very broad and fuzzy line.

Alderman Zurcher stated he knew First Night needed money, he called Alderman Trumbo on the phone and asked if they could do something together to get First Night more money. Was the law broken on that phone call?

Mr. Watkins stated that was a matter that was going to come before the Council for a decision. He assumed in the conversation that he did not call other aldermen asking for their support. As long as he did not engage in those types of subsequent conversations he was okay. He was talking about an item of official business. What the Attorney General calls routine general discussion of public business. Even though it was going to be acted on by the Council, he had not pre-ordained anything. That was what the act was suppose to prevent. They were not to make these decisions in private, then go through a charade in public where they reconfirmed what they had already decided behind closed doors.

Alderman Young stated he was pointing out some of the problems. Where was the line? The examples they were giving were simple things like a street or First Night. What about something like CMN Business Park and trees, which were major political issues in Fayetteville. Did that change anything?

Mr. Watkins replied the Attorney General has stated that as long as there is not evidence of an intent to evade the FOI, then they were probably okay. Even if it was a complex and controversial issue. He did not think the nature of the issue determined the question, rather it was the attempt or the appearance of trying to evade the public meeting requirement.

Alderman Young stated that put a heavy burden on the public because it would be impossible to prove that was not happening.

Mr. Watkins replied that was true, but it also put the burden on the public official to make sure that the substance of the conversation they may have had with another alderman was made public at the meeting. The public then has access to that same point. On the other hand if he were to call another alderman and no one ever reveals the discussion then they had a potential problem, because the idea was that as much public discussion as possible on issues were to be decided in the public arena.

Mr. Rose stated his advice to them was a little more pragmatic. He knew a couple of pragmatic facts. They had one of the most active media anywhere in Arkansas. They had a number of newspapers and video outlets as well. What they did was under intense scrutiny. They also had a very informed public who also takes advantage of the Freedom of Information Act, unlike many cities in Arkansas. We had civilians, not just the professional media, that looked at them. Coupled with that, he knew the questions were simply tough to deal with and they were on an individual basis. He knew full well that as long as they were talking about sex and football they were fine. His advice was a little more pragmatic than John's. In an overabundance of caution. If they were asking him in this over litigious society that they lived in, how they could avoid the problem, it was not by avoiding their fellow alderman, but by simply avoiding talking about city business. He was not sure that was the law, but he did know that his advice would keep them out of trouble.

Mr. Watkins added that would be exactly the same advice he would give them. If they were his client, he would give the same advice. Don't do it. If they were going take action, error on the side of caution. Caution would be to avoid those one-on-one discussions on matters that were likely to come before the Council for final decision. On the other hand that just because they did it, did not mean they had violated the law. Sometimes he believed the press interpreted the FOI the way they wished it was instead of the way it is. They sometimes go a little overboard in saying that when any two of them got together in a room, there was a violation of the FOI. That was not true. Even if there were two of them in a room and they discussed a matter of public concern, that was not a violation of public concern, but to avoid any controversy, don't do it.

Alderman Young stated in the past, it had been the City Attorney's opinion, that because the Mayor had a vote on the governing body, that the Mayor was in the same boat as the Alderman.

Mr. Watkins stated there were a couple of Attorney General's opinions, one dealing with a city with a City Manager form of government, which the mayor's role was different than it was in the Mayor/Council form, but in both situations the Attorney General has taken the position that the Mayor was a member of the Council for FOI purposes. There was not an opinion directly on that question regarding a city of the first class that had the Mayor/Council form. There was a city of the second class Mayor/Council opinion. The statute did not differ enough on that point to have a different outcome. The Attorney General has opined that the Mayor is a member of the Council for FOI purposes.

Mayor Coody asked in the hypothetical where say Swifty called the Mayor rather than another alderman, was that more or less?

Mr. Watkins answered, it was not a violation if he called Mr. Jordan to report that there was an upset citizen in his ward and wanted his street fixed yesterday, that was a matter of official business. What was important to a lot of citizens was basic City services. It was at the heart of City business, so if he called or talked to Mr. Jordan and raised that issue, it was not a violation of FOI, then there would not be a violation if he called the Mayor and raised the issue with him. There was not an attempt to hide anything from the public. When the matter came before the appropriate City committee or Council, you knew where he was going to be. There was nothing hidden in that situation. It did not matter if it was a Councilman to Councilman or Mayor to Councilman, as long as there were two of them, there was the potential for an FOI violation. But just because they talked about City business, does not mean you have automatically violated the FOI. That was the point the Attorney General was trying to make.

Alderman Trumbo asked if the meeting that precipitated this tonight, which he found very enlighten, when they had three board members from the Youth Center, which received money from the City of Fayetteville, with the Mayor and Alderman was that subject to FOI.

Mr. Watkins asked, was what subject to FOI?

Alderman Trumbo replied the meeting where there were three members of a board, which receive money from the City of Fayetteville, the Mayor and an Alderman.

Mr. Watkins replied that was a complicated question, because it involved potentially a meeting that was public, even though there were no Aldermen there. The Board of Directors of certain non-profit organizations that were supported in whole or part by public funds, were also subject to the FOI law.

Alderman Zurcher asked for clarification in that meeting. As he understood it the Boys and Girls Club had not been notifying the press and had not been under the FOI as far as they were concerned, up to that point. He did not think that up to that point that they had been notifying the press of their meetings.

Mr. Watkins stated if a body was clearly subject to the FOI, it only needed to give notice of their meetings to people who have asked for it. If no one asked for notice, they did not have to give notice. The Supreme Court so held in the 1970's and reconfirmed that in 1999. If no one asked for notice of a meeting, they did not have to give notice. They might not have given notice, because no one asked for notice.

Mr. Rose added, remember that they had asked for notice as far as City meetings and they had a standing request. The City Clerk had the list for City meetings.

Alderman Reynolds stated in that meeting the Mayor and Bob Davis were already there and Trent was going to attend that meeting, so he called the press.

Mr. Watkins stated this was why this was a complex situation, it is possible that the Board of Directors of the Boys and Girls Club would have to meet in public anyway. No matter who was



there. That was a factual question. It was determined, not just on the basis on whether the Boys and Girls Club received public funds, that was one requirement, but there was another requirement according to the Arkansas Supreme Court that there be an intertwining between the City and the non-profit. Was there a close relationship, so in effect the public business was being carried on by this private nonprofit corporation. It was not just the receipt of public money, by itself. What they wanted to avoid was public business being shunted off into private organizations in the theory that they could avoid public scrutiny by having private groups do the work that the City would normally do. For example the many lawsuits involving the Incinerator matter, the City retained some outside lawyers from Chicago and DC to advise them on complex issues regarding the disengagement from that project. The Arkansas Supreme Court ruled that the records of the law firm that the City had retained were opened to the public under the FOI, because the law firms were in affect the functional equivalent of the City Attorney. The ideal was that theoretically, the City Attorney could have provided the advice. If he had produced memoranda for the City, those records that supported him in his files, would have been subject to the FOI. They could not change that result, by hiring an outside law firm. The idea was that they could be evading the openness requirement by doing business through a private entity rather than his own staff. The reason why the FOI extended to the private organizations was to stop the notion that City's or other entities doing their business through a private organization, thereby, evading the openness requirements of the FOI. He did not know enough of the facts to offer any kind of opinion on the status of the Boys and Girls Club, but it was possible that they would be considered an entity subject to the FOI by themselves. They at least met one requirement, they received public funds in support of their activities. It may have well been subject to the FOI just because of the status of the Boys and Girls Club as a recipient of public funds. The other question was, let us assume that was not the case, and the Board of the Boys and Girls Club was not required to meet in public; does that change because the Mayor and a couple of Aldermen attend a meeting with the Board of Directors of the Boys and Girls Club. The answer was, no, it doesn't mean that it was a meeting of this governing body. It was a meeting of the Board of the Boys and Girls Club where other people were in attendance, including members of this body. In other words, the question is Who's meeting is it? The fact that they may attend a meeting with another group did not mean that it was their meeting for FOI purposes. On the other hand, if while they were there at someone else's meeting and they discussed matters that were likely to come before the Council, then they ran the risk of stepping over the board and fuzzy line. In this situation he would not advise doing that. He urged that while they were at some other meeting, not to discuss matters which could come before Council. It would be the safest thing to do. Their mere presence at someone else's meeting did not convert it into their meeting.

Alderman Young stated one of the things he had been thinking about. Sometimes a committee that was not subject to the FOI would be discussing a topic which would come before the Council, and an Alderman showed up and did not participate in the discussion, but just listened. Sometimes they were invited to neighborhood meetings to listen to their concerns.

Mr. Watkins stated he did not have a problem with that. If a neighborhood association invited them to attend a meeting, and they just listened, even if three of them showed up, it was still not their meeting. If they did not talk to each other, there was not FOI violation. When he was on the Planning Commission he discouraged that. He would ask the citizen to say it to the whole

Planning Commission, so they could all hear it. If they wanted to write them a letter, he would read it at the Planning Commission Meeting. So that way everyone in the decision making body would have the some benefit of that information. But if he just listened to someone on the phone it was not a violation of the FOI.

Alderman Trumbo stated that by the sound of it, Mr. Stockland did not have to resign in order to go to the meeting in order to keep from complying from the FOI. He was on the Parks Board with another individual. He had been told that he could not go. If there were two members of the Parks Board, they would have to give notice of a public meeting.

Mr. Watkins stated that was playing it safe. He did not think it was a violation of the act. Would he have advised the meeting to take place without giving FOI notice? No, he probably would not have. But after the fact, did he conclude that it was a violation? No.

Alderman Santos asked if a meeting were called and the press was there and the meeting was adjourned and they were milling around talking and he wanted to ask the Mayor something about the City Attorney selection, and the press were there, but they were not listening to them, could they discuss things like that? When the press had been notified that they were meeting, were they free to discuss anything at that meeting?

Mr. Watkins stated there was an interesting question about whether they had actually started a new meeting or not at that point. Technically, what they may have is where one meeting had ended, now they have another meeting. Technically, if that was true, then notice would have to be given, two hours.

Alderman Thiel stated, but actually, Kevin, that meeting, she was kind of a part of too, they were asking questions about tonight's meeting. Procedural questions.

Mr. Watkins stated that was the kind of routine business that the Attorney General had envisioned as not being subject to FOI. That was going to be common when they had new members of the governing body. That was the kind of thing that was going to raise to the level of an FOI violation.

Alderman Trumbo stated if in the future there was a meeting going on and he or she were interested in listening, can he or she walk into the room and just listen?

Mr. Watkins replied it depended on who's meeting it was.

Alderman Trumbo replied, say it was the Mayor's meeting and he was talking to some people and a constituent called and asked them to go and listen. Could they go listen?

Mr. Watkins stated his advice would be that if the meeting was not required to be in public, an example, say the Mayor met once a week with the Directors of the various departments, and the Mayor called these meetings on a regular basis to find out what was up and one of the aldermen wanted to come sit in the meeting, it was the Mayor's call. It was his meeting. That meeting was



not open to the public under the FOI, because that was not a governing body. So the Mayor can determine who he wanted to have at his meeting. If they did not have to meet in public then they did not have to let anyone in. He would argue that just because he was an alderman did not mean that he had a right to attend that meeting, than he would have as a member of the general public. The question would be who's meeting is it? Remember the FOI only applied to meetings of governing bodies. The hallmark of a governing body is that it had final decision making authority. There were lots of meeting which took place every day in this building that were not open to public under the FOI, because they did not involve a governing body. One of the other misconceptions is that just because they were meeting in a public building, the meeting was open to the public. That was not true. It was a question of whether they had a governing body.

Alderman Zurcher asked that if by inviting the press once or twice or ten or twenty times, if they were not setting a precedence where they had to invite the press.

Mr. Watkins replied, no, but it would not be advisable as a political matter to say all of a sudden they were cutting off the water. His advice to them was when in doubt error on the side of openness. That was the best advice they could get. The Arkansas Supreme Court used a similar approach when it interpreted the FOI Law. When it was ambiguous as it was in many places, the Supreme Court had a general rule that said, this law was passed in the public interest to make government more accessible to citizens. So they were going to keep that in mind when we interpret it. If there are any ambiguity in the law, we were going to resolve that ambiguity in favor of openness. That was the same thing that they should do. When there was an ambiguity, resolve it in favor of public access and openness.

Alderman Trumbo stated he found it interesting that the Arkansas Municipal League recommended to it's clients that if the Mayor and Aldermen were discussing something, that they comply with the FOI, just as an overabundance of caution.

Mr. Watkins stated that was the position Jerry had taken and he agreed with him completely. He knew the Municipal League disagreed with the Attorney General's opinion on the Mayor's status as a member of the Council. In the Mayor/Council form of government the Mayor was the CEO of the City. The analogy would be if they were in State government the Council would be the legislature and the Mayor would be the Governor. The trouble was that with cities, unlike in State government, the Mayor also played a role at the Council level. That was where the ambiguity came in.

Mr. Rose suggested that they take Professor Watkins up on his suggestion that he meet with them at their Agenda Session.

Mr. Watkins stated he would be glad to do it. They could then talk about the records issue. He could give them a briefing on what could be expected under the new law that they had been working on involving electronic records. He expected it in some form to pass this session.

Alderman Thiel asked as far as the Council members wanting to have a meeting, did they do the notifying?

Ms. Woodruff replied if they would call her she would be glad to notify the public. They had a standard procedure that they followed.

Mr. Watkins stated one thing that was clear from the Supreme Court decision, say that they create a special committee comprised of three aldermen to study a certain issue and then report back to the full council. Even though that three member committee did not have any formal decision making power, and was just making a report or recommendation to the council. The Supreme Court had said since the committee was composed of all members of the governing body, the council, then the FOI also applied to the committee. Even though it was not a standing committee, it was a special committee, then they had to give notice to the people who had requested it.

Mayor Coody asked if any members of the press had any questions?

Mr. Charlie Alison, Morning News, stated he agreed with most of what had been said, especially the pragmatic part. If they wanted to avoid any entanglements with the press regarding FOI do their meetings in public. They had more committees in this City than any five others in the State combined. If they could do their work in the committees and in public where people could hear what their thoughts were, he would not try and sort out what their intent was, if they met with someone else. He would assume the worst. He was a very cynical public. He would assume they were trying to meet to avoid FOI requirements and he would take them to task for it. He thought members of the public will too, because they were the ones that wanted to know what they thought and why they thought it. If two of them were meeting, how did their colleagues know what their thoughts were and how did their constituents know and how did the public know. He agreed with Jerry and Dr. Watkins with the regard to the pragmatic thing and giving the advice to meet in public. For his part, he appreciated all the effort they had done to be public about their meetings and to provide documents in a timely fashion. He had never had any complaints and hoped to never have any in the future.

Mr. Rose stated he had been here twelve years. They lather it on thick. He did not know of another city in Arkansas that tries harder to liberally apply our Freedom of Information Act. They write it into our ordinances when they created things that were not covered by the Act. When they gave money to people, they required them to be subject to the Freedom of Information Act. They lathered it on heavy. That had been the feeling of every City Council member that he had in the last twelve years and every Mayor and every Administration he had been associated with. Certainly this Administration's goal is of openness. It was a good act.

Mr. Watkins stated there were a lot of cynics out there in the public and press that will always assume the worst. It was not a legal issue they were getting into, it was a political issue. Even if they were fine on the law and they have not violated the act, you may had created a firestorm which detracted from the good things they were trying to do as aldermen. If they could avoid those firestorms, the better off for everyone.

Alderman Zurcher stated he wanted to point out to the public that up until recently all Freedom of Information Acts were routed through the Mayor's office, for whatever reason. He wanted to

let the public know that the Mayor had sent out that our Mayor had sent out a directive that ends that practice, that if they as a citizen wanted any kind of document that was a public document, then they could go directly to that department. That should make their request more timely. He wanted to thank him for that.

Mayor Coody stated he wanted to add to that if someone wanted documentation that would come from several different departments, instead of having to go to several different departments, then they could come to the Mayor's office, they could then distribute the FOI and combine all the paper work at one place and present one package of information, rather than having someone go to several different departments. Other than that the building is open and there was no need for all the paper work. He would like to add that he thought people would find that this was going to be a more open and FOI friendly administration than a lot of cities.

Mr. Watkins thanked the Mayor for having him.

Mr. George Weiss, 1614 Sawyer Lane, asked if the two aldermen Kevin and Lioneld wanted to know from their constituents, and they invited all of them to a meeting, was that FOI?

Mr. Watkins replied, he would say, no. Because what they were doing was seeking input. He could invite everyone to error on the side of safety. When they were not discussing anything among themselves, but were listening. It was hard to say that was a meeting of the group, when the aldermen were attending the session.

Mr. Weiss stated this was the distinction he was trying to make. So informational gathering was okay?

Mr. Watkins replied, no. That was going too far. Too broad of a statement. A government body had to meet in public even if it took no action. Even if it was in an informational gathering mode. Governments were fond of having government retreats. Those meetings were not designed to have any immediate kind of action, the real purpose of those meetings were to sit back and get the big picture and do some informational gathering. That was going to be subject to the FOI, if that is something that was organized by the Council. On the other hand, just because two aldermen in response to constituent request decide to gather with a citizens group, doesn't mean that they had violated the two person rule. If it were the two aldermen who were calling the meeting and he was advising the aldermen, he would say notify the press and everyone, open it up to whoever wanted to come.

Mr. Weiss asked if there was a real FOI violation, what were the penalties?

Mr. Watkins replied a violation of the FOI is a crime, if it was a negligent violation. A negligent violation did not mean negligent in tort law, it meant gross or reckless violation. It was punishable by so many days in jail and a fine. The judge could impose a sentence of public education. One example was in a town where the Mayor of a town held an executive session to talk about personnel issues, those were allowable under the terms of the FOI, you could go into executive session to make certain personnel decisions about a specific person. That was what



they did, then they got to talking about other stuff that had nothing to do with the purpose of the executive session. So at that point, it became an illegal closed meeting. They went in legitimately, but then they started talking about something beyond the scope of the executive session. The mayor was convicted of violating the FOI because the law was clear that if they had an executive session for personnel matters, that was what they could talk about and that was all. The judge sentenced him among other things to read the Freedom of Information and to attend a seminar on the law. It was possible to have a sentence of jail time, but it was very rare.

Mr. Jeff Erf stated his question was a document related question and the charge for photo copies.

Mr. Watkins replied when he did a program, what he usually did was talk about both the records part and the meetings part of the act.

Mayor Coody thanked Mr. Watkins and stated he had learned a lot tonight.

**INTERIM CITY ATTORNEY:** Interviews with Interim City Attorney candidates.

Mayor Coody stated there was one item that they were going to discuss before they went into executive session. That was the ordinance which they had on the books concerning the salary for this position.

Five minute recess.

Mayor Coody stated they needed to discuss the salary.

Mr. Rose stated his job was governed by a thing called the Hay Plan. The Hay Plan was by their personnel department did a survey of all the City Attorneys in Arkansas of cities of this size, plus two or three surrounding states. From that their Personnel Director set a low range and a high range on salary. The low range was somewhere around \$55,000. The high range was approximately \$75,000. After being here for twelve years, he was ceiling out. He was at the top at \$75,000 per year. They had an ordinance on the books which stated that the salary for a newly elected official was established at the minimum of the pay range determined by the most recent public sector survey conducted by the City, that was the Hay Plan. The ordinance stated, "newly elected official". He did not think that what they were doing tonight, was newly electing anybody. A newly elected official was one elected at a general election of the people. He did not think that the ordinance applied to that. Therefore, it was his recommendation to them that they set the salary for this official. That they were going to select as the new city attorney. He thought they set the salary. He suggested that it be somewhere on that range and that they did not go above or below that range, but within that range they could do whatever they wished. It had been pointed out to him that if they currently say they should give someone a \$70,000 salary to do their job, they would then run in November of 2002 and get a \$20,000 reduction in pay under this ordinance. They did have a year and a half to change this ordinance. His guess was that they would be under some degree of pressure to change the ordinance.

Alderman Reynolds asked how did they do the Mayor's salary?



Mr. Rose stated the Mayor's salary was an amalgam of a combination of the highest paid executives in the City.

Mayor Coody stated since they were missing Charlie Venable it turned, they took the next one.

Mr. Rose stated they gave the Mayor a salary of five percent over and above those salaries. There was a real advantage to the Hay Plan. He liked it very much. It took his salary out of the political arena and into an administrative arena. He liked it a lot. I might rob him of some pay, but politically he enjoyed it very much. He liked the fact his salary was taken out of the political area. It struck him that depending on who they selected and their degree of experience in Municipal Law and their degree of experience generally. There was nothing wrong with making a professional selection, then bargaining with them over a salary. Then bringing it back to the Council. Or they could set a certain salary.

Alderman Davis stated that was the way he would like to do, depending on their experience. It was going to take someone awhile to get Jerry's expertise.

Mayor Coody stated basically the folks applying for the job were going in without knowing what the salary was going to be. He thought it would be a fair assessment that it would be in the middle or above, to give them an idea.

Alderman Santos stated he did not believe it should be above. Some of the candidates might not be interested and they might want to drop out of the process now.

Mayor Coody stated he tended to believe with an attorney, and the amount they made. The qualified folks they had applying a mid-range of the salary would not be unfair. That was his personal take on it. He would defer to the Council on the choice on the City Attorney and the choice of the salary though.

Alderman Reynolds stated they would have to think about working for \$55,000 to \$75,000 and then going back to \$55,000 after the election.

Mr. Rose stated he assumed they might want to change the ordinance.

Alderman Zurcher stated from his point of view \$65,000, sure. If the City Attorney ran for this office and won, then he would want to make some kind of provision so there would not be that kind of pay cut, if the person were elected.

Mr. Rose explained about executive session. Executive Sessions are a noted exception, actually it was the only exception to open public meeting in the Freedom of Information Act. They may go into executive session, which means they go into a private session. And they could do that only in considering employment, appointment, promotion, demotion, discipline, or resignation. So the purpose of their executive session would be the employment of the new City Attorney until the next general election. The specific purpose of that executive session has to be announced in public before going into executive session. He would like one of them to articulate



that, even though he just did, as to why they were doing it. He thought it would be wise if they voted to go into executive session as opposed to just going. He had been asked by the press to tell them they did not have to go into executive session, however, in the past they had done so. It was therefore the legal reason of developing a degree of candor in private over these kinds of employment matters. There might be some private things they might want to ask or be said, during those. The decision was up to them. They did not have to do that. Only the City Council members will be in the session. That was the eight of them and the Mayor. He would not be there. You will be on their own. There were five candidates for the position for the City Attorney. He had in his hat, numbers one through five. He thought, with their permission, that they would draw. As to how long they take with each interview, that was purely up to them. At the Agenda Session they had talked about fifteen minutes per person. Certainly, that too was not etched in stone. At the end of each individual interview just send them out and at the end of the fifth interview, if they would deliberate on what they wanted to do and who they wanted to select. At the end of their deliberations, they must come back in here and go into public session again. It required a public vote to whom they select. They need a motion and a second and an individual voice vote.

Alderman Trumbo stated it was his understanding that when they were in executive session that the eight aldermen vote and then they selectively tailor down to the least amount of votes and they just kept voting until there were two and then one and then they come out and the vote would be unanimous.

Mr. Rose replied there was no set procedure that he was aware of as to how they were to do that. Certainly, that method that he mentioned sounded logical and certainly was one that could be followed. There was nothing that was etched in stone as to any particular way in which it must be done, just that they make a decision and that they come out here and make that decision formal.

Alderman Trumbo asked what would happen if it was 4-4 vote.

Mr. Rose stated the Mayor may certainly vote under those circumstances. If they could not arise at a conclusion.

Alderman Thiel stated he was also saying the Mayor could come out here and cast the vote for the whole.

Mr. Rose stated the Mayor may appear with them. Again, only if his vote was needed for the passage of a measure.

Alderman Young asked if he was correct in that they did not have to vote tonight.

Mr. Rose replied they did not.

Alderman Davis asked if they were allowed if they desired when they went into executive session to set the ground rules that they wanted to vote on.

Mr. Rose replied yes. They could vote for them anyway they wanted to, as long as it was not for an unconstitutional reason.

Alderman Reynolds asked when they went into the executive session, they were not allowed to talk about wages any further. They had to do that out here.

Mr. Rose replied, yes, in the sense that the only thing they could talk about was employment. It was an interesting question where or not, and it was his guess that once they got out of the session that the press was going to ask them what went on back there. The FOI was completely silent to whether or not they were to or can or can not reveal what went on back there. He would think, and his advise to them would be that they went into executive session for a good reason and that good reason continues. His advise to them would be to be discreet with that information. However, he knew of no legal compunction or any bad thing that would happen to them if they did not.

Alderman Reynolds stated he would like for them to consider the figure of \$69,000 for a City Attorney. They had a municipal judge which worked part time that made \$65,000. He thought an eight to five attorney would respectfully earn \$69,000.

Mr. Rose stated he started out at \$50,000 per year. He thought that would a good job, coming from the Attorney General's office. He had come in at the bottom twelve years ago. He only reminded them that the scale was there independently of him or anyone else. The scale had not been made up out of thin air. It went to other city's and determined what other cities were getting their City Attorney for.

Alderman Santos stated this session was Council meeting chaired by the Mayor and not a Nominating Committee meeting.

Mr. Rose replied it was a City Council meeting in executive session.

Mr. Estes asked if it was a correct understanding that the salary for this interim position would be \$65,000.

Mayor Coody asked if they should determine a number before they went into executive session.

Mr. Rose replied it was dealers choice. They were breaking new ground here. They needed to decide what they wanted to do.

Alderman Davis stated they had indicated that they wanted to leave it around \$65,000, then they could negotiate, depending on the experience they had.

**Alderman Santos moved to set the salary at \$65,000. Alderman Thiel seconded the motion.**

Alderman Young asked Mr. Rose if he was topped out under the Hay Plan.

Mr. Rose replied yes. He added the nice thing about the Hay Plan was that it was revised very two years. So ever two years he could move out from under that ceiling.

Mayor Coody stated there was a motion to set the salary at \$65,000.

**Upon roll call the motion passed by a vote of 5-3. Reynolds, Davis, Trumbo voting nay.**

Mr. Bob Estes stated he must withdraw his name from consideration.

Mr. Rose stated he needed a motion from someone to go into executive session, if that was their desire.

**Alderman Davis moved that they go into executive session to discuss the employment of a City Attorney. Alderman Zurcher seconded the motion. Upon roll call the motion carried unanimously.**

Executive session.

Mayor Coody asked if they needed to move to come into discussion.

Mr. Rose stated they needed a motion and a second and a vote and discussion if they wished.

Mayor Coody stated the announcement was that they had some excellent candidates and there was a lot of discussion. Everybody was well regarded. The decision was made that Kit Williams would be their City Attorney.

Mr. Rose stated they needed a motion, a second and a vote.

**Alderman Zurcher moved to accept Kit Williams as City Attorney. Alderman Thiel seconded the motion. Upon roll call the motion carried unanimously.**

Meeting adjourned at 10:45 p.m.



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

AN ORDINANCE ALLOWING GRADING BEFORE RECEIVING A STORMWATER MANAGEMENT, DRAINAGE, AND EROSION CONTROL PERMIT WHEN DETENTION IS NOT REQUIRED, AND PROVIDING FOR A STOP WORK ORDER.

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

Section 1: That Chapter 169, Physical Alteration of Land, of the Code of Fayetteville, is hereby amended as follows:

**§169.03 PERMITS REQUIRED/EXCEPTIONS.**

**A. Permits Required.** No grading, filling, excavation, or land alteration of any kind shall take place without first obtaining: (1) a grading permit pursuant to this Chapter except as specified in §169.03 B; (2) a storm water management, drainage, and erosion control permit (hereinafter referred to as a "drainage permit") except as specified in §§170.03 C and 170.03 D); and (3) an Arkansas Department of Environmental Quality Stormwater Construction Permit and incorporated Stormwater Pollution Prevention Plan, if required by State law.

**B. Exceptions Where No Grading Permit Is Required.** Grading permits are not required for the following: [retain current §169.03 B. 1-5]

**C. Grading permit Application and Approval.** [First two sentences stay the same as in the current §169.03 B. 6]

Any application for a required grading permit under this Chapter shall be submitted concurrently with the application and calculations for a drainage permit, if such drainage permit is required by §170.03.

[Last sentence of current §169.03 B. 6 stays the same]

Section 2: That Chapter 170, Stormwater Management, Drainage, and Erosion Control, the Code of Fayetteville, is hereby amended as follows:

**A. Applicability and Permits Required.** This chapter shall apply to all land within the corporate limits of the City of Fayetteville. No person may subdivide and develop, change to a more intensive land use, construct or reconstruct a structure, change the size of a structure, or conduct construction, grading, clearing, filling or remodeling activities without first obtaining a stormwater management, drainage, and erosion control permit (hereinafter referred to as a "drainage permit") from the City, except as specified in §§170.03 C and 170.03 D below.

**B. Permit Application.** Any application for a drainage permit shall be submitted according to §170.05 below and shall be submitted concurrently with the application for a grading permit, if such grading permit is required by §169.03. The drainage permit application shall include at the time of submission the calculations required by §170.05 B. 7. The application also shall state whether or not detention is required and shall provide the basis for that conclusion, utilizing the performance criteria set forth in §170.07 below. The City Engineer shall make the final determination regarding detention.

**C. Project Not Requiring Detention.** Any project that requires a drainage permit that does not require detention may receive, with the approval of the City Engineer, a grading permit prior to issuance of the drainage permit. Any grading permit issued prior to the issuance of a required drainage permit shall be subject to the following:

**1. Insufficient or Incomplete Drainage Permit Application.** If the drainage permit application, including the required calculations, is determined by the City Engineer to be insufficient or incomplete, it shall be revised and resubmitted by the applicant within four (4) weeks of receipt of written notice of insufficiency or incompleteness.

**2. Deadline for Revised Application.** A stop work order for all grading on the project shall be issued by the City Engineer if a revised application is not submitted within four (4) weeks of receipt by applicant of the written notice of insufficiency or incompleteness.

**3. Insufficient or Incomplete Revised Application.** A stop work order for all grading on the project shall be issued by the City Engineer if a revised application submitted within four (4) weeks is determined by the City Engineer to be still insufficient or incomplete.

**4. Stabilization and Revegetation After Stop Work Order.** If a stop work order is issued pursuant to §§170.03 C. 2. or 170.03 C. 3., the applicant shall stabilize and revegetate all graded and otherwise disturbed areas as set forth in §§169.04 B. and 169.06 F. 4.

**5. Termination of Stop Work Order.** Any stop work order issued pursuant to §§170.03 C. 2 or 170.03 C. 3. shall expire upon the issuance of a drainage permit and compliance with any conditions contained in the drainage permit.

**D. Exceptions Where No Drainage Permit Is Required.** Drainage permits are not required for the following:

[Retain current §170.03 B. 1-6]



**OTHER CHANGES:**

§§170.03 B. 1, 170.03 B. 2, 170.04 B: Change "stormwater management, drainage, and erosion control permit" to "drainage permit".

§§170.04 B, 170.04 D. 1, 170.04 D. 2: Change "construction permit" to "drainage permit".

DRAFT  
11-28-00  
tmCITY ATTORNEY  
TABLED  
ON SECOND  
READING.

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

AN ORDINANCE ALLOWING GRADING BEFORE RECEIVING A FINAL PERMIT WHEN DETENTION IS NOT REQUIRED; AND PROVIDING FOR A STOP WORK ORDER.

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

Section 1. That Chapter 170, Stormwater Management Drainage and Erosion Control, of the Code of Fayetteville, is hereby amended to add the following:

**§170.03 PERMITS REQUIRED.**

**B. Exemptions.**

7. **Projects not requiring detention.** Any land which requires a stormwater drainage management, drainage, and erosion control permit that does not require detention may receive, with the approval of the City Engineer, a permit allowing grading before final drainage calculations are approved. Any grading permit issued before approval of the final drainage permit may be subject to reasonable conditions imposed by the City Engineer.

Section 2. That Chapter 169, Physical Alteration of Land, of the Code of Fayetteville, is hereby amended to add the following:

**§169.03. PERMITS REQUIRED/EXCEPTIONS.**

**B. Exceptions.**

10. **Projects not requiring detention.** If a plan does not require detention, the City Engineer may permit grading before final drainage permits are approved. Any grading permit issued before approval of final drainage calculations may be subject to reasonable conditions imposed by the City Engineer.

Section 3. That Chapter 153, Enforcement, of the Code of Fayetteville, is hereby amended to add the following:

**§153.07 STOP WORK ORDER**

**D. Failure to obtain approval of final drainage permit within 120 days of issuance of a grading permit.** A stop work order may be issued by the City Engineer for all grading on projects issued a grading permit before approval of drainage permit if such permit are not approved within 120 days of the issuance of said grading permit. The 120 day period includes the time for all City reviews, including the time between submittal and review of the drainage calculations (time in queue) and any submittals and subsequent reviews. Any stop work order shall be made only upon a finding by the City Engineer that continued delay in providing drainage calculations is unreasonable on the part of the drainage permit applicant. Any stop work order issued under this provision shall expire upon the approval of the final drainage permit and compliance with any conditions contained in the drainage permit.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2000.

**APPROVED:**

By: \_\_\_\_\_  
Fred Hanna, Mayor

**ATTEST:**

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



# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

---

## TENTATIVE AGENDA CITY COUNCIL JANUARY 16, 2001

A meeting of the Fayetteville City Council will be held on January 16, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street Fayetteville, Arkansas.

### A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES:** Approval of the minutes from the December 19, 2000 City Council Meeting.
2. **BID 00-79:** A resolution awarding a contract to Harrison Davis Construction Co. of Fayetteville for their low bid of \$1,982,600.00 for the construction of the Fayetteville Senior Center. An approval of a budget adjustment in the amount of \$78,083.00 which is funded by the Council on Aging.

### B. OLD BUSINESS

1. **GRADING AND DRAINAGE:** An ordinance approving amendment to the City's Grading and Drainage ordinances. The ordinance was left on the second reading at the December 19, 2000 City Council meeting. This ordinance was tabled on second reading at the January 2, 2001 City Council Meeting.
2. **RZ00-25.00:** An ordinance approving rezoning request RZ00-25.00 as submitted by Dennis Caudle for property located at 1192 Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial. This ordinance was left on the 1<sup>st</sup>. reading at the January 2, 2001.

## STAFF REVIEW FORM

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

For the Fayetteville City Council meeting of January 2, 2001

FROM:

Charles Venable Public Works  
 Name Division Department

ACTION REQUIRED: Approval of a Resolution awarding a contract to Harrison Davis Construction Co. of Fayetteville for their low bid of \$1,982,600 for the construction of the Fayetteville Senior Center. Approval of a budget adjustment in the amount of \$78,083 which is funded by the Council on Aging is also requested.

COST TO CITY:

|                                                                                                    |                                               |                                                                                                          |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <u>\$1,982,600</u><br>Cost of this Request                                                         | <u>\$1,904,517</u><br>Category/Project Budget | <u>Walker Park Senior Complex</u><br>Category/Project Name                                               |
| <u>2180-4990-5722-00</u><br><u>2250-9250-5804-00</u><br><u>4470-9470-5804-00</u><br>Account Number | <u>Funds Used To Date</u>                     | <u>Program Name</u>                                                                                      |
| <u>96092-1</u><br>Project Number                                                                   | <u>1,904,517</u><br>Remaining Balance         | <u>Community Development</u><br><u>Parks Development</u><br><u>Sales Tax Capital Improvement</u><br>Fund |

BUDGET REVIEW: \_\_\_\_\_ Budgeted Item \_\_\_\_\_ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

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

|                           |             |                         |             |
|---------------------------|-------------|-------------------------|-------------|
| <u>Accounting Manager</u> | <u>Date</u> | <u>ADA Coordinator</u>  | <u>Date</u> |
| <u>City Attorney</u>      | <u>Date</u> | <u>Internal Auditor</u> | <u>Date</u> |
| <u>Purchasing Officer</u> | <u>Date</u> | <u>Grant Officer</u>    | <u>Date</u> |

STAFF RECOMMENDATION: Approval of the Contract & Budget Adjustment

|                             |             |                           |
|-----------------------------|-------------|---------------------------|
| <u>Division Head</u>        | <u>Date</u> | <u>Cross Reference</u>    |
| <u>Department Director</u>  | <u>Date</u> | New Item: Yes No          |
| <u>Admin. Svcs Director</u> | <u>Date</u> | Prev Ord/Res #: _____     |
| <u>Mayor</u>                | <u>Date</u> | Orig Contract Date: _____ |



# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## DEPARTMENTAL CORRESPONDENCE

To: Mayor & City Council

From: Charles Venable - Public Works Director

Date: December 20, 2000

Subject: Award of a Contract for the Construction of the Fayetteville Senior Center

**DRAFT**

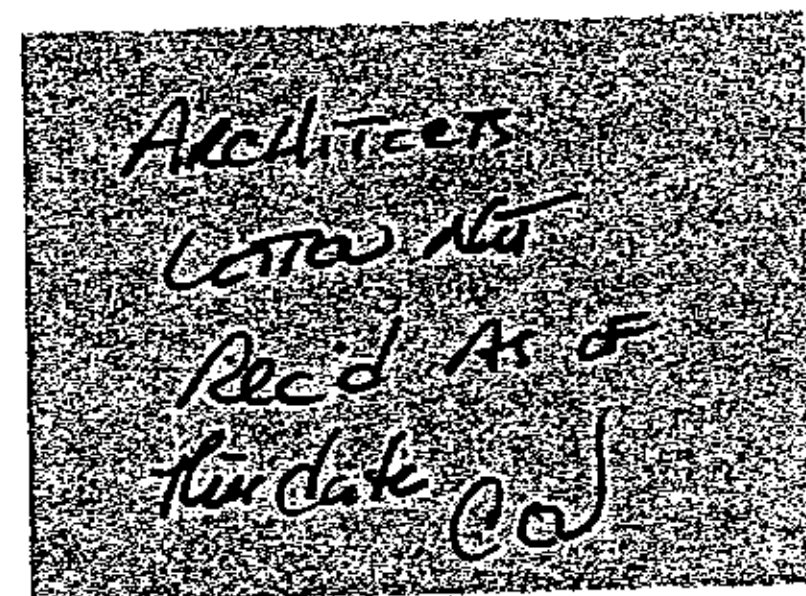
Bids were taken on December 15, 2000 for the construction of the Fayetteville Senior Center. Four contractors submitted bids with the low bid being submitted by the Harrison Davis Construction Co. of Fayetteville. Following is a list of the bidders and bid amounts.

| <u>Bidder</u>                      | <u>Bid Amount</u> |
|------------------------------------|-------------------|
| 1. Harrison Davis Construction Co. | \$1,982,600       |
| 2. Marinoni Construction           | \$2,436,000       |
| 3. SSI, Inc.                       | \$2,625,000       |
| 4. Oakridge Builders               | \$2,727,000       |

The City certified that \$2,125,000 was available to fund the project with funds being made available from the Area Agency on Aging, Community Development Block Grant dedicated HMR Tax proceeds and a 2 mil for one year real & personal property tax.

Enclosed herewith is a copy of the Architect's Letter of Recommendation and a copy of the bid tabulations.

It is recommended that the bid submitted by Harrison Davis be accepted.



## STAFF REVIEW FORM

☒ AGENDA REQUEST  
☐ CONTRACT REVIEW  
☐ GRANT REVIEW

the Fayetteville City Council meeting of January 16, 2001  
 FROM:

Don Bunn Public Works  
 Name Division Department

ACTION REQUIRED: Approval of a Resolution awarding a contract to Harrison Davis Construction Co. of Fayetteville for their low bid of \$1,982,600 for the construction of the Fayetteville Senior Center. Approval of a budget adjustment in the amount of \$78,083 which is funded by the Council on Aging is also requested.

## COST TO CITY:

|                                                                                                    |                                               |                                                                                                          |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <u>\$1,982,600</u><br>Cost of this Request                                                         | <u>\$1,904,517</u><br>Category/Project Budget | <u>Walker Park Senior Complex</u><br>Category/Project Name                                               |
| <u>2180-4990-5722-00</u><br><u>2250-9250-5804-00</u><br><u>4470-9470-5804-00</u><br>Account Number | <u>Funds Used To Date</u>                     | <u>Program Name</u>                                                                                      |
| <u>96092-1</u><br>Project Number                                                                   | <u>1,904,517</u><br>Remaining Balance         | <u>Community Development</u><br><u>Parks Development</u><br><u>Sales Tax Capital Improvement</u><br>Fund |

## BUDGET REVIEW:

[Signature] 1/7/01 ☒ Budgeted Item ☒ Budget Adjustment Attached  
 Budget Coordinator Administrative Services Director

## CONTRACT/GRANT/LEASE REVIEW:

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

Accounting Manager

1/9/01  
Date

ADA Coordinator

Date

City Attorney

1/9/01  
Date

Internal Auditor

Date

Purchasing Officer

1/9/01  
Date

Grant Officer

Date

STAFF RECOMMENDATION: Approval of the Contract &amp; Budget Adjustment

Division Head

Date

Cross Reference

Department Director

Date

New Item: Yes No

Admin Svcs Director

Date

Prev Ord/Res #:

Mayor

Date

Orig Contract Date:

**AIA DOCUMENT A101-1997****Standard Form of Agreement Between Owner and Contractor**  
**where the basis of payment is a STIPULATED SUM**

**AGREEMENT** made as of the Fourth day of January  
in the year Two Thousand One (January 4, 2001)  
(In words, indicate day, month and year)

**BETWEEN** the Owner: City of Fayetteville  
(Name, address and other information) 113 West Mountain  
Fayetteville, AR 72701

and the Contractor: Harrison Davis Construction Co., Inc.  
(Name, address and other information) 1931-A West Deane Street  
Fayetteville, AR 72703

The Project is: FAYETTEVILLE SENIOR CENTER AT WAXHAWS  
(Name and location) South College Avenue  
Fayetteville, AR 72701

The Architect is: Daryl S. Rantis, Architect, P.A.  
(Name, address and other information) 380 West Rock Street  
Fayetteville, AR 72701

The Owner and Contractor agree as follows.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201-1997, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.



© 1997 AIA®  
**AIA DOCUMENT A101-1997**  
**OWNER-CONTRACTOR**  
**AGREEMENT**

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292



## ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

## ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

## ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)* The date of commencement will be fixed in a notice to proceed issued by the Architect.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

3.2 The Contract Time shall be measured from the date of commencement.

3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than Three Hundred Sixty Five (365) days from the date of commencement, or as follows:

*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)*

, subject to adjustments of this Contract Time as provided in the Contract Documents.

*(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)*

Contractor will pay as liquidated damage the sum of One Hundred Fifty Dollars (\$150.00) for each consecutive calendar day beyond the date of substantial completion.



© 1997 AIA®  
AIA DOCUMENT A101-1997  
OWNER-CONTRACTOR  
AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

## ARTICLE 4 CONTRACT SUM

4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. ~~The Contract Sum shall be One Million Nine Hundred Eighty Two Thousand and Six Hundred~~ Dollars (\$1,982,600.00).  
subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

*(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)*

No Alternates

4.3 Unit prices, if any, are as follows:

Where rock in size of one-half cubic yard or larger is encountered that requires use of air hammers for excavation add Three Hundred Dollars (\$300.00) per cubic yard excavated.

## ARTICLE 5 PAYMENTS

### 5.1 PROGRESS PAYMENTS

5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Pay periods will end on the 25th of each month.

5.1.3 Provided that an Application for Payment is received by the Architect not later than the Twenty-fifth (25th) day of a month, the Owner shall make payment to the Contractor not later than the Thirtieth (30th) day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than Thirty-five (35) days after the Architect receives the Application for Payment.

5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.



© 1997 AIA®  
AIA DOCUMENT A101-1997  
OWNER-CONTRACTOR  
AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292



5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- 1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten percent ( 10 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Subparagraph 7.3.8 of AIA Document A201-1997;
- 2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Ten percent (10 %);
- 3 Subtract the aggregate of previous payments made by the Owner; and
- 4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of AIA Document A201-1997.

5.1.7 The progress payment amount determined in accordance with Subparagraph 5.1.6 shall be further modified under the following circumstances:

- 1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and (*Subparagraph 9.8.5 of AIA Document A201-1997 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.*)
- 2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of AIA Document A201-1997.

5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Clauses 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

Retainage is reduced at time project is 50% complete to 5% of total project cost.

5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## 5.2 FINAL PAYMENT

5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- 1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Subparagraph 12.2.2 of AIA Document A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and
- 2 a final Certificate for Payment has been issued by the Architect.



© 1997 AIA®  
AIA DOCUMENT A101-1997  
OWNER-CONTRACTOR  
AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

#### ARTICLE 6 TERMINATION OR SUSPENSION

6.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-1997.

6.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-1997.

#### ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

7.3 The Owner's representative is:  
*(Name, address and other information)*

Minor Wallace  
City of Fayetteville  
113 West Mountain  
Fayetteville, AR 72701

7.4 The Contractor's representative is:  
*(Name, address and other information)*

Ben E. Smith  
Harrison Davis Construction Co., Inc.  
1931-A West Deane Street  
Fayetteville, AR 72703

7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days' written notice to the other party.

7.6 Other provisions:



© 1997 AIA®  
AIA DOCUMENT A101-1997  
OWNER-CONTRACTOR  
AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

## ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS

8.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

8.1.1 The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A101-1997.

8.1.2 The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201-1997.

8.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated November 5, 2000, and are as follows:

| Document               | Title                           | Pages            |
|------------------------|---------------------------------|------------------|
| Project Specifications | Supplemental General Conditions | 0080-1 to 0080-8 |

8.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 8.1.3, and are as follows:

*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

| Section                                                                                        | Title | Pages |
|------------------------------------------------------------------------------------------------|-------|-------|
| Specifications for Construction, Fayetteville Senior Center at Waxhaws, Fayetteville, Arkansas |       |       |
| Prepared by Daryl S. Rantis, Architect, P.A. and dated November 5, 2000.                       |       |       |

8.1.5 The Drawings are as follows, and are dated unless a different date is shown below:

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

| Number                                                                                                  | Title | Date |
|---------------------------------------------------------------------------------------------------------|-------|------|
| Drawings are as listed in the project Specification in Section 0002 - Schedule of Drawings pages 1 & 2. |       |      |



© 1997 AIA®  
AIA DOCUMENT A101-1997  
OWNER-CONTRACTOR  
AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292



8.1.6 The Addenda, if any, are as follows:

| Number | Date     | Pages |
|--------|----------|-------|
| One    | 11/28/00 | 2     |
| Two    | 11/30/00 | 3     |
| Three  | 12/11/00 | 4     |
| Four   | 12/13/00 | 1     |

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

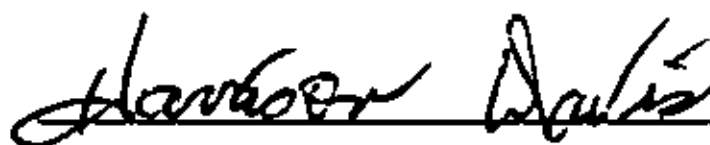
8.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

Exhibit "A" detailing items not in the Contract.

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

\_\_\_\_\_  
**OWNER** (Signature)

  
**CONTRACTOR** (Signature)

\_\_\_\_\_  
(Printed name and title)

Harrison Davis, President  
\_\_\_\_\_  
(Printed name and title)

**CAUTION:** You should sign an original AIA document or a licensed reproduction. Originals contain the AIA logo printed in red; licensed reproductions are those produced in accordance with the Instructions to this document.



© 1997 AIA®  
**AIA DOCUMENT A101-1997**  
**OWNER-CONTRACTOR**  
**AGREEMENT**

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292

Exhibit "A"  
Contract for Construction of  
Fayetteville Senior Center

The following is a clarification of the items that are not part of this contract. These items are noted throughout the plans as N.I.C. (Not In Contract).

1. The main entrance structure that is also noted as the entry canopy on page 8. The extent of the items not in contract are shown circled by a dashed line on page 8. This includes the main canopy structure and the connecting trellis. This also includes all related piers, foundations, grade beams and concrete columns. Eliminate the patterned concrete walkway that goes across the parking lot. Replace this concrete with asphalt paving to match the rest of the parking lot. Construct a 5' wide concrete sidewalk that connects the front entry with the parking lot. Include handicapped ramps where needed.
2. The entrance structures at the sidewalks shown north and south of the main parking lot entry from College Avenue. These are noted as N.I.C. on sheet S0 of the project plans. Do not cut the fence at these locations. On the south structure eliminate the sidewalk between the parking lot and the College Avenue. However the sidewalk that runs along the south edge of the upper parking lot is still in the contract. Also the crosswalk pavement striping will be included in this contract.
3. The pavilion and connecting trellis on the terrace at the southwest corner of the building. This includes the lower pool, pool liner, waterfall, dry stack stone, the recirculating pool and cistern. This will include all piers, foundation walls and associated concrete work for this area. The north and east walls of the cistern will be built. The CMU and cast stone cap wall will continue from a point near grid intersection Q/19. From there the wall will continue east to approximately grid intersection Q/21. From there the wall will go south until it intersects with the planter wall on the south side of the terrace. Provision must be made to reroute the drainage that went into the cistern to a point where it will discharge at the ground at a concrete splash.
4. All cabinet work shown on sheet C1 and noted as N.I.C. This includes details 1-3/C1 and details 7-12/C1. The remaining details remain in the contract. On sheet C2 the cabinets for the copy room shown on details 2 through 5, the planting shelves shown on detail 10 and 11 and the shelves in the library shown on details 14 through 17 all are not in the contract. On sheet C3 the trophy cabinet on 6/C3, the bookshelves on 7/C3 and the planting table on 10/C3 are not in the contract. The portable cabinets shown in the Main Hall and the Art Room are not in the contract. The following items **ARE IN THE CONTRACT**. The reception desk shown on details 6-9/C2 and the hospitality counter in the kitchen shown on detail 1/C2 are in the contract. The sections through the base and upper cabinets remain to show how those cabinets in the contract are constructed. The storage cabinet on 5/C3 and the garbage cabinet on 9/C3 are included in the contract. Detail 12/C3 is through the library cabinets and does not show a N.I.C. note. This is an error and these cabinets are not in the contract.



Exhibit "A"

Page 2

5. As a clarification details 4 -6/C1 show a not in contract (N.I.C.) note. The items that are not in the contract include the vanity tops, plumbing fixtures, and toilet accessories including grab bars, mirrors and paper holders. The rest of the bathroom is in the contract including the wall finishes, ceilings and floor finishes.
6. On sheet 0 the door schedule, the third column from the right has several N.I.C.'s noted. Delete this column entirely. It originally gave a quantity of doors for phase 1A. Since we are doing all the building at once these quantity do not apply. The second column from the right shows the correct quantities.

Daryl S. Rantis  
Architects, P.A.  
380 West Rock St.  
Fayetteville, Arkansas  
(501) 443-9112  
(785) 565-0959

Dec. 19, 2000

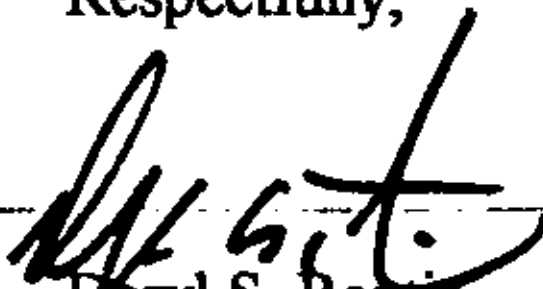
Board of Directors  
Council on Aging  
and City Council  
Fayetteville, AR 72701

Dear Council Members:

This letter is my recommendation to accept the low bid for the Fayetteville Senior Center submitted by Harrison Davis, contractor.

The bid by Harrison Davis was substantially lower than the next lowest bid. After careful review of the bid by my associates with the contractor, I feel confident that Harrison Davis will perform the job to our satisfaction, within the allotted time frame and budget.

Respectfully,



Daryl S. Rantis  
Architect

LIC. #

Daryl S. Rantis, Architects, P.A.

380 West Rock Street

Fayetteville, AR 72701

December 15, 2000

4:00PM

Bids for

Fayetteville Senior Center

MEP - MEP SERVICES, INC. 0065961200

ELECTRO-CRAFT, INC. 0017940301

FRANKLIN &amp; SON, INC. 0029380301

LITE-WAY ROOFING, INC. 0051950401

| Bidder                          | License No. | Bid<br>Bond | Add.<br>No. 1, 2<br>, 3, 4 | Base Bid          | Mechanical<br>Subcontractor | Plumbing<br>Subcontractor | Electrical<br>Subcontractor | Roofing & SM<br>Subcontractor | Amount for<br>Trenching<br>Safety |
|---------------------------------|-------------|-------------|----------------------------|-------------------|-----------------------------|---------------------------|-----------------------------|-------------------------------|-----------------------------------|
| Harrison Davis Construction Co. | 001650201   | ✓           | ✓                          | \$ 1, 982, 600.00 | MEP                         | MEP                       | ELECTRO-<br>CRAFT           | LITE-WAY<br>FRANKLIN          | \$1500.00                         |
| Marinoni Construction           | 003350401   | ✓           | ✓                          | \$ 2, 436, 000.00 | MEP                         | MEP                       | ELECTRO-<br>CRAFT           | FRANKLIN<br>&<br>MARINONI     | \$500.00                          |
| Oakridge Builders               | 000690901   | ✓           | ✓                          | \$ 2, 727, 000.00 | MEP                         | MEP                       | CRAFT                       | FRANKLIN                      | \$1000.00                         |
| SSL, Inc.                       | 0001310401  | ✓           | ✓                          | \$ 2, 625, 000.00 | MULTI-<br>CRAFT             | NORTH<br>STAR             | ELECTRO-<br>CRAFT           | FRANKLIN<br>LITE-WAY          | \$2000.00                         |

I hereby certify that the bid results listed above are a true and accurate listing of the bids submitted to the City of Fayetteville on December 15, 2000.

Karl L. Thiel

Daryl Rantis Architects, P.A.

January 8, 2000



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

|                     |                                                                                          |                              |              |
|---------------------|------------------------------------------------------------------------------------------|------------------------------|--------------|
| Budget Year<br>2001 | Department: Sales Capital Improvement<br>Division: Walker Park Senior Center<br>Program: | Date Requested<br>01/07/2001 | Adjustment # |
|---------------------|------------------------------------------------------------------------------------------|------------------------------|--------------|

|                                                                                                                                                                                         |                                                                                                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| <b>Project or Item Requested:</b><br><br>Additional funding is requested for the construction contract for the Walker Park Senior Center. The additional funding requested is \$78,083. | <b>Project or Item Deleted:</b><br><br>None. The Council on Aging is providing the funds for the budget adjustment. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|

|                                                                                                                 |                                                                                                                                                                                                     |
|-----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Justification of this Increase:</b><br><br>The funding is requested to fully fund the construction contract. | <b>Justification of this Decrease:</b><br><br>The Council on Aging has been fund raising for construction cost of this project and is utilizing a portion of the funds raised with this adjustment. |
|-----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

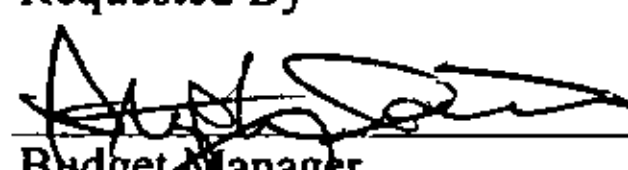
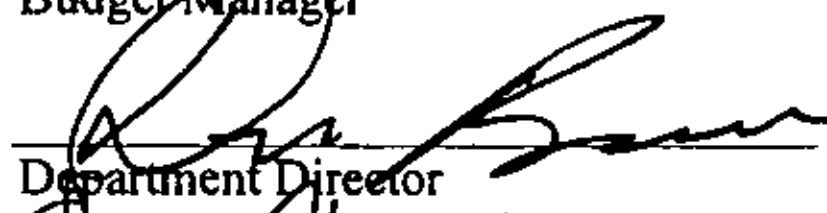
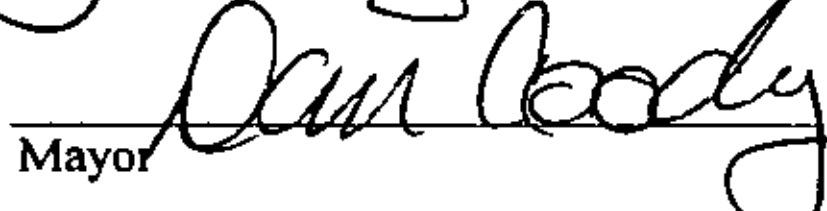
**Increase Expense (Decrease Revenue)**

| Account Name  | Amount | Account Number    | Project Number |
|---------------|--------|-------------------|----------------|
| Building Cost | 78,083 | 4470 9470 5804 00 | 96092 1        |

**Decrease Expense (Increase Revenue)**

| Account Name                | Amount | Account Number    | Project Number |
|-----------------------------|--------|-------------------|----------------|
| Payments by Property Owners | 78,083 | 4470 0947 4420 00 |                |

**Approval Signatures**

|                                                                                    |        |
|------------------------------------------------------------------------------------|--------|
| Requested By                                                                       | Date   |
|  | 1-7-01 |
| Budget Manager                                                                     | Date   |
|  | 1-9-01 |
| Department Director                                                                | Date   |
|  | 1-9-01 |
| Admin. Services Director                                                           | Date   |
|  | 1-9-01 |
| Mayor                                                                              | Date   |

**Budget Office Use Only**

Type:      A      B      C      (D)      E

Date of Approval \_\_\_\_\_

Posted to General Ledger \_\_\_\_\_

Posted to Project Accounting \_\_\_\_\_

Entered in Category Log D.C.

# CITY OF FAYETTEVILLE

## Purchase Requisition

(not a purchase order)

Vendor #:

73490

Vendor Name:

Harrison Davis Construction Co.

Address:

1931 A Deane Street

FOB Point:

Fayetteville, AR

City:

Fayetteville

State:

AR

Zip:

72702

Ship To Code:

Requester:

Minor Wallace/ Don Bunn

\*Requester's Employee#:

330

Extension:

330

Requisition No.:

Date:

01/07/01

P.O. Number:

Expeded Delivery Date:

02/28/02

Mail:

Yes No X

Taxable:

Yes No X

Division Head Approval:

Item Description:

Quantity

Unit of Issue

Unit Cost

Extended Cost

Account Number:

Project/Subproject Number:

Inventory #

Fixed Asset #

1 Walker Park Senior Center

1

ea

\*\*\*\*\*

\$344,622.00

2180-4990-5722-00

96092-1

2 Walker Park Senior Center

1

ea

\*\*\*\*\*

\$383,895.00

2250-9250-5804-00

96092-1

3 Walker Park Senior Center

1

ea

\*\*\*\*\*

\$1,254,083.00

4470-9470-5804-00

96092-1

4

\$0.00

5

\$0.00

6

\$0.00

7

\$0.00

8

\$0.00

9

\$0.00

10

\$0.00

11

\$0.00

SHIPPING/HANDLING

\$0.00

Special Instructions:

Subtotal: \$1,982,600.00

Tax: N/A

TOTAL: \$1,982,600.00

(for purchasing office use only)

Approvals:

Mayor:

Department Director:

Purchasing Manager:

Admin. Services Director:

Budget Manager:

Data Processing Mgr:

H:\BUDGET\PROJECTS\OTHER\SN\_CITBPR.WK4



# STAFF REVIEW FORM

☒ AGENDA REQUEST  
☐ CONTRACT REVIEW  
☐ GRANT REVIEW

For the Fayetteville City Council meeting of January 16, 2001

FROM:

Ed Connell Engineering Public Works  
 Name Division Department

**ACTION REQUIRED:** The passage of a resolution approving the Offer and Acceptance Contract between the City of Fayetteville and Rosie Dorsey, Rowie Howard, William E. Barker and Alice McClelland, as tenants in common for the purchase of 18.88 acres of land in the E½-NE-22-16-30 for a price of \$151,000 plus associated closing costs where applicable.

**COST TO CITY:**

\$151,000 62,158 Shenandoah Drainage  
 Cost of this Request Category/Project Budget Category/Project Name

4470-9470-5805-00 \$ - 0 -   
 Account Number Funds Used To Date Program Name

97038 + 97041 62,158 Sales Tax CIP  
 Project Number Remaining Balance Fund

**BUDGET REVIEW:** ☒ Budgeted Item ☐ Budget Adjustment Attached

[Signature]   
 Budget Coordinator Administrative Services Director

**CONTRACT/GRANT/LEASE REVIEW:**

**GRANTING AGENCY:**

|                       |               |                    |               |
|-----------------------|---------------|--------------------|---------------|
| <u>Marsha Farkley</u> | <u>1/5/01</u> | <u>Danny Smite</u> | <u>1/5/01</u> |
| Accounting Manager    | Date          | Internal Auditor   | Date          |
| <u>[Signature]</u>    | <u>1/5/01</u> | <u></u>            | <u></u>       |
| City Attorney         | Date          | ADA Coordinator    | Date          |
| <u>[Signature]</u>    | <u>1/5/01</u> |                    |               |
| Purchasing Officer    | Date          |                    |               |

**STAFF RECOMMENDATION:** Staff recommends approval of the contract and purchase of the property for multiple reasons including economic implementation of the drainage project, potential lands for parks & recreation, city facilities or eventual residential development

|                                  |                 |                                                                               |
|----------------------------------|-----------------|-------------------------------------------------------------------------------|
| <u>[Signature]</u>               | <u>01/05/01</u> | <u></u>                                                                       |
| Division Head                    | Date            | Cross Reference                                                               |
| <u>[Signature]</u>               | <u>1/5/01</u>   | New Item: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| Department Director              | Date            | Prev Ord/Res #: <u></u>                                                       |
| <u>[Signature]</u>               | <u>1/5/01</u>   | Orig Contract Date: <u></u>                                                   |
| Administrative Services Director | Date            |                                                                               |
| <u>[Signature]</u>               | <u>1/5/01</u>   |                                                                               |
| Mayor                            | Date            |                                                                               |

STAFF REVIEW FORM

Description Barker Property (18.88 acres) purchase

Meeting Date January 16, 2001

**Comments:**

Budget Coordinator

---

---

Accounting Manager

---

---

---

City Attorney

---

---

---

Purchasing Officer

---

---

---

ADA Coordinator

---

---

---

Internal Auditor

---

---

---

**Reference Comments:**

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## DEPARTMENTAL CORRESPONDENCE

---

DATE: January 5, 2001

TO: Fayetteville City Council

THRU: Dan Coody, Mayor  
John McGuire, Administrative Services Director  
Don Bunn, Acting Public Works Director  
Jim Beavers, City Engineer

FROM: Ed Connell, Land Agent

RE: 18.88 Acre Barker Property Purchase  
Huntsville Road, Fayetteville  
Pt. E $\frac{1}{2}$ -NW $\frac{1}{4}$ -22-16-30

Over the past two-three years, the city has undertaken a major drainage project for controlling storm water from the SE side of Mt. Sequoyah, between Huntsville Road and 15<sup>th</sup> Street. The project included drainage resolution across portions of properties owned by William H. Barker (his heirs at the current time) and Charles Combs. The initial project envisioned open ditch over the northern portion of the project and pipe along the southern portion. Anticipated cost of the initial project was approximately \$180,000 to \$200,000.

While Mr. Combs was willing and did provide the city with easements to construct the system along his property, the heirs of William H. Barker were not satisfied with the plans to pull open ditch along a major portion of their property. They further claimed that the city's approval of a subdivision development to the east discharged additional waters on their property which caused irreparable damages in the southern part of that property. They claim that they were never notified, until after the fact, that a subdivision (Cedar Point S/D) was being considered adjacent to their property. They further claim that had they known of the development, they would have made their presence known to ensure adequate and proper handling of storm drainage. They blame the city for their property damage and have, on occasion, threatened to file suit. Their solution was to run pipe 36"- 48" all the way north to the outlet pipe of the subdivision. It is estimated that to do the project as they desired would cost an additional \$200,000.

This project made little or no progress over the next year as the city was unwilling to commit to the additional expenditure and the Barker heirs were unwilling to provide the city with easements. When Mr. Barker passed in 1999, the heirs decided to sell the property (18.88 acres). An offer and acceptance was signed with a third party for \$151,000 or \$8,000/ acre. When this transaction did not materialize to a final stage, the property came back on the market. As noted from the above discussion, the additional cost of the drainage project exceeded the cost of the land and it was prudent that the city consider the purchase thereof.



The city can purchase the almost 19 acres for less money than would be spent to install the piping along the east line of this property. By purchasing the property, the city can implement the open ditch system that the city engineers believe adequate for this drainage system now or in the future and at the same time eliminate the possibility of a law suit. If the property is sold to a third party, that party is going to expect the drainage situation to be resolved by the city just as if the Barker heirs still own same. The city has offered \$151,000 for the property and the owners have accepted this offer (see attached O & A contract). The city has had the property appraised by Mark Risk: \$158,000 was his estimated market value. This represents almost 19 acres of reasonable to good land within the city limits, with water and sewer available, for a value of less than \$10,000 per acre, which is a good deal for almost anything within the city limits.

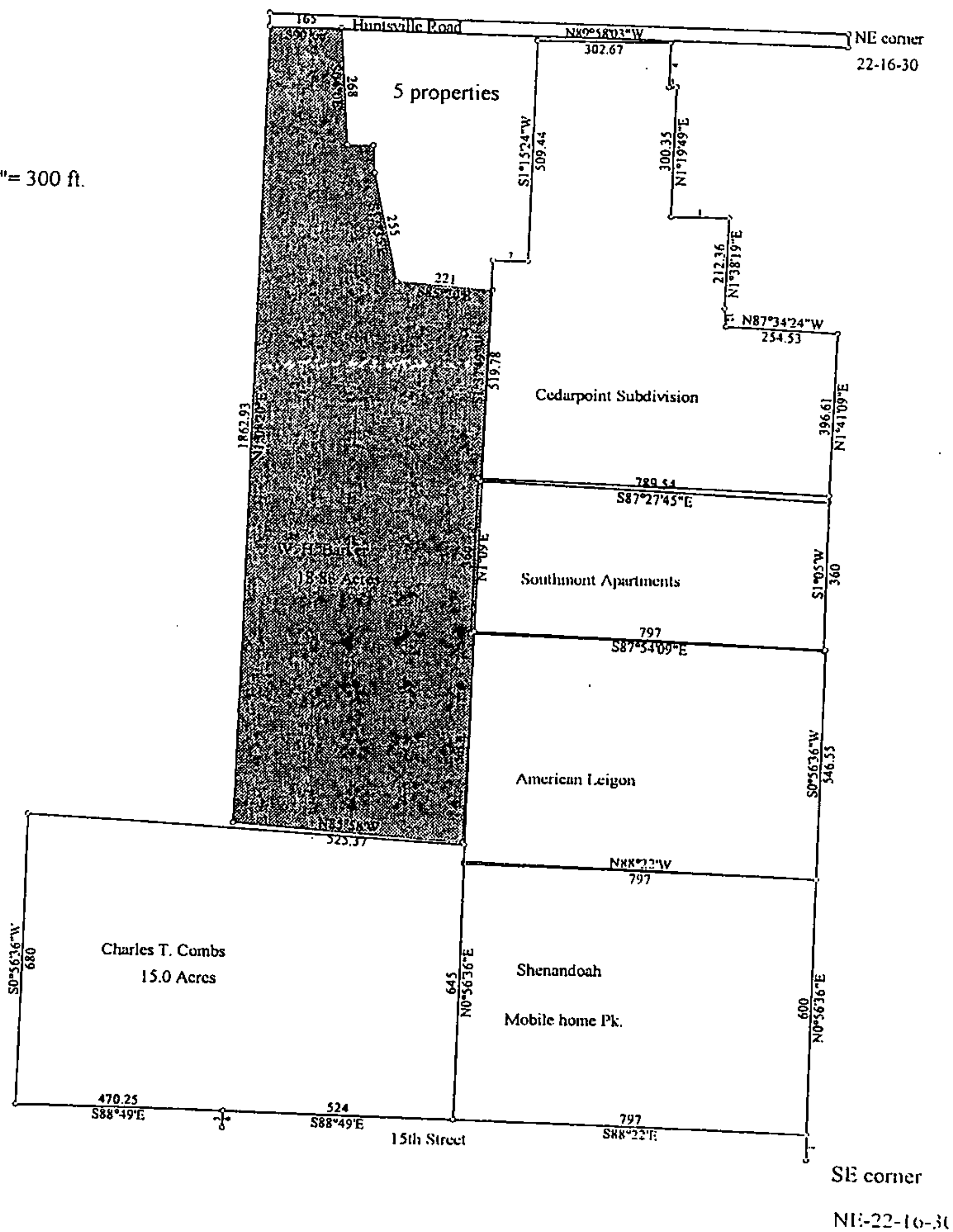
If the city were to acquire the land;

- (1) The city could eliminate the need to spend about \$200,000 or ½ the cost of the drainage project.
- (2) The drainage project itself could be forestalled to some future date when city departments could be in a position to do the work itself at a much lower cost to the city.
- (3) Once the project is completed, there would be a considerable savings in the cost of the project and the city would have 19 acres of prime land for any and all kinds of purposes, i.e.,
  1. Future park land for soccer or ball fields.
  2. Land for growing trees,
  3. Lands for affordable residential development on the north side of said property (Habitat for Humanity).
  4. Lands for future city divisions locations,or
  5. The city could sell the land within a couple of years and recover a portion or all of the cost of the drainage project.
- (4). This property is zoned R-1 residential and has access to/from Huntsville Road. Parks & Recreation have considered the possible purchase of the American Legion baseball field off of Curtis Ave. This 5 acre tract, while being used for baseball purposes, could also provide an access route to the south part of the subject property. This other acquisition can be incorporated as required and/or finances are available.

It is the recommendation of the staff that it makes sense for the city to take advantage and acquire the subject property at this time.



Scale: 1" = 300 ft.





# THE REAL ESTATE CONSULTANTS

118 N. East Ave.  
P.O. Box 726  
Fayetteville, AR 72702

• REALTORS • APPRAISERS • CONSULTANTS •

Phone (501) 442-0762

November 20, 2000

Mr. Ed Connell  
City of Fayetteville  
113 W. Mountain St.  
Fayetteville, AR 72701

RE: Appraisal Services - Barker Property  
1033 E. Huntsville Rd., Fayetteville, AR  
Appx. 18.61 Acres

Dear Mr. Connell:

In compliance with your request, and for the purpose of estimating the Market Value of the above captioned property, I hereby certify that I have personally inspected the property and made a survey of matters pertinent to the estimation of its value. The intended use of this appraisal is for ***purchase evaluation purposes of the City of Fayetteville.***

I further certify that I have no interest, present or contemplated, in the property under appraisal, and that the fee was not contingent upon the value estimate reported, nor based upon a percentage of the appraised value.

The following narrative appraisal report contains the data gathered in the investigation, and shows the method of appraisal in detail. The report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. This is considered a ***Complete Summary*** appraisal report.

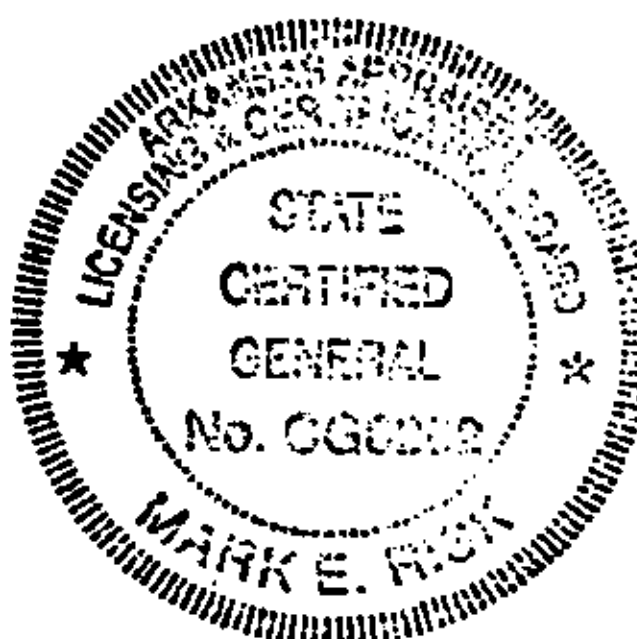
Based upon the inspection of the subject property and the investigation and analysis carried out in this report, it is the considered opinion of the appraiser that the Market Value of the property as of ***October 27, 2000*** and subject to the assumptions and limiting conditions set forth within the body of this report, is as follows:

**ONE HUNDRED FIFTY EIGHT THOUSAND DOLLARS**  
**(\$158,000)**

Respectfully Submitted,

Mark E. Risk, GAA

State Certified General Appraiser #CG0202



## OFFER AND ACCEPTANCE CONTRACT

1. The City of Fayetteville, Arkansas, a municipal corporation, hereinafter referred to as the Buyer, offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"

### FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash payment of **\$151,000**.
3. **Contingent Earnest Money Deposit:** The Buyer herewith tenders a check for **\$7,550** to Gary Boyle of Lindsey & Associates, Inc., agent for Rosie Dorsey, Rowie Howard, William E. Barker, and Alice McClelland, as tenants in common, each with an undivided 25% interest, hereinafter referred to as the Seller, as earnest money, which shall apply on the purchase price. This offer to purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the Buyer by the Seller. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the Buyer. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the Buyer fails to close this transaction, the earnest money may, at the option of the Seller, become liquidated damages to the Seller. Alternatively, the Seller may assert legal or equitable rights which it may have because of breach of this contract.
4. Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.
5. The Seller shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer. Buyer and Seller shall equally share in the cost of said title insurance policy.
6. Seller agrees to allow Buyer, if Buyer so desires, at Buyer's expense, to survey the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.
7. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

# OFFER AND ACCEPTANCE CONTRACT

Page 2 of 5

8. The closing date is designated to be 30 days after approval of this offer to purchase by the City Council of the City of Fayetteville, Arkansas. If such date of closing falls on a weekend or holiday, it will be held the following working day.
9. Possession of the property shall be delivered to the Buyer on the date of closing.
10. Seller hereby grants permission for the Buyer or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.
13. ~~Seller shall disclose to Buyer any and all environmental hazards of which Seller has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, Buyer and Seller shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Seller shall cure such, at Seller's expense, or in the alternative, at Buyer's discretion, Buyer may cure such environmental hazard, and Seller shall indemnify Buyer for all costs associated with said cure.~~ SEE ATTACHED GENERAL ADDENDUM #4TBOY-1LSISV-00W01 *Rid*  
*NO*  
*QCM*  
*ZUE.B.*  
*JP*
14. This agreement shall be governed by the laws of the State of Arkansas.
15. This agreement, when executed by both the Buyer and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof. *ES 74*  
*R.H.*  
*AA*
16. This contract expires, if not accepted on or before the 15th day of January, 2001.
17. **NOTICE: BUYER ASSERTS AND SELLER HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO BUYER OF THE \$7,550 EARNEST MONEY DEPOSIT.**



OFFER AND ACCEPTANCE CONTRACT  
Page 3 of 5

SELLER:

Rosie Dorsey  
Rosie Dorsey

Rowie Howard  
Rowie Howard

William E. Barker  
William E. Barker

Alice McClelland  
Alice McClelland

Willie Dorsey  
Willie Dorsey

Elmer Howard  
Elmer Howard

Judy Barker  
Judy Barker

DATE: 12-28-00

AGENT OR WITNESS:

Gary Boyle  
Gary Boyle, Lindsey and Associates, Inc.

Date: 12-28-00

BUYER:

City of Fayetteville, Arkansas,  
a municipal corporation

Fred Hanna  
Fred Hanna, Mayor

Date: 12/11/00

Heather Woodruff  
Heather Woodruff, City Clerk

Date: 12/12/00

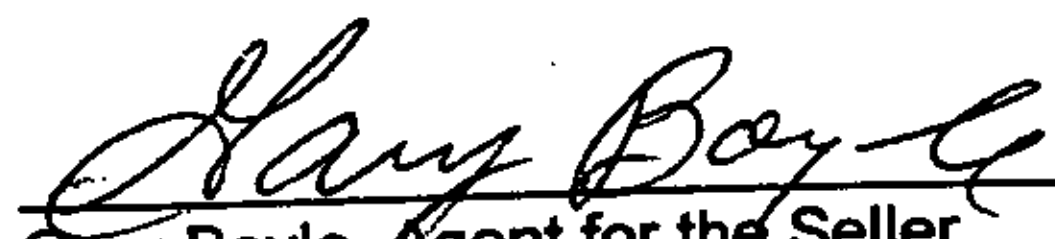
OFFER AND ACCEPTANCE CONTRACT  
Page 4 of 5

EXHIBIT "A"  
PROPERTY DESCRIPTION

Beginning at a point thirty (30) feet South of the Northwest corner of the East-half (E½) of the Northeast Quarter (NE¼) of Section Twenty-two (22), Township Sixteen (16) North of Range Thirty (30) West of the 5th P.M.; thence East 165 feet; thence South 04° 00' 00" East 268 feet; thence East 60 feet; thence South 04° 00' 00" East 65 feet; thence South 12° 35' 00" East 255 feet; thence South 85° 20' 00" East 221 feet; thence South 01° 37' 49" West (Deed says South) - 1301 feet to the centerline of the old (and abandoned) P. & G. E. Railroad right of way; thence North 85° 58' West along said centerline (Deed says West) - 525.37 feet (Deed says 519 feet), more or less, to the West line of said 80 acre tract; thence North 01° 08' 20" East (Deed says North) - 1863 feet to the Point of Beginning and containing 18.88 acres, more or less.

SIGNED FOR IDENTIFICATION:

SELLER:

  
Gary Boyle, Agent for the Seller

BUYER:

The City of Fayetteville, Arkansas,  
a municipal corporation

BY:

  
Fred Hanna, Mayor



OFFER AND ACCEPTANCE CONTRACT  
Page 5 of 5

ACKNOWLEDGMENT

STATE OF ARKANSAS )

) ss.

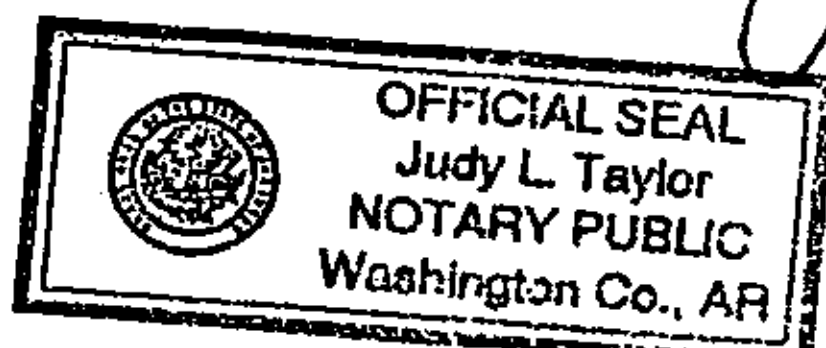
COUNTY OF WASHINGTON )

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Rosie Dorsey and Willie Dorsey, wife and husband, Rowie Howard and Elmer Howard, wife and husband, William E. Barker and Judy Barker, husband and wife, and Alice McClelland, a single person**, to me well known as the Grantors of the foregoing instrument, and who stated and acknowledged that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 28 day of December, 2000.

MY COMMISSION EXPIRES:

12/03/03



Judy L. Taylor  
Notary Public

ACKNOWLEDGMENT

STATE OF ARKANSAS )

) ss.

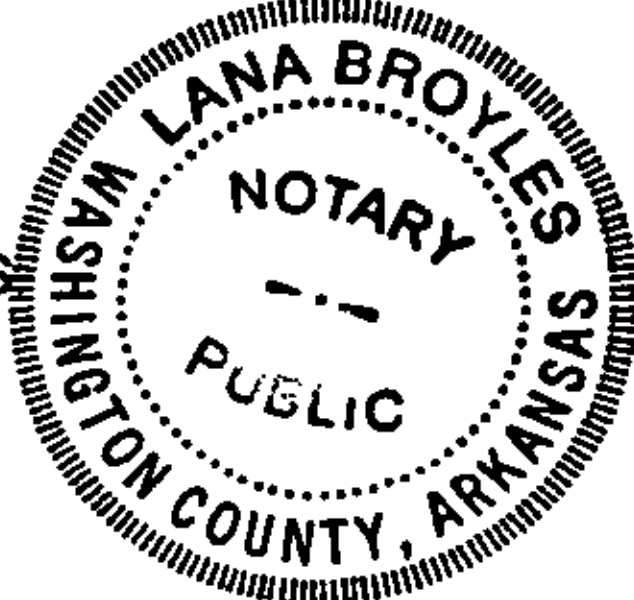
COUNTY OF WASHINGTON )

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

WITNESS my hand and seal on this 12 day of DECEMBER, 2000.

MY COMMISSION EXPIRES

4-1-08



Lana Broyles  
Notary Public



**Ludsey**  
 & Associates  
 REAL ESTATE  
 1000 WEST 10TH STREET  
 SUITE 100  
 OMAHA, NE 68104  
 (402) 342-1234



REALTOR®



Page 1 of 2

**(Rev. 6/00)**

Regarding the Real Estate Contract (Form Serial Number CITY OF FAYETTEVILLE) dated (month) DECEMBER  
(day) 12, (year) 2000 between the Buyer, CITY OF FAYETTEVILLE, ARKANSAS  
and the Seller, ROSIE DORSEY, ROWIE HOWARD, WM. E. BARKER, ALICE MCCLELLAND  
covering the real property known as 1033 HUNTSVILLE, FAYETTEVILLE, AR.  
(the "Property"), the Undersigned Buyer and Seller agree that:

RE: PARAGRAPH 13: SELLER HEREBY REPRESENTS TO BUYER THAT TO THE BEST OF SELLER'S  
KNOWLEDGE:

THE PROPERTY IS NOT THE SUBJECT OF ANY JUDICIAL OR ADMINISTRATIVE NOTICE OR ACTION RELATING TO HAZARDOUS WASTE OR ENVIRONMENTAL CONTAMINATION.

1. SELLER HAS RECEIVED NO NOTICE OF ANY CLAIM OR VIOLATION OF ANY LAW OR REGULATION HAVING TO DO WITH ENVIRONMENTAL PROTECTION.

NO HAZARDOUS OR TOXIC SUBSTANCES HAVE BEEN STORED, PROCESSED, OR DISPOSED OF ON THE PROPERTY DURING THE PERIOD THAT SELLER HAS OWNED THE PROPERTY.

1. NO UNDERGROUND STORAGE TANKS ARE LOCATED ON THE PROPERTY( OTHER THAN A HOUSEHOLD SEPTIC TANK).

(a). BUYER TO PAY FOR ANY ENVIRONMENTAL HAZARDS TESTING.

3eller  
(b). ~~SELLER~~ HAS NO OBLIGATION TO CURE ANY ENVIRONMENTAL HAZARDS TO BE  
DISCOVERED.

(Continued on Page 2 of 2)

General Addendum

Page 2 of 2 (Rev. 6/00)



Lindsey & Associates, Inc.  
"We Bring Great  
Neighbors Together"



Copyright  
2000  
Arkansas  
REALTORS®  
Association

This General Addendum, upon its execution by both parties, incorporates by reference all provisions of the above-referenced Real Estate Contract not expressly modified herein.

THIS IS A LEGALLY BINDING REAL ESTATE CONTRACT WHEN SIGNED BY THE PARTIES BELOW. READ IT CAREFULLY. IF YOU DO NOT UNDERSTAND THE EFFECT OF ANY PART, CONSULT YOUR ATTORNEY BEFORE SIGNING. REAL ESTATE AGENTS CANNOT GIVE YOU LEGAL ADVICE. THE PARTIES SIGNED BELOW WAIVE THEIR RIGHT TO HAVE AN ATTORNEY DRAFT THIS FORM.

THIS FORM IS PRODUCED AND COPYRIGHTED BY THE ARKANSAS REALTORS ASSOCIATION. THE SERIAL NUMBER BELOW IS A UNIQUE NUMBER NOT USED ON ANY OTHER FORM. THE SERIAL NUMBER BELOW SHOULD BE AN ORIGINAL PRINTING, NOT MACHINE COPIED, OTHERWISE THE FORM MAY HAVE BEEN ALTERED. DO NOT SIGN THIS FORM IF IT IS BEING EXECUTED PAST DECEMBER 31, 2000.

FORM SERIAL NUMBER: 4TBOY-1LSISV-00W01

The above addendum is executed on  
month) DECEMBER (day) 28 (year) 2000 at 5:00 (am)(~~pm~~).

LINDSEY AND ASSOCIATES

Selling Agent Firm

Supervising Broker

[Signature]  
Selling Agent

City of Fayetteville  
Wm. Condy Sigard  
Buyer MAJOR

Buyer HENTHA

The above addendum is executed on  
month) DECEMBER (day) 28 (year) 2000 at 5:00 (am)(~~pm~~).

LINDSEY AND ASSOCIATES

Selling Agent Firm

Supervising Broker

[Signature]  
Selling Agent

[Signature]  
Supervising Broker

ROSIE DORSEY, ROWIE HOWARD

Print Seller's Name

Wm. E. Barker, Alice McClelland

Rosie Dorsey  
Wilee Dorsey  
Alice McClelland  
Seller William E. Barker

[Signature]  
Seller Rowie Howard  
Elmer Howard

(THIS SPACE LEFT INTENTIONALLY BLANK)



# STAFF REVIEW FORM

☒ AGENDA REQUEST  
☐ CONTRACT REVIEW  
☒ GRANT REVIEW

for the Fayetteville City Council meeting of January 16, 2001  
 FROM:

Richard Watson Police Drug Enforcement  
 Name Division Department

ACTION REQUIRED: City Council authorize Mayor Coody to apply for a federal grant to continue funding of the 4th Judicial District Drug Task Force.

## COST TO CITY:

|                                         |                         |                               |
|-----------------------------------------|-------------------------|-------------------------------|
| <u>\$46,422.00</u>                      | <u>\$49,259.00</u>      | <u>Transfer to Drug Grant</u> |
| Cost of this Request                    | Category/Project Budget | Category/Project Name         |
| <u>010-2900-7602.93</u>                 | <u>\$ -0-</u>           | <u>Transfers</u>              |
| Account Number                          | Funds Used To Date      | Program Name                  |
| <u>                                </u> | <u>\$ 49,259.00</u>     | <u>General</u>                |
| Project Number                          | Remaining Balance       | Fund                          |

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

[Signature]                                   
 Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:                                 

|                        |               |                                         |                                         |
|------------------------|---------------|-----------------------------------------|-----------------------------------------|
| <u>Marsha Farthing</u> | <u>1/9/01</u> | <u>                                </u> | <u>                                </u> |
| Accounting Manager     | Date          | ADA Coordinator                         | Date                                    |
| <u>[Signature]</u>     | <u>1/9/01</u> | <u>Nancy Smith</u>                      | <u>1/9/01</u>                           |
| City Attorney          | Date          | Internal Auditor                        | Date                                    |

                                                                   
 Purchasing Officer Date

STAFF RECOMMENDATION: Adopt a resolution to renew and accept the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant for the Drug Law Enforcement Program, authorize the Mayor and City Clerk to execute said grant application/documents.

|                                         |                                         |                                                             |
|-----------------------------------------|-----------------------------------------|-------------------------------------------------------------|
| <u>                                </u> | <u>                                </u> | <u>Cross Reference</u>                                      |
| Division Head                           | Date                                    |                                                             |
| <u>Richard L. Watson</u>                | <u>1-9-01</u>                           | New Item: <u>Steve -</u>                                    |
| Department Director                     | Date                                    |                                                             |
| <u>                                </u> | <u>                                </u> | Prev Ord/F: <u>Please call Tim</u>                          |
| Administrative Services Director        | Date                                    | <u>Helder when you</u>                                      |
| <u>                                </u> | <u>                                </u> | <u>finish renewal</u>                                       |
| Mayor                                   | Date                                    | <u>(at 502)</u>                                             |
|                                         |                                         | Orig Contract Date: <u>                                </u> |

STAFF REVIEW FORM

Description Drug Law Enforcement Grant Meeting Date January 23, 2001

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor



# **FOURTH JUDICIAL DISTRICT DRUG TASK FORCE**

P. O. Box 1988  
Fayetteville, Arkansas 72702

TO: Mayor Coody and member of the Fayetteville City Council

FROM: Richard L. Watson, Chief of Police *R. Watson*

DATE: January 9, 2001

SUBJECT: Drug Law Enforcement Grant

Attached is the application for the renewal of the Federal Drug Law Enforcement Grant which supports the Fourth Judicial District Drug Task Force. This Task Force is comprised of Fayetteville, Springdale, University of Arkansas, Johnson, Prairie Grove, Lincoln, Farmington, West Fork, Greenland, Elm Springs and Elkins Police Departments, the Washington County Sheriff's Department and the Fourth Judicial Prosecutor. This grant request will continue to support one sergeant, four officers, one secretary and 30% of a financial analyst, as well as, increase staffing by one officer. One additional officer is requested by the Washington County Sheriff's Department. This position will be assigned to the Task Force and the county will pay the matching funds for both salary and operations.

The grant also includes operations and maintenance and funds for covert operations. This application requests federal funding of \$328,129.00 with a local matching requirement of \$109,377.00. If the grant is approved as requested, Fayetteville's share of the matching funds is \$46,422.00. The 2001 budget included \$49,259.00 for this expense.

The Drug Task Force was formed in 1991 with the Fayetteville Police Department taking the role of the lead agency. The Task Force has continued each year due to the support of this grant and all law enforcement agencies in the area. The Task Force is responsible for investigating drug related information within Washington and Madison Counties.

The task force concept has been successful due to cooperation from all agencies involved. The sharing of information and resources has enabled officers to better investigate narcotics trafficking in Northwest Arkansas. It would place too great a financial burden on any one agency to support an investigative unit of this nature. This has become even more evident with the ever-increasing popularity of methamphetamine labs. These operations require special procedures with the dismantling and disposal of the chemicals used to produce methamphetamine. Between this funding and assistance from the Drug Enforcement Agency, all of the investigators assigned to the task force have received specialized training to cope with these situations.

# APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  |                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|--|
| <b>1. TYPE OF SUBMISSION:</b><br>Application<br><input type="checkbox"/> Construction<br><input checked="" type="checkbox"/> Non-Construction<br>Preapplication<br><input type="checkbox"/> Construction<br><input type="checkbox"/> Non-Construction                                                                                                                                                                                                                                                                                                                                                                                                                     |  | <b>2. DATE SUBMITTED</b><br>1/22/01                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Applicant Identifier                  |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  | <b>3. DATE RECEIVED BY STATE</b>                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | State Application Identifier          |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  | <b>4. DATE RECEIVED BY FEDERAL AGENCY</b>                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Federal Identifier                    |  |
| <b>5. APPLICANT INFORMATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  |                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| Legal Name:<br>City of Fayetteville                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |                                                                                                                                                                     | Organizational Unit:<br>Fayetteville Police Department                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                       |  |
| Address (give city, county, State, and zip code):<br>113 W. Mountain Street<br>Fayetteville, AR 72701 Washington County                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |                                                                                                                                                                     | Name and telephone number of person to be contacted on matters involving this application (give area code)<br>Judy Cohea, Fiscal Officer<br>(501)-587-3510                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                       |  |
| <b>6. EMPLOYER IDENTIFICATION NUMBER (EIN):</b><br>71-6018462                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |                                                                                                                                                                     | <b>7. TYPE OF APPLICANT: (enter appropriate letter in box)</b><br><div style="display: flex; justify-content: space-between;"> <div>           A. State<br/>           B. County<br/>           C. Municipal<br/>           D. Township<br/>           E. Interstate<br/>           F. Intermunicipal<br/>           G. Special District         </div> <div>           H. Independent School Dist.<br/>           I. State Controlled Institution of Higher Learning<br/>           J. Private University<br/>           K. Indian Tribe<br/>           L. Individual<br/>           M. Profit Organization<br/>           N. Other (Specify) _____         </div> </div> <div style="text-align: right; border: 1px solid black; width: 30px; height: 20px; margin: 0 auto;">C</div> |                                       |  |
| <b>8. TYPE OF APPLICATION:</b><br><div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> New           <input checked="" type="checkbox"/> Continuation           <input type="checkbox"/> Revision         </div> If Revision, enter appropriate letter(s) in box(es) <span style="border: 1px solid black; display: inline-block; width: 20px; height: 20px; vertical-align: middle;"></span> <span style="border: 1px solid black; display: inline-block; width: 20px; height: 20px; vertical-align: middle;"></span><br>A. Increase Award    B. Decrease Award    C. Increase Duration<br>D. Decrease Duration    Other(specify): _____ |  |                                                                                                                                                                     | <b>9. NAME OF FEDERAL AGENCY:</b><br>U.S. Department of Justice<br>Bureau of Justice Assistance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| <b>10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:</b><br>Edward Byrne State and Local Law Enforcement<br>TITLE: Assistance and Formula Grant<br>16-579                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |                                                                                                                                                                     | <b>11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:</b><br>Multijurisdictional Drug Task Force                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                       |  |
| <b>12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):</b><br>Washington and Madison Counties Arkansas                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| <b>13. PROPOSED PROJECT</b><br>Start Date    Ending Date<br>04/01/01    03/31/02                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  | <b>14. CONGRESSIONAL DISTRICTS OF:</b><br>a. Applicant<br>Third Congressional District                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  | b. Project<br>Third Congressional District                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| <b>15. ESTIMATED FUNDING:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  | <b>16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?</b>                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| a. Federal<br>\$ 328,129.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  | a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:<br>DATE 01/22/00                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| b. Applicant<br>\$                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  | b. No. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372<br><input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| c. State<br>\$                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| d. Local<br>\$ 109,377.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| e. Other<br>\$                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| f. Program Income<br>\$                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| g. TOTAL<br>\$ 437,506.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | <b>17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?</b><br><input type="checkbox"/> Yes If "Yes," attach an explanation. <input checked="" type="checkbox"/> No |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| <b>18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.</b>                                                                                                                                                                                                                                                                                                                                                                                |  |                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |
| a. Type Name of Authorized Representative<br>Dan Coody                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  | b. Title<br>Mayor                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | c. Telephone Number<br>(501)-575-8330 |  |
| d. Signature of Authorized Representative                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | e. Date Signed                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |  |

Previous Edition Usable  
Authorized for Local Reproduction

Standard Form 424 (Rev. 7-97)  
Prescribed by OMB Circular A-102

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION  
OFFICE OF INTERGOVERNMENTAL SERVICES

**ATTACHMENT 'A'**

FORM IGS 1  
GENERAL PROJECT INFORMATION

1. Applicant Agency: Fayetteville Police Department  
Address: P.O. Box 1988, Fayetteville, AR 72702-1988
2. Project Director: Lieutenant Tim Helder Tele # (501) 587-3501 Fax # (501) 587-3522  
Address: P.O. Box 1988, Fayetteville, AR 72702-1988  
E-Mail Address: loot400@aol.co,
3. Fiscal Officer: Judy Cohea Tele # (501) 587-3510 Fax # (501) 587-3522  
Address: P.O. box 1988, Fayetteville, AR 72702-1988  
E-Mail Address: orbilre@aol.com
4. Project Period: From April 01, 2001 To March 31, 2002
5. Federal Purpose Number: 2 Approved Program Abstract Title Multijurisdictional Task Force
6. Identify Counties and/or Cities in Which Program Will Operate: Washington and Madison Counties, Arkansas
7. If the Project is Multi-County/City indicate the Contracting Applicant Agency  
City of Fayetteville Police Department  
Other Involved Agencies Washington County Sheriff, University of Arkansas/Fayetteville Cities of Fayetteville, Springdale, Prairie Grove, Johnson, Lincoln, West Fork, Greenland, Elm Springs, Elkins, Farmington and 4th Judicial Prosecutor
8. Population or Clients to be Served
9. This Program will be a        New Activity,        Enhancement of Existing Activities,  
or   X   Continuation of Project # 00-14 Ending Date 3/31/01
10. Federal Funds Requested \$ 328,129.00 State Match \$           .00  
Local Match \$ 109,377.00 Total \$ 437,506.00
11. Prior 12-Month Budget for the Service or Activity 343,939.00
12. Source of Matching Funds Individual participating agencies have appropriation documents to be included.
13. Project Summary Continue the multi-jurisdictional Task Force with a five member Control Group representing all law enforcement agencies in Washington County. Target major narcotics distributors with an emphasis on methamphetamine dealers and manufactures. Also, continue to maintain a data base of drug related information received from all law enforcement agencies in Washington and Madison Counties. To prevent duplication of investigations between agencies and to provide information to DLEP FY '01 other local law enforcement agencies.



## PERSONNEL

## Fayetteville Police Department

|                                            | Source of Funds |       |       |                    |
|--------------------------------------------|-----------------|-------|-------|--------------------|
|                                            | Federal         | State | Local | Total              |
| Sergeant (12 Mos. @ 3,214 per mo.)         | 28,926          | \$    | 0     | \$ 9,642 \$ 38,568 |
| Investigator (12 Mos. @ 2,843 per mo.)     | 25,587          |       | 0     | 8,529 34,116       |
| Fiscal Officer (12 Mos. @30% 1,044per mo.) | 9,396           |       | 0     | 3,132 12,528       |
| Secretary (12Mos. @ 1,605 per mo.)         | 14,446          |       | 0     | 4,816 19,262       |
| Overtime ( all FPD Personnel)              | 7,500           |       | 0     | 2,500 10,000       |

## Springdale Police Department

|                                       |        |  |   |              |
|---------------------------------------|--------|--|---|--------------|
| Investigator (12 Mos. @ 3,317 per mo) | 29,855 |  | 0 | 9,952 39,807 |
| Overtime                              | 5,250  |  | 0 | 1,750 7,000  |
| Clothing Allowance                    | 563    |  | 0 | 188 751      |

## Washington County Sheriffs Department

|                                |        |  |   |              |
|--------------------------------|--------|--|---|--------------|
| Investigator (12 Mos. @ 2,954) | 26,585 |  | 0 | 8,862 35,447 |
| Overtime                       | 5,000  |  | 0 | 1,667 6,667  |

## University of Arkansas

|                                       |        |  |   |              |
|---------------------------------------|--------|--|---|--------------|
| Investigator (12 Mos. @ 2,250 per mo) | 20,326 |  | 0 | 6,775 27,101 |
| Overtime                              | 3,750  |  | 0 | 1,250 5,000  |

## Rural Agencies

|                                        |        |  |   |              |
|----------------------------------------|--------|--|---|--------------|
| Investigator (12 Mos. @ 2,600 per mo.) | 24,570 |  | 0 | 8,190 32,760 |
| Overtime                               | 4,500  |  | 0 | 1,500 6,000  |

## Fringe Benefits

## Fayetteville Police Department

|                      |       |  |   |              |
|----------------------|-------|--|---|--------------|
| Health Insurance     | 8,295 |  | 0 | 2,765 11,060 |
| Long term disability | 360   |  | 0 | 120 480      |
| Life Insurance       | 364   |  | 0 | 121 485      |
| FICA                 | 2,614 |  | 0 | 871 3,485    |
| Retirement           | 9,234 |  | 0 | 3,078 12,312 |
| Workers Compensation | 1,629 |  | 0 | 543 2,172    |

|                                               | Source of Funds |       |        |         |
|-----------------------------------------------|-----------------|-------|--------|---------|
|                                               | Federal         | State | Local  | Total   |
| <b>Springdale Police Department</b>           |                 |       |        |         |
| Health insurance                              | 0               | 0     | 0      | 0       |
| FICA                                          | 2,685           | 0     | 895    | 3,580   |
| Retirement                                    | 3,721           | 0     | 1,240  | 4,961   |
| Workers' Compensation                         | 570             | 0     | 190    | 760     |
| <b>Washington County Sheriff's Department</b> |                 |       |        |         |
| Health                                        | 1,580           | 0     | 527    | 2,107   |
| FICA                                          | 2,033           | 0     | 678    | 2,711   |
| Retirement                                    | 2,126           | 0     | 709    | 2,835   |
| Workers' Compensation                         | 715             | 0     | 238    | 953     |
| <b>University of Arkansas</b>                 |                 |       |        |         |
| Benefits                                      | 6,093           | 0     | 2,031  | 8,124   |
| <b>Rural Agencies</b>                         |                 |       |        |         |
| Health insurance                              | 1,620           | 0     | 540    | 2,160   |
| Retirement                                    | 3,295           | 0     | 1,098  | 4,393   |
| FICA                                          | 2,185           | 0     | 728    | 2,913   |
| Workers' Compensation                         | 821             | 0     | 274    | 1,095   |
| (Sub-total Personnel)                         | 256,194         | 0     | 85,399 | 341,593 |
| <b>MAINTENANCE AND OPERATIONS</b>             |                 |       |        |         |
| <b>Fayetteville</b>                           |                 |       |        |         |
| Office supplies                               | 2,905           | 0     | 968    | 3,873   |
| Evidence Collection Supplies                  | 875             | 0     | 292    | 1,167   |
| Postage                                       | 406             | 0     | 135    | 541     |
| Alarm service                                 | 1,116           | 0     | 372    | 1,488   |
| Telephone (office & cellular)                 | 3,000           | 0     | 1,000  | 4,000   |
| Insurance                                     | 2,345           | 0     | 782    | 3,127   |
| Office machine maintenance                    | 1,025           | 0     | 342    | 1,367   |
| Electronic equipment repair                   | 1,563           | 0     | 521    | 2,084   |
| Pagers                                        | 1,833           | 0     | 611    | 2,444   |



|                                        | Source of Funds |       |        |        |
|----------------------------------------|-----------------|-------|--------|--------|
|                                        | Federal         | State | Local  | Total  |
| Vehicle maintenance                    | 3,572           | 0     | 1,191  | 4,763  |
| Batteries                              | 300             | 0     | 100    | 400    |
| Gas & oil                              | 3,250           | 0     | 1,083  | 4,333  |
| Seizure expense (towing)               | 225             | 0     | 75     | 300    |
| Springdale                             |                 |       |        |        |
| Telephone (Office & Cellular)          | 1,104           | 0     | 368    | 1,472  |
| Office supplies                        | 375             | 0     | 125    | 500    |
| Vehicle expense                        | 1,000           | 0     | 333    | 1,333  |
| Insurance                              | 408             | 0     | 136    | 544    |
| Gas & oil                              | 1,463           | 0     | 488    | 1,951  |
| Washington County Sheriff's Department |                 |       |        |        |
| Telephone (Office & Cellular)          | 800             | 0     | 267    | 1,067  |
| Office Supplies                        | 500             | 0     | 167    | 667    |
| Vehicle Expense                        | 1,000           | 0     | 333    | 1,333  |
| Pager rental                           | 162             | 0     | 54     | 216    |
| Insurance                              | 400             | 0     | 133    | 533    |
| Gas & Oil                              | 1,650           | 0     | 550    | 2,200  |
| University of Arkansas                 |                 |       |        |        |
| Telephone                              | 509             | 0     | 170    | 679    |
| Office supplies                        | 200             | 0     | 67     | 267    |
| Insurance                              | 187             | 0     | 62     | 249    |
| Pager rental                           | 162             | 0     | 54     | 216    |
| Gas & Oil                              | 900             | 0     | 300    | 1,200  |
| Vehicle Maintenance                    | 1,050           | 0     | 350    | 1,400  |
| Rural                                  |                 |       |        |        |
| Telephone (Office & Cellular)          | 1,002           | 0     | 334    | 1,336  |
| Office rent                            | 0               | 0     | 0      | 0      |
| Vehicle expense                        | 1,500           | 0     | 500    | 2,000  |
| Insurance                              | 585             | 0     | 195    | 780    |
| Gas & oil                              | 1,800           | 0     | 600    | 2,400  |
| Sub-total Maintenance and Operations   | 39,172          | 0     | 13,057 | 52,229 |

## TRAVEL

| Source of Funds |       |       |       |
|-----------------|-------|-------|-------|
| Federal         | State | Local | Total |

|                         |              |          |              |              |
|-------------------------|--------------|----------|--------------|--------------|
| Fayetteville            | 1,000        | 0        | 333          | 1,333        |
| Springdale              | 750          | 0        | 250          | 1,000        |
| Washington County       | 600          | 0        | 200          | 800          |
| University of Arkansas  | 563          | 0        | 188          | 751          |
| Rural                   | 600          | 0        | 200          | 800          |
| <b>Sub-total Travel</b> | <b>3,513</b> | <b>0</b> | <b>1,471</b> | <b>4,984</b> |

## CONFIDENTIAL

|                                     |               |          |              |               |
|-------------------------------------|---------------|----------|--------------|---------------|
| Fayetteville                        | 7,500         | 0        | 2,500        | 10,000        |
| Springdale                          | 6,000         | 0        | 2,000        | 8,000         |
| Washington County                   | 4,500         | 0        | 1,500        | 6,000         |
| University of Arkansas              | 5,250         | 0        | 1,750        | 7,000         |
| Rural                               | 6,000         | 0        | 2,000        | 8,000         |
| <b>Sub-total Confidential Funds</b> | <b>29,250</b> | <b>0</b> | <b>9,750</b> | <b>39,000</b> |

|              |                   |             |                   |                   |
|--------------|-------------------|-------------|-------------------|-------------------|
| <b>Total</b> | <b>\$ 328,129</b> | <b>\$ 0</b> | <b>\$ 109,377</b> | <b>\$ 437,506</b> |
|--------------|-------------------|-------------|-------------------|-------------------|

STATE OF ARKANSAS  
DRUG LAW ENFORCEMENT SUBGRANTS  
CERTIFIED ASSURANCES  
Page 1 of 3

1. The applicant assures that federal drug law enforcement funds made available under the Anti-Drug Abuse Act will not be used to supplant state and local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for drug law enforcement activities;
2. The applicant assures that fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Bureau of Justice Assistance and the Department of Finance and Administration shall prescribe shall be provided to assure fiscal control, proper management, and effective disbursement of funds received under the Act;
3. The applicant assures that it shall maintain such data and information and submit the prescribed reports in the prescribed formats at the prescribed times as the Bureau of Justice Assistance and the Department of Finance and Administration may require;
4. The applicant assures that at the end of each federal fiscal year that the project is in force, and at the end of the project period, it will submit a performance report to the Department of Finance and Administration in a manner to be prescribed;
5. The applicant certifies that the program contained in this application meets all the requirements, and that all the information is correct, and that the applicant will comply with all provisions of the Anti-Drug Abuse Act of 1986 and all other applicable state and federal laws;
6. The applicant assures that before any budgetary or programmatic amendment is made to an approved program, it will submit such an amendment to the Department of Finance and Administration for review;
7. The applicant assures that it will comply, and all its subgrantees and contractors will comply, with the non-discrimination requirements of the Justice Assistance Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations 28 CFR Part 42, Subparts C, D, E, and G;
8. The applicant assures that in the event a federal or state court or federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice Programs;
9. The applicant assures that if it is required to formulate an Equal Employment Opportunity Program (EEOP) in accordance with 28 CFR 42.301, et. seq., it should submit a certification to the state that it has a current EEOP on file which meets the requirements therein;
10. The applicant assures that it will comply with the provisions of the Department of Finance and Administration's "Drug Law Enforcement Subgrant Procedures and Financial Management Guidelines";



**STATE OF ARKANSAS  
DRUG LAW ENFORCEMENT SUBGRANTS  
CERTIFIED ASSURANCES  
Page 2 of 3**

11. The applicant assures that it will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part II, Applicability of Office of Management and Budget Circulars; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; and Part 63, Floodplain Management and Wetland Protection Procedures;
12. The applicant assures that in addition to all other audit requirements, it will allow the Division of Legislative Audit or any other independent or internal auditors of the Department of Finance and Administration to have access to the applicant's records and financial statements;
  - (A) as may be necessary for the Department of Finance and Administration to comply with the 1996 Single Audit Act Amendments and Circular A-133, and other rules and/or regulations governing financial accounting and auditing guidelines, principles, and procedures; and
  - (B) as may be requested by the Department of Finance and Administration to comply with any State or local government rules and/or regulations;
13. The applicant assures that it will fully participate in the compilation of statistical information as required by state agencies, i.e., providing complete finger print arrest information;
14. The applicant assures that both federal and matching funds used for this project will be used exclusively to support defined drug law enforcement activities, and will not be used to support any general purpose law enforcement or other activity maintained by the applicant;
15. The applicant assures that if the grant funds are used to support a Task Force, the Task Force Board of Directors or 'Control Group' will hold regularly scheduled meetings at least monthly, and will provide the State Drug Director with copies of the agenda and minutes of each meeting;
16. The applicant assures that if grant funds are used to support a Task Force, the Task Force Administrator and the Board of Directors will develop and/or maintain a detailed policy and procedures manual for the guidance of task force operations.
17. The applicant assures that all proposals for out of state travel for conference and training will be submitted to the Arkansas Alcohol and Drug Abuse Coordinating Council for approval prior to any expense being incurred.

STATE OF ARKANSAS  
DRUG LAW ENFORCEMENT SUBGRANTS  
CERTIFIED ASSURANCES  
Page 3 of 3

CERTIFICATION

I certify that the program proposed in this application meets applicable requirements of the Anti-Drug Abuse Act, that all the information presented is correct, and that the applicant will comply with the provisions of the Act and all other applicable federal laws and applicable state laws and regulations.

\_\_\_\_\_  
(Signature of Contracting Official)

January 23, 2001  
\_\_\_\_\_  
(Date)

Dan Coody  
\_\_\_\_\_  
(Typed Name)

Mayor  
\_\_\_\_\_  
(Title)

113 W. Mountain Street  
\_\_\_\_\_  
(Address)

Fayetteville, AR 72701  
\_\_\_\_\_

(501)-575-8330  
\_\_\_\_\_  
(Area Code/Telephone Number)

(501)-575-8257  
\_\_\_\_\_  
(Area Code/Fax Number)



CER-2 Time and Effort

CERTIFICATION OF TIME AND EFFORT

As chief executive officer of the applicant government or agency for the attached Drug Law Enforcement Program subgrant, I hereby certify that:

- (1) All persons employed as regular employees of the applicant and paid from grant and/or grant matching funds will provide full services to the grant funded project in concert with their status (full-time, part-time, etc.) and the salary paid from grant and/or grant matching funds. All such employees will routinely prepare and submit to the employing agency for retention a statement of hours worked which are chargeable to the grant and/or grant matching funds. Such time statements will be signed by the employee and verified by his/her supervisor.
- (2) All persons working under contract with the subgrantee, who is paid from grant and/or grant matching funds, and who is providing services to the grant funded project will be required to execute a formal contract for services that specifies (a) the work to be performed; (b) the location(s) of such work; (c) the rate and frequency of payments to the contractor; (d) the availability of the contractor to the contracting agency; (e) the provision of workspace, equipment, supplies and assistance to the contractor; (f) a method for the routine reporting of progress and accomplishments; (g) tax liabilities and tax reporting requirements of both the contractor and the contracting agency; and (h) any other provision necessary for a clear statement of mutual contractual obligations.

\_\_\_\_\_  
(Signature of Contracting Official)

\_\_\_\_\_  
January 23, 2001

\_\_\_\_\_  
(Date)

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

\_\_\_\_\_  
(Typed Name)

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
113 W. Mountain Street

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Fayetteville, AR 72701

\_\_\_\_\_  
(501)-575-8330

\_\_\_\_\_  
(Area Code/Telephone Number)

\_\_\_\_\_  
(501)-575-8257

\_\_\_\_\_  
(Area Code/Fax Number)

## CERTIFICATION OF AUDIT COST

As the Contracting Official for a Drug Law Enforcement Program subgrant to the organization listed below, I certify that the OMB Circular A-133 audit status is an accurate projection of federal fund expenditures for the fiscal year impacted by this grant, based on information presently available to me. Based on these projections, the audit status of the referenced organization will be as indicated below.

       AUDIT STATUS ONE: PROJECT AUDIT COST

The applicant agency will expend less than \$300,000 from all federal sources during its fiscal year. The Department of Finance and Administration will contract for audit services applicable to the Drug Law Enforcement Program subgrant. The applicant will not budget audit funds.

  X   AUDIT STATUS TWO: OVERALL SINGLE AUDIT COST

A single audit must be procured by the applicant agency when the applicant agency expends \$300,000 or more in federal funds from all sources during its fiscal year. Under these circumstances, the applicant agency may take one of two courses in paying for single audit costs. Check either (A) or (B) below to show your intent.

(A)   X   The applicant agency will pay for the cost of the single audit from its own resources.

(B)        The applicant agency will develop an equitable formula for assigning single audit cost to each federal program from which grants are received.

If you checked item (B), complete the grants listing below for your most recent fiscal year, even if you must use estimated data. This information will serve to verify the need for a single audit of your finances during the fiscal year this grant will be active.

## FEDERAL FUNDS EXPENDITURES

| <u>Name of<br/>Federal Agency</u> | <u>Most Recent<br/>Fiscal Year</u> | <u>Federal Dollars Expended</u> |
|-----------------------------------|------------------------------------|---------------------------------|
| _____                             | _____                              | _____                           |
| _____                             | _____                              | _____                           |
| _____                             | _____                              | _____                           |
| _____                             | _____                              | _____                           |
| _____                             | _____                              | _____                           |
| _____                             | _____                              | _____                           |
| _____                             | _____                              | _____                           |

(Use supplementary listing if needed)

ESTIMATED TOTAL COST OF SINGLE AUDIT

\$ \_\_\_\_\_

ESTIMATED SHARE OF SINGLE AUDIT COST  
TO BE PAID WITH DLEP GRANT FUNDS

\$ \_\_\_\_\_

Note: Audit funds will not be a part of the applicant's budget, but will be reserved by DFA until the audit is completed.

Dan Coody

Printed Name of Contracting Official

Mayor

Title and Organization

\_\_\_\_\_  
Signature

January 23, 2001

Date



**CONFIDENTIAL FUNDS CERTIFICATION**

This is to certify that I have read, understand, and agree to abide by all of the conditions for confidential funds as set forth in the "State of Arkansas Drug Law Enforcement Subgrant Procedures and Financial Management Guidelines."

Date: 1/9/2001

Signature:   
Project Director

**PROCEDURES** – Each project agency authorized to disburse confidential funds must develop and follow internal procedures which incorporate the elements detailed in Chapter 4 of the Guidelines Manual referenced above. Prior approval is required to deviate from these elements.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
INELIGIBILITY AND VOLUNTARY EXCLUSION  
LOWER TIER COVERED TRANSACTIONS  
(Sub-Recipient)**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 67, Section 67.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211).

**(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON PREVIOUS PAGE)**

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Dan Coody, Mayor  
Name and Title of Contracting Official

\_\_\_\_\_  
Signature

January 23, 2001  
Date

City of Fayetteville  
Name of Organization

113 W. Mountain  
Address of Organization

Fayetteville, AR 72701



**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**  
Grantees Other Than Individuals

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 28 CFR Part 67, Subpart F. The regulations, published in the January 31, 1989 *Federal Register*, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment (see 28 CFR Part 67, Sections 67.615 and 67.620).

**The grantee certifies that it will provide a drug-free workplace by:**

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about -
  - (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will -
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency within 10 days after receiving notice under subparagraph (d)(2), from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted -
  - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

CER-6 Drug-Free Workplace

**Certification Regarding Drug-Free Workplace Requirements**  
Page 2

Place(s) of Performance: The grantee shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (street address, city, county, state, zip code):

---

---

---

City of Fayetteville  
Organization Name

Dan Coody, Mayor  
Name and Title of Contracting Official

\_\_\_\_\_  
Signature

January 23, 2001  
Date

**CERTIFICATION REGARDING LOBBYING**

Each person shall file the most current edition of this certification and disclosure form, if applicable, with each submission that initiates agency consideration of such person for an award of a Federal contract, grant, or cooperative agreement of \$100,000 or more; or Federal loan of \$150,000 or more.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1592, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any non-Federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant loan, or cooperative agreement, the undersigned shall check here \_\_\_\_\_ and complete and submit Standard form # LLL "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers and that all subrecipients shall certify and disclose accordingly.

---

---

---

---

Name and Address of Organization

---

---

---

---

Signature, Date and Typed  
Name of Contracting Official



**DRUG LAW ENFORCEMENT PROGRAM  
PROPERTY INVENTORY**

Grant ID Number 00-14; 99-32; 98-11; 97-52; 96-18; 95-19;  
94-16; 93-25; 92-24; 91-30 and 89-  
Administering Agency : PD Fayetteville, AR

Applicant Agency: Fourth Judicial District Drug Task Force  
DTF Common Name: Fourth DTF

| ITEM                                    | Original Cost | Est. Current Value | Condition      | Status                         |
|-----------------------------------------|---------------|--------------------|----------------|--------------------------------|
| Typewriter, IBM Wheelwriter 6           | \$796.00      | \$25.00            | Poor           | In DTF Office                  |
| File Cabinet, fireproof, 4 drawer       | \$984.00      | \$150.00           | Good           | In DTF Office                  |
| File Cabinet, fireproof, 2 drawer       | \$636.00      | \$100.00           | Good           | In DTF Office                  |
| Copier, Sharp SF7750                    | \$1,975.00    | \$0.00             | Out of Service | In DTF Office awaiting auction |
| Telephone System/Devices                | \$1,021.00    | \$0.00             | Out of Service | In DTF Office awaiting auction |
| Chair, La-Z-Boy Highback                | \$305.00      | \$25.00            | Fair           | In DTF Office                  |
| Radio Equipment; ear mike               | \$437.00      | \$25.00            | Fair           | In DTF Office                  |
| Binocular, Bausch & Lomb                | \$326.00      | \$50.00            | Fair           | In DTF Office                  |
| Alarm System, office burglar            | \$875.00      | \$0.00             | Out of Service | In DTF Office awaiting auction |
| Radio Equipment; 2 Motorola portables   | \$5,214.00    | \$1,600.00         | Good           | In DTF Office                  |
| Radio Equipment; 1 Motorola portables   | \$2,595.00    | \$800.00           | Good           | In DTF Office                  |
| Vehicle 1995 Jeep Cherokee 15% of value | \$1,500.00    | \$1,200.00         | Good           | Assigned to DTF Officer        |
| Vehicle 1998 Ford Explorer              | \$5,252.00    | \$3,500.00         | Good           | Assigned to DTF Officer        |

CER-13 Quarterly Reporting Income & Expenditures

CERTIFICATION REGARDING QUARTERLY REPORTING  
OF PROGRAM INCOME AND EXPENDITURES

By acceptance of this grant provided through the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program (Drug Law Enforcement Program) I certify the following:

- 1) I will prepare and submit information, in a form prescribed by the Law Enforcement Committee of the Arkansas Alcohol and Drug Abuse Coordinating Council and the Department of Finance and Administration, regarding program income made available to the grant funded project for its use. Program income and expenditures from program income will be shown for each source of such income and each item of expenditure. Program income reports will be transmitted to the Department of Finance and Administration by the 15<sup>th</sup> day of the month following the end of each calendar quarter.

Dan Coody

Printed Name

Mayor

Title

\_\_\_\_\_  
Signature of Contracting Official

January 23, 2001

Date



CER-14 Employment of Qualified Personnel

CERTIFICATION OF EMPLOYMENT OF QUALIFIED PERSONNEL

By acceptance of this grant provided through the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program (Drug Law Enforcement Program) I certify the following:

- 1) All personnel employed on a salaried or contractual basis, and who function as law enforcement personnel under my authority for the purposes identified in this grant will be currently certified by the Arkansas Law Enforcement Training Academy, are in training at the Arkansas Law Enforcement Training Academy, or have applied and are awaiting admission to the Academy.

For those personnel who are not certified and who are awaiting admission to the Academy, I agree to their participation in training activities designated as mandatory pre-Academy training by the Law Enforcement Committee of the Arkansas Alcohol and Drug Abuse Coordinating Council.

- 2) All personnel other than attorneys and law enforcement officers who are employed for purposes identified in this grant and who are paid from grant or grant matching funds have been determined to be qualified for the position they hold, based on my review of their education, training and experience.

Dan Coody

Printed Name

Mayor

Title

Signature of Contracting Official

January 23, 2001

Date

**CERTIFICATION REGARDING MANDATORY ATTENDANCE  
AT DESIGNATED TRAINING EVENTS SPONSORED BY THE  
ARKANSAS ALCOHOL AND DRUG ABUSE COORDINATING COUNCIL**

By acceptance of this grant provided through the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program (Drug Law Enforcement Program), I agree that Law Enforcement personnel who work under my authority for purposes identified in the grant, and who are paid in part or in full from federal grant funds or state or local grant matching funds will attend training programs which are developed and sponsored by the Law Enforcement Committee of the Arkansas Alcohol and Drug Abuse Coordinating Council. The Department of Finance and Administration will inform me of the dates, times, places and the nature of any such training designated as mandatory by the Law Enforcement Committee.

Dan Coody

Printed Name

Mayor

Title

Signature of Contracting Official

January 23, 2001

Date

**CERTIFICATION OF COMPLIANCE WITH FAIR LABOR STANDARDS ACT**

As the contracting official for a grant awarded by the Arkansas Alcohol and Drug Abuse Coordinating Council through the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program (Drug Law Enforcement Program), I agree to comply with the provisions of the federal Fair Labor Standards Act regarding the preparation and retention of time and attendance records affecting persons employed through financial assistance provided by this grant.

I am aware that this grant provides only for the payment of regular salaries and fringe benefits for positions shown in Attachment 'A' of the grant award, unless specifically approved otherwise by the State Drug Council. Consequently, by acceptance of that grant award, I assume full responsibility for any compensatory time allowance or overtime pay obligations for persons employed within the project funded by this grant.

Dan Coody

Printed Name

Mayor

Title

Signature of Contracting Official

January 23, 2001

Date



## CONFLICTS OF INTEREST

Personnel and other officials connected with federally-funded programs shall adhere to the following requirements:

**ADVICE.** No official or employee of a State or unit of local government or a non-governmental recipient/subrecipient shall participate personally through decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, award, cooperative agreement, claim, controversy, or other particular matter in which award funds (including program income or other funds generated by Federally-funded activities) are used, where to his/her knowledge, he/she or his/her immediate family, partners, organization other than a public agency in which he/she is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment has a financial interest or less than an arms-length transaction.

**APPEARANCE.** In the use of federal project funds, officials or employees of State or local units of government and non-governmental recipient/subrecipients shall avoid any action which might result in, or create the appearance of:

- Using his or her official position for private gain;
- Giving preferential treatment to any person;
- Losing complete independence or impartiality;
- Making an official decision outside official channels; or
- Affecting adversely the confidence of the public in the integrity of the government or the program.

### Certification

As a potential subgrantee of federal funds through the Edward Byrne Memorial State and Local Law Enforcement Formula Grant Program, I certify that I have read, understand and agree to comply with the above provisions regarding conflicts of interest.

Dan Coody

Typed Name

\_\_\_\_\_  
Signature of Contracting Official

City of Fayetteville

Organization

January 23, 2001

Date

## STAFF REVIEW FORM

RZ00-25.00

B. 1 Page 1

☒ AGENDA REQUEST  
☐ CONTRACT REVIEW  
☐ GRANT REVIEW

For the Fayetteville City Council meeting of January 2, 2001

## FROM:

Tim Conklin

Name

Planning

Division

Public Works

Department

**ACTION REQUIRED:** To approve an ordinance for RZ 00-25.00, submitted by Dennis Caudle for property located at 1192 Ruppel Road. The property is zoned R-0, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial.

## COST TO CITY:

\$0.00

Cost of this Request

Category/Project Budget

Category/Project Name

Account Number

Funds Used To Date

Program Name

Project Number

Remaining Balance

Fund

## BUDGET REVIEW:

Budgeted Item

Budget Adjustment Attached

Budget Manager

Administrative Services Director

## CONTRACT/GRANT/LEASE REVIEW:

## GRANTING AGENCY:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

## STAFF RECOMMENDATION:

Staff recommended denial and on December 11, 2000, the Planning Commission voted 6-1-0 to recommend approval and forward the rezoning to the City Council.

Division Head

Date

## Cross Reference

Department Director

Date

New Item: **Yes**

Administrative Services Director

Date

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

Mayor

Date

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

Orig Contract Number: \_\_\_\_\_

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

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN  
REZONING PETITION RZ 00-25 FOR A PARCEL CONTAINING  
APPROXIMATELY 0.52 ACRES LOCATED AT 1192 RUPPLE  
ROAD SUBMITTED BY DENNIS CAUDLE.

**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-0, Residential Office to C-2, Thoroughfare Commercial District for the real  
property described 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 \_\_\_\_\_, 2000.

**APPROVED:**

By: \_\_\_\_\_  
Fred Hanna, Mayor

**ATTEST:**

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



Planning Commission

December 11, 2000

Page 46

**RZ 00-25.00: Rezoning (Caudle, pp 400)** was submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Hoffman: The final item on our agenda is a Rezoning for Caudle submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial. I believe that we have seen this item before and Tim could you let us know. Before you get started, Mr. Caudle do you understand that you also need five positive votes to approve this rezoning. Appeal on a rezoning request goes to City Council not District Court.

Conklin: It's going to go City Council. That's correct.

Hoffman: You still need five positive votes.

Conklin: Yes. If you don't recommend it with five positive votes then they have to appeal to the City Council. That's how they get before the City Council.

Hoffman: I think I misstated it when I was talking earlier that everybody had to go to District Court, that's not the case with you.

Conklin: On October 23, 2000, the Planning Commission heard a request for .52 acres along with adjacent property so they heard this request this evening of .52 acres with adjacent property. That total property was 1.5 acres. The request was from R-0 to C-2. Staff did not recommend that rezoning request. The Planning Commission voted unanimously 6-0-0 to deny the request. I do have those minutes attached. The applicant appealed the decision to City Council and on November 21, 2000, the City Council heard this appeal request at that time they addressed an amended request with the applicant that he did not want to rezone the entire 1.5 acres but a smaller portion, .52 acres. The City Council did request that this .52 acres be brought back to the Planning Commission for your consideration and recommendation to them. Keep in mind the applicant originally requested the C-2 in order to apply for a conditional use permit to build additional storage on this property. That is his same intent at this time. Staff's original recommendation still stands with regard to denial. We are bringing this back to you because the City Council would like for you to take a look at this rezoning. The main difference is it's a smaller area, it's 90 feet in width, 253.6 feet long rectangle that adjoins the west side mini storage facility located on Ruppel Road. Just at the last Planning Commission meeting, when we did hear this item, there was concern about the

Planning Commission  
December 11, 2000  
Page 47

Bill of Assurance and I just want to make sure the applicant didn't misunderstand what I said at the Planning Commission and that was I was going to go out there with out Landscape Administrator to make sure that there weren't any violations of that Bill of Assurance. We have gone out there. We counted the trees. There are substantial numbers of pine trees that are along the north/south and west/east property line. Based on those numbers and the size of those trees, that Bill of Assurance has not been violated. He's meeting that requirement to save those trees on that site. With regard to the access from Wedington Road, that access has been barricaded and is not being used for this facility. Those were the two things in the Bill of Assurance, tree preservation and the access from Wedington. Both of those, for me, are not being violated. Kim Hesse and I have taken a look at the trees and it's meeting that requirement. I just wanted to clarify any misunderstandings that the Commission may have had on that Bill of Assurance or the applicant or myself.

Hoffman: Before we get to you, Tim I have a question about that. Are you referring to the entire site or just to the subject now up for us for rezoning?

Conklin: When I talked about the Bill of Assurance, the Bill of Assurance was for the entire 5 acres.

Hoffman: So we do have a good buffer between Wedington and the site?

Conklin: With regard to trees, it's interesting, the Bill of Assurance reads 60% of the trees. He has pine trees that are spaced probably five feet apart, approximately 200 along the south, north and east property line. Overall, when you look at the total number of trees just because those pine trees are soldiered up along the property lines, he's meeting that ordinance. With regard to our current Tree Preservation Ordinance, that's something that Kim Hesse would have to take a look at with regard to the existing oak trees that are on this property that are remaining.

Hoffman: Okay. Thank Tim. Do you have a presentation that you would like to make? Tell us your name please.

Caudle: Can I give you a copy of that?

Hoffman: Yes. You need to tell us who you are even though we know.

Caudle: At the time that this came up the first time in Planning Commission meeting, the original property that was rezoned ten years ago was originally 5.5 and they rezoned the back

Planning Commission

December 11, 2000

Page 48

portion and we built the storage facilities. At the time there was an indication that there was an need for them in the area and they were right, there has definitely been a need. There has been a lot of houses built out there over these last ten years. What we find now, we came to the little piece there on the front that turns back towards the highway, kind of a backwards L; we built as many buildings as we were originally designed to do from the ten years ago plan. The thing that's come up is a need for storage in the area. The climate control is a big factor that we come up with is the fact that there is no climate control inside the City of Fayetteville. We thought we could build a building to supply the need for the people that need that type of service. Right now there are several people that have to go to Springdale. There was six people that we were renting the facility for the last several years that the FDA passed a new law that their stuff had to be in climate control, so they have all been forced to go to Springdale because there is none in the City of Fayetteville. What I was proposing was to built a building that would provide the climate control type storage facility. The original request was to just simply rezone all the lot to C-2 because it was C-2 in the back. We brought in sewer several years ago to put storage buildings on all of it. First of all, storage buildings doesn't need sewer so that money will be wasted. The original request was to be able to have just enough area there to put in this one building. As far as being declined on the entire C-2 request well that was probably asking for too much. I should have probably done it like this in the first place because we did bring in the sewer, we didn't intend to build storage buildings out front anyway. To go back 90 feet toward the highway would allow us to build this one building which is right next to what's already there, that you see on the drawing there. There are twelve buildings that sit on the property now. This will be no different, as far as appearance, than what's there. There was some concern in the Planning Commission meeting from the 23<sup>rd</sup> as far as the appearance, whether or not they like them. The lot on the front of the drawing there, on the corner of Ruppel, I think it's called Wedington Plaza, I talked with them the other day and apparently they are starting construction next month which will take up a large coverage of where we are at in the front there as far as exposure to Wedington. One thing I said in the City Council meeting was that we would be more than willing to put in a privacy fence, a nice one that has brick pillars and privacy in between them in front of this building which would separate it from Wedington and there is still plenty of room on the front of Wedington, approximately 177 feet.

Hoffman: Is that to the building or to the line of the zoning demarcation, that 177 feet?

Caudle: The length of the property, back to where it's currently R-0, is 267 as is shown on the drawing there. To rezone 90 feet forward still leaves 177 feet before we reach the Wedington Highway. We brought in the sewer and paid for it several years ago. It is



Planning Commission

December 11, 2000

Page 49

set up for an office environment and that's probably what would be built there in time. Like I said, we have no plans at this point to build anything out front. To be allowed the 90 feet in conjunction with what is already there, does allow us to build this building that there is no question there is a need for it because the people do not have an access to this type of service in this city.

Hoffman: This 90 feet gives you access completely around the building and then have some room for the fence that faces Wedington?

Caudle: The corner once you come along the bottom, the 373 corner, if you just gotten out of the line that is currently C-2 extends straight on across 253 feet at that corner, we are proposing to turn south 90 feet and then go back 253 which would allow this building to go in right next to the 12 that's already there.

Hoffman: Got it thanks.

Caudle: Like I said, it's just a case that there is a need and it is inside the existing facility with the ~~building that's fixed to be built and the privacy fence.~~ One of the people that had a concern about that, about allowing me to build this new building, that would be part of the concern that was stated as far as the visibility. That takes out a lot of visibility but it does make for a nice facility that offers a full service.

Hoffman: Anything else you want to say?

Caudle: No.

#### **PUBLIC COMMENT:**

Hoffman: Is there any member from the public that would like to comment on this? I see one person back there. No? Thanks.

#### **COMMISSION DISCUSSION:**

Hoffman: I'll bring it back to the Commission and the applicant for further discussion. Anybody?

Hoover: I have a question for staff. Just because I didn't get to read the comprehensive plan before I got here but my understanding is that our future thought on this area is R-0 and that we are only putting C-2 at the nodes?



Planning Commission

December 11, 2000

Page 50

- Conklin: That is correct and with regard to the Community Commercial designation on our Future Land Use Plan, I will recommend as we have for the past five years that it be C-1 zoning which will not allow for the additional warehousing or storage facilities as a conditional use. Even if it was shown as that commercial, we would still be recommending for C-1 and not the C-2. Mr. Caudle, I do have one question, how many square feet will the storage building contain?
- Caudle: Approximately 10,000 in the new building. It is climate control. It's a different design than the other buildings, it does require a lot of different type of construction to accomplish the climate control facility.
- Marr: Where exactly is the access to this building proposed to be, is it off of Highway 16 or is it coming from this?
- Caudle: On the drawing you see the twelve buildings going down through there, on each end of that first building, originally there was access with a controlled computer type gate on the south side of that building. In the last year, we put in an access at the north end of that building for an exit only gate. There is an in and an out basically onto Ruppel from the facility. The building we are proposing, like I said, if you just extend that 273 straight across, it picks up right on the border of what is now C-2 and R-0. It's just enough to put in that building and you come right in the facility when you get down to that point, you look left at your buildings or you look right at this new building. All the access is off of Ruppel and like I said we put in an extra gate, having this many buildings and this much people coming and going, we did open up the other gate and put in another computer access gate to help with the flow of the traffic. There are times on weekends, a pretty day, you will have several people out there so it did help the flow.
- Marr: Help me understand too, where exactly when you talk about a proposed brick privacy combination fence to screen this.
- Caudle: Again on my little drawing the building that I put on the drawing, the proposed building, it says 175 feet on it, move directly out in front of it approximately 20 feet.
- Marr: Would it go the whole distance of this or just the length of that building?
- Caudle: It would go in front of the building is the way it's proposed. There is drainage on the other area there. There is a designed drainage ditch where all the buildings are drained to a point, the water that comes off the buildings and between the alleys and that is a drainage ditch that was designed for that purpose.

Planning Commission  
December 11, 2000  
Page 51

Marr: The reason for my questions are not to do approval of design here because I understand this is a rezoning but one of the things that would certainly make me consider it is the ability that when it did come through for design that it would be completely screened because I go back to Chairman Odom's comment when we heard this back on the 23<sup>rd</sup> that I certainly believe and agree with you that there is a need for this in the City of Fayetteville but I also believe that there are locations of commercial C-2 space to be able to do this within the city already. More importantly I want to stay consistent with the Land Use Plan of developing that into R-0. If we did this, what's important to me is the ability to take it out of sight. This is much more appealing to me, not to say I will vote for it still but much more appealing to me than what was originally presented.

Ward: I think I would be, instead of putting up a wood privacy fence, I think that south side of the building, in my case, I think it needs to be some type of, meet our Commercial Design Standards for articulation and using some type of split face block and some things like that instead of metal. I would be much more for it then than just putting up a metal building out there. I'm talking about strictly the south side of the building with some articulation and some type of material that fits into our Commercial Design Standards like block, brick and other type of products. That way you wouldn't have to be worried about putting up fences and all that type of stuff.

Caudle: I would be more than willing to look at, from the manufacturer's to what could be done as far as to brick that side of it or something to that affect. Again, your visibility right now when you drive down Wedington you look over there, this is what you see. You see those buildings as they are today. You are not going to be seeing anything different than what you are seeing today. If we did what you propose we can look into bricking that side of it, that would improve it. Whether it was a privacy fence, because there was a concern about it, the distance we set off the highway back in the trees alleviates that concern. This would be a whole lot better than what we are looking at right now as far as the concern of what's out there right now.

Hoffman: Staff, I have a question. I'm concerned about design on a rezoning. I wish that there were a way. I understand because this lot is contiguous with your existing property, why you want to put it here and why you don't want to go find another site.

Caudle: It was mentioned in the meeting on the 23<sup>rd</sup>, you've got economic assets that are already out there and you run a professional operation, you don't go out and buy property and build a building and expect to come out at all.



Planning Commission  
December 11, 2000  
Page 52

Hoffman: The question I have for staff is that, given the discussion that we've had tonight concerning the screening of the building or the other appearance, I'm not really for Lee's idea because they are still going to have all those garage doors facing Wedington, I'm really more interested in screening the whole building. How many overhead doors will be facing Wedington in the new building?

Caudle: Approximately 16.

Hoffman: I don't know how you would meet the Commercial Design Standards. Given the fact that we've got a reasonable proposal for screening that's contiguous and has traffic flowing out to Ruppel Road and not Wedington, is there any method that we can approve a rezoning subject to the statements, can the applicant offer Bills of Assurance for instance that would help us along the way?

Conklin: Keep in mind, this will have to come back as a Conditional Use and may have to come back as a Large Scale Development if it's over 10,000 square feet so you will have another opportunity to place any condition on there that you feel is appropriate. Also, if you rezone, it could be any C-2 use also that could go in there from a used car lot to a night club.

Hoffman: There is no way to bring the two through at the same time like we did our Conditional Use and Large Scale Developments?

Conklin: Not at this time.

Caudle: Excuse me, has that not already been done 10 years ago? It was only 10 years ago.

Conklin: If the applicant would like to voluntarily offer a Bill of Assurance he can offer that as you did, I believe, 10 years ago.

Caudle: This 90 feet is for this building and that's the only plan I have whatsoever and I would definitely have no problem doing anything there. Like I said, it's just this classification does require C-2.

Hoffman: If this use and idea would go forward.

Caudle: It is there now and it is what is required to build a climate control building that is needed.

Planning Commission  
December 11, 2000  
Page 53

Hoffman: You don't mind making that a condition of this?

**TAPE TURNED:**

Caudle: It's a survey, I don't know if it's from the right-of-way, they are calling it 267 feet and they are calling it 507 down the east side of the property which would include the R-0 and the C-2. I don't know if that's where that point of beginning is.

Conklin: With regard to that number, that is not something that we would use to map this area out. We require a legal description and we are working with Mr. Caudle to get a legal description that accurately describes that piece of property. It's clear to me that it's 90 feet south of the current C-2 zoning and that's something that we will be making sure that legal description describes, by the time we bring it forward to the City Council with an ordinance. It's 90 feet south of that existing C-2 property.

Bunch: My major concern is questioning this was to see if the remaining piece of property that I believe is currently R-0 to see if it was adequately sized to put in an R-0 development complete with setbacks and utility easements and that sort of thing.

Caudle: It's going to be approximately 253 by 150 minimum up to 170 depending on where that starts.

Bunch: That's what I was wondering.

Conklin: It's about an acre.

Bunch: I just want to make sure that it's adequately sized for a development as zoned.

Caudle: Approximately 253 by 160 give or take a little.

Hoffman: Anybody else?

**MOTION:**

Shackelford: I guess my take on this is, basically what we are looking at is an extension of an existing building by the same owner. We are only talking about a 90 foot strip of land with very limited access off of Ruppel Road basically through the property that the applicant already owns. As long as the front property remains R-0 which has the Wedington frontage on it and is developed R-0 and I think we meet the intent of the 2020 plan,

Planning Commission  
December 11, 2000  
Page 54

with that being said and the applicant being willing to do a Bill of Assurance, I'm going to make a motion that we recommend approval of RZ 00-25.00.

Ward: I'll second.

Hoffman: I have a motion by Commissioner Shackelford and second by Commission Ward, anybody else? Any other further discussion on this item?

Ward: This does have to come back no matter what happens?

Hoffman: Is it of sufficient size that we have to see it again, Tim?

Conklin: It depends on what size building he proposes on this property. If it's over 10,000 square feet, you'll see it as a Large Scale. You will see it as a Conditional Use.

Hoffman: We could at that time follow up on the discussion tonight regarding the screening and appearance and so forth.

Conklin: Yes. If the Planning Commission makes a recommendation and the City Council rezones it, most likely the conditional use recommendation is going to be for approval with Bills of Assurance.

Hoffman: Just so we are all clear, can you work with the applicant with regard to the wording of the Bills of Assurance? Since they come from the applicant, I'm not sure how to get that.

Conklin: Sure. For clarification, we are talking about use of this property for this climate controlled storage facility.

Hoffman: With screening.

Marr: Just one last question, did you investigate any other C-2 space for locating this facility other than this location?

Caudle: I looked at a couple of lots for possibly a new facility because there is a need for a storage facility. I have not found anything suitable at this point. There is some C-2 property in several areas around the city. There are a lot of factors that go into it as far as access, location and need in the area. Right now there are people who come a considerable distance because of the availability of storage in the area. I have looked.



Planning Commission  
December 11, 2000  
Page 55

Hoffman: Thank you. Anybody else have anything they would like to say before we call the roll?  
You all ready? Nancy?

Allen: I'm not really clear of what we are requiring the applicant to do.

Hoffman: In rezonings, Tim you can take this one if you want to.

Conklin: Sure. The applicant has offered to give us a Bill of Assurance which is a legal document to tie to this rezoning that this 90 feet, with the property, will only be used for a climate controlled storage facility and will contain screening of some sort. Based on that information you need to determine whether or not you can make this recommendation to the City Council, if you feel that it's appropriate with this Bill of Assurance to rezone this to C-2. Does that clear that up?

Bunch: If in the Bill of Assurance since we can't ask for it that the applicant offers, there was some statement about making sure that it went to the Large Scale Development process in addition the Conditional Use process. I think there are some square footage limitations, if the applicant offered to us that this would come through that process, I would personally feel a little more at ease with it to make sure that we could look at it and see that it fit our standards.

Caudle: As far as the Large Scale, again I'm not familiar with all the rules as far as that's on projects over an acre, over 10,000 square feet. It has certain criteria.

Conklin: An addition of 10,000 square feet or more. Since 10 years has passed, you do need to be aware that the fee has gone from \$50 to \$900 application fee.

Caudle: Everything has gone up, I know. The only thing that I can think of that would require a Large Scale is the size of the building. What originally has been drawn out on paper could be just under it or just over it depending on whether you build it 175 foot long or 170 foot long. It's going to get that marginal there. We could keep it under the 10,000 square foot by simply taking 5 feet off the end of it.

Conklin: You wouldn't be the first developer or applicant to do that either. What I'm saying is, people are aware of that regulation in Fayetteville and we do have projects, two or three a year that come in just below that criteria.

Caudle: I understand that. If you are talking about the difference between \$50 and \$900, I don't know what else is involved.

Planning Commission  
December 11, 2000  
Page 56

Hoffman: Let me make sure that no matter what happens Tim, this is going to be coming back as a Conditional Use because of the zoning?

Conklin: Yes.

Hoffman: This zoning is the only one that will permit this use without going to industrial zoning or something like that.

Conklin: That's correct.

Hoffman: That is so similar to Large Scale Development review that I would say that it would be not something that would be as important to me personally because in Conditional Uses we have a blank slate on those really, in terms of requirements that we can place, in terms of lighting, screening, appearance, hours of operation, revocation and so on. In that case, I would just prefer to let the motions stand as they were and you with your Bill of Assurance as it is.

Bunch: That's my main concern in bringing that subject up was to make sure that we have adequate opportunity for the oversight on it.

Shackelford: That was the intent of my motion knowing that we would get a chance to look at this and we could put those limitations on it in order to grant the Conditional Use.

Hoffman: No more discussion I assume? Okay, if everybody is ready, I'm going to go ahead and call the roll.

**ROLL CALL:**

Upon roll call RZ 00-25.00 is approved on a 6-1-0 with Commissioner Marr voting no.

Hoffman: Tim is there any other business this evening?

Conklin: There is no other business.

Hoffman: With that, we are adjourned.



Planning Commission  
October 23, 2000  
Page 55

**RZ 00-25.00: Rezoning (Caudle, pp 400)** was submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Odom: The next item that we have on tonight's agenda is a rezoning RZ 00-25.00 submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial. The recommendation of the staff is for denial of the requested rezoning based on the findings as included as a part of this report. Staff, did you want to go over that or do you have anything further? -----

Conklin: Sure. Staff is recommending denial of this rezoning. Back in 1999 this tract was included as part of a larger tract for C-2 zoning. At that time, Planning Commission recommended it and the City Council rezoned only the northern part of this property as C-2. That same year the Large Scale Development was processed for a mini storage and a Conditional Use at that time, if you've read the minutes, it talks about keeping this ~~piece of property R-O and developing it with an office type development~~ which is compatible with the neighborhood. Also, at that time, there was a bill of assurance that was offered to save 60% of the trees with eight inch diameter. I have met with the applicant this afternoon and went over that bill of assurance also restricted access from Wedington. Overall this property is near commercial there is a vacant C-1 property to the west staff is not recommending approval of additional commercial property in this area. If the Planning Commission did rezone it to commercial, C-1 zoning would be more appropriate than C-2. C-2 zoning allows used car sales with all type of businesses as conditional use. Dance halls and that type of use. About a month ago we did change our allowable uses in C-1 to provide more neighborhood commercial uses. The purpose of the C-2 zoning request is to be able to come back to the Planning Commissioner with a Conditional Use request for additional storage facilities on this piece of property. Staff is not in favor of additional storage facilities located in this area on this piece of property. If you have any questions, I would be more than happy to answer them.

Odom: Staff you touched on the bill of assurance that was offered. You said 1999, but you meant 1990 when that originally came through. You mentioned the bill of assurance and that 60% of the trees would remain or something to that affect and that there would be restricted access. What is the current status of how well that bill of assurance has been maintained?

Conklin: With regard to 60% of the trees being left on the site, after meeting with the applicant



Planning Commission  
October 23, 2000  
Page 56

today, it is difficult for me to determine whether or not that has been met. There were large pine trees located on the north and south property lines that were saved as part of the large scale development. That was approved by the Planning Commission. Those are existing. There were some trees shown, the number was twelve trees shown up in front of this facility on Ruppel Road. Those have all died in the past ten years according to the applicant. With regard to the existing trees on this property that we are looking at today, I am not sure whether or not that bill of assurance with regard to the 60% of the tree preservation would apply to those trees. The bill of assurance did apply to this piece of property that we are looking at tonight but I'm not sure what the total number of trees that were existing on the site prior to development and what remains out there today. That's going to take additional research. The applicant may be able to give more information on that. With regard to the access off of Wedington, there has been a curb cut that has been installed on Wedington and a gravel drive and gate installed on this facility. According to the applicant that gate is only used three to four times a year to bring in large moving vans onto this site. The bill of assurance is clear. It states that there shall be no access from Wedington. I did talk to the applicant today about this issue and he feels that three to four times year and the gate is locked most of the time, doesn't count as access. A strict interpretation of that bill of assurance means no access to that facility so that would be in violation of that bill of assurance.

Odom: I would ask the applicant to please come forward at this time. Do you have any presentation that you would like to make?

Caudle, Dennis: I'll answer some of the questions that he brought up there. As far as the original bill of assurances that were given. The facility is more than did that on the trees, we kept more like 70%. There is 193 trees right not on a three and a half acre development that is there today. The number of trees was far in excess of the original request. As far as the road that was put in at the same time the new highway was being built out there which was completed the other day, to put access to that property that was the time, speaking with the state, that the road needed to be cut in there because there would be no access to that property if we didn't put in a road. Something will be built on the property sooner or later of some type. The state indicated that would be the proper time to put in the road so a road was put in. As far as use, all the use is off of Ruppel. Just several months ago we put in a we had two gates off of Ruppel and we put in another gate off of Ruppel, both electronic gates for one is a entrance gate and one is an exit gate. There is no access off of Wedington and is not to be used for that purpose. As far as the zoning that we are asking for,

Planning Commission  
October 23, 2000  
Page 57

the Large Scale was approved ten years ago was just completed this year. It was a long term. We put the buildings in as the area grew and as the need was. That was just completed this year. The thing that we are looking at came up with some people that rent there recently. I drove up to Bentonville and Bella Vista and Springdale and looked at the facility there. There are no climate control facilities in the City of Fayetteville of this type. All the residents of the City are forced to go to Springdale or further depending on whether they are full. What we were proposing was to put in a climate controlled facility which is exactly like the same type of building as what is there now except it will be climate controlled with heat and air. It would require going just in front of the existing buildings toward the highway, not even half way to the highway to put in the one building which would be a climate controlled facility. There was a stated by several tenants that recently had to move out because the FDA passed a law that they had to be in climate control. Now they live in Fayetteville and they are forced to go to Springdale. That's why we would like to build another building to serve the people for that purpose which would be the same thing than what is there now. It would look the same and be the same. All it's access would be off of Ruppel with the two gates. That is the purpose of why we would like to do this, it does require a C-2 is what I understand for the storage business. That's why we are asking for C-2. That's the purpose of what we are looking to do.

#### **PUBLIC DISCUSSION:**

Odom: Thank you Mr. Caudle. Let me ask now, is there any member of the audience that would like to address us on this rezoning request?

#### **COMMISSION DISCUSSION:**

Odom: Seeing none, I will close the floor to public discussion and bring it back to the applicant for questions and comments of the Planning Commission.

Ward: Not that we have much around here but I noticed in Bentonville and Rogers areas that they are putting in a lot of really nice looking office complex on the front of the road with nice looking buildings glass and brick and stone. With the large climate controlled self-storage attached to them behind them for the vendors of Wal-Mart. Those have really been filling up fast I noticed. It's a very nice looking facility from the road because it is office type areas all along the front of the road attached to it, behind it is part climate controlled storage units that these businesses can use or whatnot for

Planning Commission

October 23, 2000

Page 58

warehousing that would be something I would consider more towards than I would just a self storage property out there on Wedington Drive.

Caudle: I looked at facilities in Springdale and I've looked at them in Bentonville, I haven't been to Bella Vista or that far north. I've been as far as Bentonville and looked at the facilities. I've been to the ones in Springdale, as far as there is two different type of buildings between the two I have seen and then talking with the builder that built the one in Bentonville, which is also the one that built all the buildings that I've built over the years. That's the one that I looked at and the one he was describing. I did look at the one in Springdale which he did not build but they are a entirely different type.

Hoffman: If everybody is done speaking I have some questions too. Let me start with staff. I understand the need for expanded storage area however, I am quite opposed to having it the front on Wedington. Have you looked at the possibility of instead of rezoning, doing a Conditional Use that carries with it certain guarantees that what is constructed is not visible from Wedington along the lines of Commissioner Ward's statement either by landscaping, screening or by a more attractive office type of building. Is that possible to do instead of just rezoning? I couldn't be comfortable with rezoning it for the storage units to face Wedington. We are really trying to take care with this important corridor because it's just going to continue to grow and you have all the references and cross-references to College Avenue and quite frankly self-storage facilities are not the most attractive buildings in the world but there is a good need for them. That's my question for staff on the Conditional Use, when he has addressed that, I would like to ask if you considered just conditioning the existing buildings? Tim, could you go first?

Conklin: Mini storage or storage units require a Conditional Use in C-2. They are not allowed in C-1 zoning. They are not Neighborhood Commercial use. The Conditional Use part of it you can not apply for unless it's zoned C-2. This issue came up ten years ago and Mr. Caudle walked with a bill of assurance to build a mini storage on the back part that's zoned C-2. We have had what you talked about built in Fayetteville. The Keating's built some mini storage over by Brahm's on College Avenue with office and retail space up front. It's been built on Highway 265 also. I think Mr. Wilkins has built some offices up front, mini storage in the back. Overall, I'm concerned about our Commercial Design Standards and trying make it an attractive commercial area for the residents that live out on Wedington Drive. When you have a storage building it's difficult to have anything other than just a metal building due to the cost involved. I'm all in favor to have that type of mixed use if we could have some type of office or retail up front but just stand alone, I do not support that.



Planning Commission  
October 23, 2000  
Page 59

Hoffman: Back to the applicant, have you considered conditioning your existing buildings?

Caudle: As far as what we are talking about there, like I said I was only coming out a little not even near close to half way to the highway. This new building would only go out a little ways out from the existing fence now. The fence would be moved in front of that building and there is still the large lot, probably close to an acre. Just a fraction under probably for something would be built in the front whether it be an office. As far blocking the view, there is still plenty of room there that something can be built on the front of the property. As far as this building here where all the other, if you are driving down Wedington, you see all the ends of every one of them and you can see up the alleys. This building would face east and west which would block most of the buildings on that end with that one building instead of all the buildings on the end this would be blocked with the one building. As far as the way of prettying it up, if it's possible to do that, I would consider some kind of prettying up that side of the building if that would be something you would be interested in looking at because I just have to talk to the builder and see what could be done. Whether you can put a side on that side of the building that faces the highway that is more attractive, I would be willing to look at that for sure. Definitely something will be built in front of it, facing from this building to the highway in the future. That was one concern ten years ago.

Hoffman: They only thought is for expansion then?

Caudle: The what?

Hoffman: The only request then is for expansion, you had not considered the retro fitting of the conditioned space in the existing buildings?

Caudle: The additional space?

Hoffman: Conditioning the existing space.

Caudle: I talked to the builder, it would almost be impossible to do due to the electricity. These do require air and heat and it's just like your living room as far as humidity what they go by. Climate control factors. As far as asking about reconditioning something that we got and he said it probably could be done but is an impractical item.

Hoffman: Okay. My final question for the applicant, on the east side of the property, it looks like there is an area that is vacant and has no buildings, could that be a location for what you are proposing? On our little site plan on page 4.17, I don't know if you have the same



Planning Commission  
October 23, 2000  
Page 60

sheet or not.

Conklin: Since this data was received from the City with regard to building footprints, two additional storage buildings have been built. There is no additional room. They built that at the Large Scale Development plan that was approved ten years ago.

Hoffman: That's all the questions I have. Thank you very much.

Conklin: I would like to just to inform you as a Commission and the applicant and public that when I did meet with the applicant today, we did talk about the existing trees on this site. I did encourage Mr. Caudle to get with our Tree and Landscape Administrator with regard to the existing oak trees on this piece of property for consideration of this development and future developments on this piece of property. I will work with Kim Hesse and go over the bill of assurance with her to make sure that it was met in 1990 and today and look at any remedies that we have to take to make sure it's not being violated.

Ward: Mr. Caudle, what is the size of the lot? Do you know what the depth is?

Caudle: From Wedington back to where the C-2 starts is 254 feet, I believe.

Ward: You are planning on using 125 feet of that?

Caudle: Far less than that. The building where the other units are 20 wide or 30 wide and fairly long, the climate control has to be a lot wider building because of they way this is handled as far as the heat and air. This building will be 60 feet wide, twice as wide as any building there facing the other direction, it would be approximately 170 long.

Ward: So you really only need 70 feet?

Caudle: Approximately 70, what I was looking at it would be from the front of the building facing Wedington to where the fence would be re-erected there would be approximately twenty-five feet to drive around the building so you are looking at about 85 to 90 feet probably toward Wedington.

Ward: I'm just trying to work with you, in my case, I would not rezone the frontage on Wedington anything but R-0, which it is right now. We do allow a lot more uses in R-0 than we used to. There is a possibility that, I can't speak for anybody else but I would be maybe interested in helping you. I do think there is a need for some climate control

Planning Commission  
October 23, 2000  
Page 61

warehouse type of buildings out there and we can maybe zone C-2 a small parcel back there for you, 70 or 80 feet of it. As far as changing the whole thing to C-2, it's not going to happen tonight, I know that. Those are some ideas that you might think about.

Caudle: It's zoned half way to the highway to accomplish this building so the climate control could be completed. Again I'm trying to fulfil the need that I've had a lot of requested for. As far as the frontage, I don't intend to put a storage building out on Wedington up against the highway. I never have. When the Large Scale was done there is no more property in the C-2 area and it was just a case of there are times of the year when storage units are hard to find around the City of Fayetteville. This building here was to accomplish that.

Ward: I don't feel like I can support your change to what you need. I think it would be smart to table it or come back with a different proposal than what you have tonight for sure.

Caudle: Not only going part way to the highway?

Ward: We can't.

Odom: Since we are throwing, I'm going to go ahead and let you know, I'm not going to be in favor of that proposal as well. I think a lot of concession were made originally when this property was zoned C-2 with the bill of assurances and the R-0 up front. I think all this negotiation has already taken place and the work has already been done. I think we have plenty of C-2 Commercial inside the city limits of Fayetteville and so if there is a need for this type of facility I think that there are plenty of areas that this type of facility could go. So I'm not going to be in support of any proposal to accommodate this piece of property any further. I think you need to know that up front before you decide to start negotiating or doing anything of that nature. You may want to get the feel of the rest of the members of the Commissioner. Anybody else?

Marr: I agree with you completely.

Allen: As do I.

Bunch: As do I.

Hoffman: In your proposal you said you would have a 60 foot wide building with about a 25 foot drive aisle and you only have 1.5 acres here so that to me implies that would be taking up a greater part of it. In the sixty foot wide building would that be a double loaded



Planning Commission  
October 23, 2000  
Page 62

building with the garage doors facing Wedington and facing the other side? In other words, doors from the north and from the south?

Caudle: The facility I've seen in Bentonville, it's climate control is inside the center. There is an outer border.

Hoffman: Right. So you would have garage doors facing Wedington.

Caudle: Yes. In that facility I've seen up there. That is what I was talking about what to do on the front of it there.

Hoffman: That being the case, I always hate to be negative toward a need but I would suggest you to look elsewhere and find some land that is already zoned appropriately for this because this is an important aesthetic issue to this corridor. It was addressed ten years ago. I too would deny a zoning vote tonight.

Marr: Do we need a motion?

Odom: Yes.

Hoffman: Unless he wants to withdraw the request.

Odom: We can move to approve, we can move to deny or if we don't take any action...

Conklin: You do need to take action on it. I think our ordinance states that if you don't take any action you can deem as approved. I want you to take action on it this evening.

Odom: Not only that, it give the applicant something. We are nothing more than a body that recommends something anyway. Even if we approve it, he's got to go to the City Council. If we deny it, it give him a right to appeal it. For the applicants sake, I think we owe him the courtesy of doing something.

## MOTION

Marr: I would like to move to deny RZ00-25.00 based on the comments that you have heard.

Allen: Second

Odom: We have a motion by Commissioner Marr, second by Commissioner Allen, RZ 00-

Planning Commission  
October 23, 2000  
Page 63

25.00.

Caudle: The comment that was made a short time ago as far as possibly tabling it and resubmitting with only partial for this building.

Odom: You can certainly do that if you want to but I'm here to tell you right here, right now, it doesn't sound as though that's even going to fly.

Caudle: You are telling me that's not going to work either.

Odom: That's right. You have only one member even talking in favor of that. I would think you would be better served to go ahead and accept the denial and negotiate with the City Council if they are willing to do that. I don't know if they would be. I wouldn't delay your project any further, if I was you but that is your call. If we deny you tonight, you have the right to appeal that to the City Council.

Hoffman: If the City Council denies his request, is it six months or one year?

Conklin: It's one year.

Hoffman: It would be then another year before you could bring another idea forward.

Odom: No. That's not necessarily true. You could bring another idea forward. You can't C-2 the whole thing.

Conklin: You could modify your request and bring it forward.

Hoffman: I just want to make sure you understand what to expect.

Odom: Any further discussion? Call the roll.

**ROLL CALL:**

Upon roll call RZ 00-25.00 is denied by an unanimous vote of 6-0-0.

rather [redacted] November 2, 2000  
City Clerk's Office.

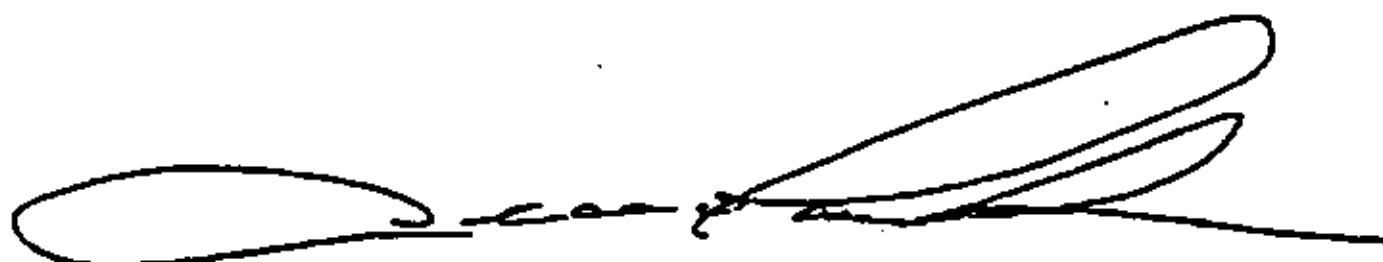
RECEIVED

NOV 03 2000

PLANNING DIV.

This letter will serve as my intent to appeal the decision of the October 23rd planning commission. I do request to have this matter brought before the City Council at the earliest possible convenience. The reason for this request is I feel that the City planning committee did not give adequate consideration to my request from the earlier meeting.

Sincerely,



Dennis M. Caudle

DMC/cf

RECEIVED

NOV 03 2000

CITY OF FAYETTEVILLE  
CITY CLERK'S OFFICE



franchise is up for renewal. They had been negotiating a new contract with them. They have accomplished ninety-five percent of the document. They had about ten outstanding issues. The biggest issue was the institutional network. That issue was a very costly one and the most challenging one in negotiation. The question was who was going to pay for this.

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

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

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

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

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

**ORDINANCE 4278 AS RECORDED IN THE OFFICE OF THE CITY CLERK.**

**PLANNING COMMISSION APPEAL:** An appeal of a Planning Commission decision as requested by Dennis Caudle for RZ 00-25 for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.

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

Mr. Dennis Caudle stated the Planning Commission had voted against his request. Ten years ago there had been a five acre tract. The back three and half was rezoned so the storage building could be built. The front of the property was zoned R-O at the time. It had taken a long time to complete the large scale development. There was currently a need for a climate control facility. There were none in the City of Fayetteville. He was hoping to construct one more building that would be the climate controlled. He questioned if he could table the item and only ask for eighty to ninety feet, just enough to construct the building.

Alderman Davis asked Mr. Caudle if he had any room to the east to construct the facility.

Mr. Caudle stated their property stopped at the same location were the original large scale development stopped ten years ago. He stated he was asking them what he could do that would be acceptable to them. He could build a privacy fence if they wanted.

Alderman Reynolds stated Mr. Caudle had signed a Bill of Assurance with the Planning

Commission that he would leave the front acreage as R-O so that they would have something different along the front of Wedington other than storage units.

Alderman Davis stated it was his understanding there was 254 feet . If he came eighty feet toward Wedington, he was still going to have another 174 feet of depth between the roadway and the fencing. He thought that would be adequate for an R-O complex.

In response to questions, Ms. Edwards stated the General Land Use Plan did not support the C-2 zoning at that location. It would be closer, but she did not feel that they could support it for that reason.

Alderman Davis stated it was hard to make storage units attractive, but by sitting it back 174 feet he saw a possibility. He would prefer Mr. Caudle to go back before the Planning Commission with this revision.

Mr. Caudle stated this was needed in Fayetteville. It would be no different than what was there.

Alderman Reynolds asked why the Highway Department had given him a curb cut. In the Bill of Assurance, he was supposed to have limited access to Wedington. He asked why that gate had been put up there.

Mr. Caudle stated the gate had been put up for public safe, for the fire department in the event of an emergency. It was an emergency gate. The gate was put up two months ago, when the road was put in. The State had told them to put the road in while the construction was going on. It was not an entry way. The traffic entered off Ruppel. The bill of assurance had not been violated.

Ms. Edwards stated Mr. Caudle's request had been for the whole parcel and that was what the Planning Commission denied. If he wanted to get a certain part of that parcel rezoned then the Planning Commission needed to hear the request again. If they denied that request, then he could appeal that decision.

Mr. Caudle requested that they sent his amended request back to the Planning Commission.

Alderman Russell stated he was not committing to supporting or opposing any modified request.

Alderman Davis moved to send the amended request back to the Planning Commission.  
Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

*THE ITEM WAS REFERRED BACK TO THE PLANNING COMMISSION.*

**RZ 00-24.00:** An ordinance approving rezoning request RZ 00-24.00 as submitted by Jerry



# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.  
Fayetteville, AR 72701  
Telephone: (501) 575-8264

## PLANNING DIVISION CORRESPONDENCE

---

TO: Fayetteville Planning Commission  
FROM: Dawn T. Warrick, Associate Planner  
THRU: Tim Conklin, City Planner  
DATE: December 11, 2000 (*revised from October 23, 2000*)

---

**RZ 00-25.00: Rezoning (Caudle, pp 400)** was submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial.

### RECOMMENDATION:

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

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

**Date:** December 11, 2000

|                                                              |                                                             |
|--------------------------------------------------------------|-------------------------------------------------------------|
| <b>CITY COUNCIL ACTION:</b>                                  | Required <u>Yes (if recommended by PC)</u>                  |
|                                                              | <input type="radio"/> Approved <input type="radio"/> Denied |
| <b>Date:</b> <u>January 2, 2001 (1<sup>st</sup> reading)</u> |                                                             |

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

**BACKGROUND:**

*On October 23, 2000, the Planning Commission heard a request to rezone this 0.52 acres along with adjacent property. At that time, the applicant sought to rezone a total of 1.5 acres from R-O to C-2. Staff did not recommend the requested rezoning and the Planning Commission voted unanimously (6-0-0) to deny the request (see attached minutes). The applicant appealed the decision of the Planning Commission and his appeal was heard by the City Council on November 21, 2000. At that meeting, the City Council discussed an amended request with the applicant. The applicant indicated that he wished to amend his rezoning request to only include property which adjoins the existing storage facility to the north. The City Council did not act on the appeal, but determined that an amended request would need to be heard by the Planning Commission first (see attached minutes). At this time, the applicant is requesting that 0.52 acres be rezoned. The applicant's stated intent is still to seek a conditional use permit to locate additional mini-storage units on this site; this is only possible if the property is rezoned to C-2, Thoroughfare Commercial. Staff's original recommendation for denial is not changed by the amended request.*

On July 9, 1990, the applicant requested a rezoning from A-1 to C-2 for the subject property and an adjacent tract which is located to the north and extends westward to Ruppel Road. The applicant stated that there were no immediate plans for the property however in the future he may want to develop self-storage units which would require C-2 zoning and a conditional use.

At that time, Planning staff recommended that both tracts be zoned R-O, Residential Office since the property was not within the commercial node designated on the City's adopted general plan. During discussion at the Planning Commission meeting, staff stated "The overall policy of the City over the last few years has been to try to carefully plan what happens on Wedington Drive to ensure that it doesn't become a commercial strip like North College Avenue." The Planning Commission recommended that the subject tract be rezoned to R-O, Residential Office and that the back (northern) tract be rezoned C-2, Thoroughfare Commercial with a Bill of Assurance limiting the type of development on the northern tract to self-storage units and placing certain conditions on the development regarding tree preservation (see attached minutes). On July 17, 1990, the Board of Director's voted to approve the rezoning request as recommended by the Planning Commission (see attached minutes).

On August 13, 1990, the Planning Commission heard a request from the applicant regarding the newly zoned C-2 property which is north of the subject property. The request was to approve a conditional use for mini-storage units (use unit 21) within the C-2 zoning district. At that time, staff stated "As before, the staff isn't in favor of a commercial operation in this location. However, the Bill of Assurance that has been signed by the developers, restricting the use of the land to self-storage units and restricting access to Ruppel Road plus the tree protection plan does resolve many of the staff's concerns." Planning Commission approved the requested conditional use permit (see attached minutes). A large scale development for the self-storage units was approved by Planning Commission October 8, 1990.

At this time, the applicant has brought forward to request that the R-O tract which was originally considered in 1990 be rezoned to C-2, Thoroughfare Commercial. The purpose of this request according to information supplied by the applicant, is for an expansion of the existing self-storage development. If this business were to be expanded, the property must achieve a C-2 zoning and a conditional use or an I-1 zoning designation which would permit the self-storage units by right.

Staff does not recommend the requested rezoning for the reasons stated in 1990 and will not support a conditional use for Mini-storage at this location. The area is designated Residential on the City's adopted General Plan 2020. Maintaining some control over development along Wedington Drive is essential to limiting traffic congestion as well as creating a desirable development pattern in this highly visible, quickly developing corridor of the City.

### **SURROUNDING LAND USE AND ZONING**

|        |                                          |
|--------|------------------------------------------|
| North: | Mini-storage units, C-2                  |
| South: | Airways Freight, Inc., R-O / Vacant, C-1 |
| East:  | Vacant, A-1                              |
| West:  | Vacant, C-1                              |

### **INFRASTRUCTURE:**

**Streets:** Wedington Drive (Hwy 16W) is located along the south property line. Wedington Dr. is classified as a principal arterial on the City's Master Street Plan and has recently been widened to five lanes between the I-540 Bypass and Ruppel Road which is just west of this site.

**Water:** Six inch line on Ruppel Road; Eighteen inch line on south side of Highway 16

**Sewer:** Eight inch line on north side of Highway 16

**LAND USE PLAN:** General Plan 2020 designates this site Residential. Rezoning this property to C-2, Thoroughfare Commercial is not consistent with the land use plan. The 2000 revision of the future land use plan will designate the property as office as recommended by the subcommittee updating the plan.

### **FINDINGS OF THE STAFF**

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



**Finding:** The proposed zoning is not consistent with land use planning objectives, principles, and policies or with land use and zoning plans. While some of the adjacent property is zoned commercially, only that area which is already zoned is designated as a commercial node on the 2020 General Land Use Plan.

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

**Finding:** The proposed zoning is not justified at this time as it is not consistent with the City's adopted plan for growth and development in this area.

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

**Finding:** The proposed zoning may create or appreciably increase traffic danger and congestion. The widely varied uses which are permitted in the C-2 zoning district make it impossible to determine the precise impact of traffic for a new development in this location.

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

**Finding:** The proposed zoning would not alter the population density in a manner which would undesirably increase the load on public services including schools, water, and sewer facilities.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

**Finding:** N/A

## **§161.14 DISTRICT C-2 THOROUGHFARE COMMERCIAL.**

**A. Purpose.** The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

### **B. Uses.**

#### **1. Permitted Uses.**

|         |                                                    |
|---------|----------------------------------------------------|
| Unit 1  | City-Wide Uses by Right                            |
| Unit 4  | Cultural and Recreational Facilities               |
| Unit 12 | Offices, Studios and Related Services              |
| Unit 13 | Eating Places                                      |
| Unit 14 | Hotel, Motel and Amusement Facilities              |
| Unit 15 | Neighborhood Shopping Goods                        |
| Unit 16 | Shopping Goods                                     |
| Unit 17 | Trades and Services                                |
| Unit 18 | Gasoline Service Stations and Drive-In Restaurants |
| Unit 19 | Commercial Recreation                              |
| Unit 20 | Commercial Recreation, Large Sites                 |
| Unit 24 | Outdoor Advertising                                |
| Unit 33 | Adult Live Entertainment Club or Bar               |

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

|         |                                            |
|---------|--------------------------------------------|
| Unit 2  | City-Wide Uses by Conditional Use Permit   |
| Unit 3  | Public Protection and Utility Facilities   |
| Unit 21 | Warehousing and Wholesale                  |
| Unit 28 | Center for Collecting Recyclable Materials |
| Unit 32 | Sexually Oriented Business                 |

### **C. Bulk and Area Regulations.**

Setback lines shall meet the following minimum requirements:

|                                                                   |        |
|-------------------------------------------------------------------|--------|
| From Street ROW                                                   | 50 ft. |
| From Side Property Line                                           | None   |
| From Side Property Line When Contiguous to a Residential District | 15 ft. |
| From Back Property Line                                           | 20 ft. |

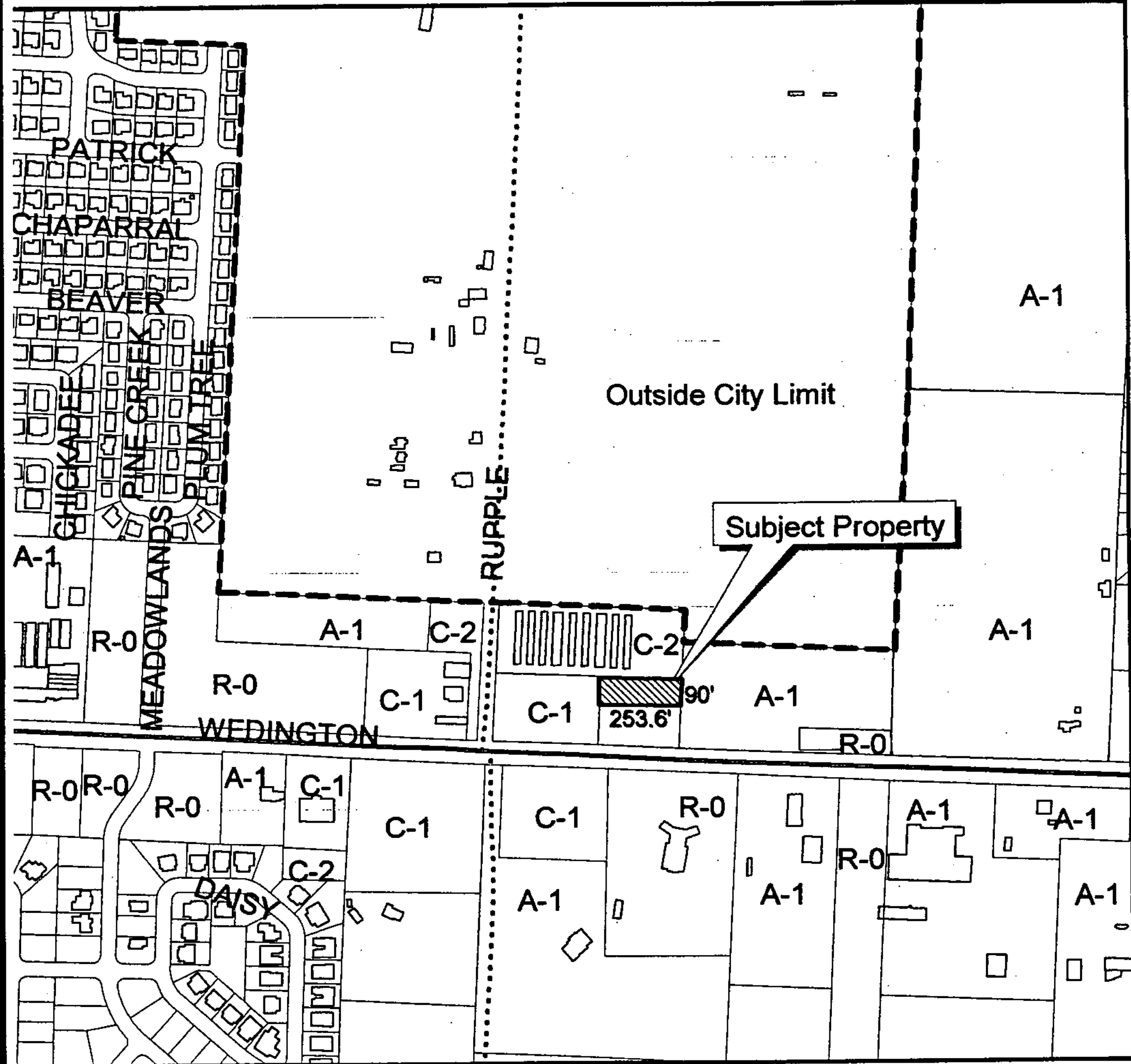
**D. Building Area.** On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

**E. Height Regulations.** In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(Code 1991, §160.036; Code 1965, App. A, Art. 5(VI); Ord. No. 1747, 6-29-89; Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-177; Ord. No. 2603, 2-19-80; Ord. No. 4034, §§3,4, 4-15-97)

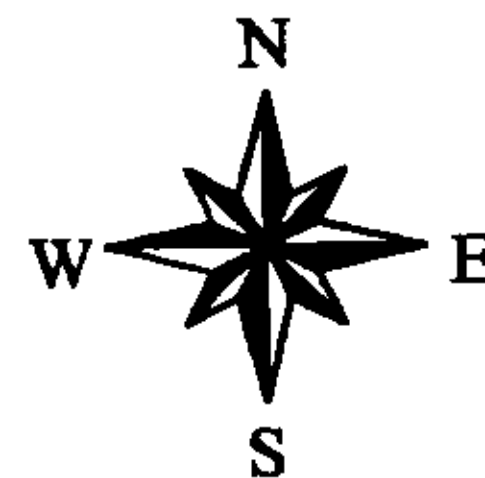


# J-23 Caudle Close Up

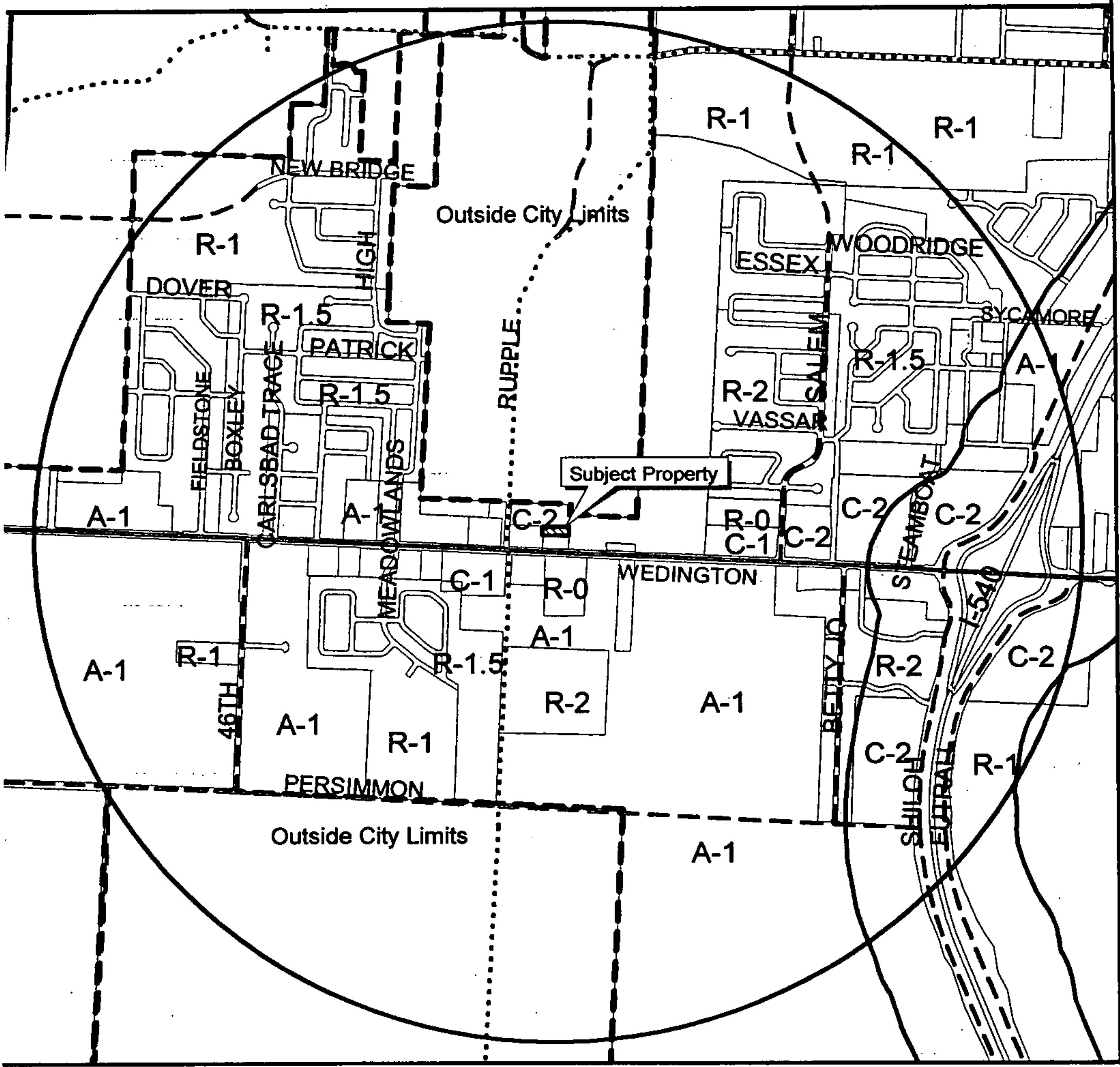


- Streets**
- Zoning District**
- Structures (1998)**
- Master Street Classifications**
- COLLECTOR
  - FREEWAY/EXPRESSWAY
  - MINOR ARTERIAL
  - PRINCIPAL ARTERIAL
- Fayetteville City Limits**

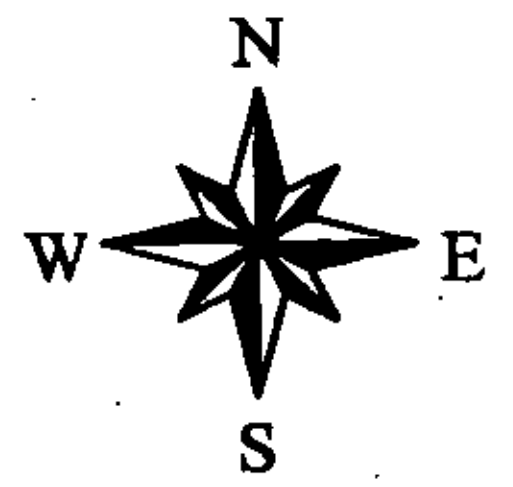
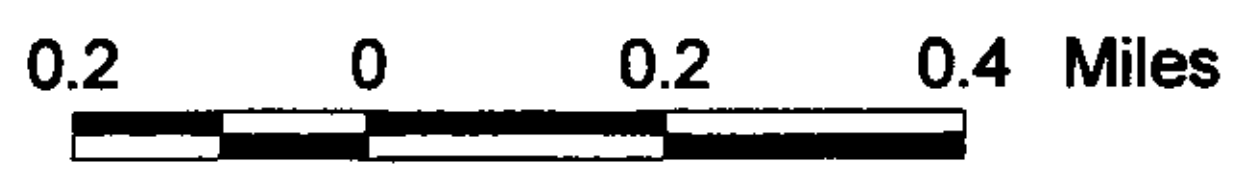
300 0 300 600 Feet



# RZ00-25 Caudle One Mile F



- Streets
- Regional Zoning
- Master Street Classifications
  - COLLECTOR
  - FREWAY/EXPRESSWAY
  - MINOR ARTERIAL
  - PRINCIPAL ARTERIAL
- Design Overlay District
- Fayetteville City Limits



DESCRIPTION FOR ITEM NUMBER FIVE (5)

- A. Westside Storage, Inc.  
1192 North Rupple Road  
Fayetteville, AR 72704

There are no proposed or pending sale of this property.

- B. Re-zoning change is necessary for expansion on existing business adjacent to this property.
- C. This property would be expansion of existing business in A, C-2 requirement.
- D. Sewer, water, and all utilities either on property are readily available.



**MINUTES OF A MEETING OF THE  
FAYETTEVILLE CITY PLANNING COMMISSION**

A meeting of the Fayetteville Planning Commission was held on Tuesday, July 9, 1990 in the Board of Directors Room on the second floor of the City Administration Building, 113 West Mountain Street, Fayetteville, Arkansas.

**MEMBERS PRESENT:** Jerry Allred, Fred Hanna, J.E. Springborn, Jett Cato, J. David Ozment, and Charles Nickle

**MEMBERS ABSENT:** Jack Cleghorn, Gerald Klingaman and Joe Tarvin

**OTHERS PRESENT:** John Merrell, Becky Bryant, Don Bunn, Elaine Cattaneo, members of the press and others

Chairman Hanna advised that they have had a request to table agenda item #5 (Preliminary Plat of Green Meadows Addition) to provide time for the location of the Salem Road extension on this property to be decided. The developer feels that location will have a bearing on two phases of the subdivision. He further stated that they have had a request to table item #10 (lot split for property located on West Avenue) until further information is obtained. He advised that there will be no discussion on these two items from the Planning Commission tonight. However, if anyone in the audience has comments, they will have the opportunity to speak.

**PUBLIC HEARING - REZONING PETITION #R90-14**

**DALE & DENNIS CAUDLE - N OF WEDINGTON DR, E OF RUPPLE RD**

The first item on the agenda was a public hearing for rezoning petition #R90-14 submitted by Dennis & Dale Caudle for property located on the north side of Wedington Drive, east of Ruppel Road containing 5.05 acres. The request is to rezone from A-1, Agricultural, to C-2, Thoroughfare Commercial.

John Merrell, Planning Management Director, stated that this property has frontage on both Wedington Drive and Ruppel Road. As the staff understands it, the Caudles don't have any definite plans for development of this property at this time, except for the possibility of self-service storage units on some portion of the property. That use would require a C-2 zoning and a conditional use permit. The overall policy by the City over the last few years has been to try to carefully plan what happens on Wedington Drive to ensure that it doesn't become a commercial strip like North College Avenue. The City has identified the following three key nodes at which commercial development would be encouraged: a) the intersection of Wedington Drive and the Bypass, b) the intersection of Wedington Drive and Ruppel Road, and c) the intersection of Wedington Drive & Double Springs Road. The staff feels that the City's plans have helped stabilize the area, protect property values and minimize traffic

Planning Commission

July 9, 1990

Page 2

problems. With respect to the nodes of commercial development, the City has been somewhat lenient about granting certain limited rezonings in the area on Wedington from the Bypass to Rupple Road. This is an area that is emerging as an office and institutional area with all R-0 uses. The staff's recommendation is to rezone this property to R-0 rather than C-2 to keep it in harmony with the type of growth the City has encouraged out there. This recommendation is subject to a Bill of Assurance on tree preservation which would require the owners to submit a tree preservation plan to preserve 60% of all existing trees with the caliper of 8" or more and protect the trees during the construction paving process with a proviso that, if a few more trees needed to be removed to make a good development, the staff has the administrative discretion to negotiate with the developer to the extent of 15%.

Dale and Dennis Caudle stated that they would like to develop self-storage units on the back 3.5 acres of the property, which isn't visible from the highway. In order to do the mini-storage, they would need a C-2 zoning. He advised that they are environmentally conscientious and will save as many trees as possible. He noted that the front 1.5 acres of property along Wedington Drive could be left as A-1 or zoned to R-0. They are mainly concerned with the back 3.5 acres.

Commissioner Springborn asked if mini-storage in the back half is compatible with the recommendation relative to the preservation of the trees. Mr. Caudle answered yes. Mr. Merrell stated that he would concur with that.

In answer to a question from Mr. Merrell, Dale Caudle stated that their access to the self-storage development would be off of Rupple Road. Dennis Caudle stated that they feel there is a need for self-storage units on that side of town, but they also realize the buildings aren't usually attractive, so they are planning to place them 300' off of Wedington.

Commissioner Allred stated that they have had prior discussion regarding mini-storage as a use by right in the C-2 zone. He asked if there is anything in the proposed new ordinances to address this situation. Mr. Merrell stated that he doesn't recall how it is addressed in the new ordinance. But, these type of facilities are a fairly good use in a C-2 zone because they tend to generate less traffic than other uses allowed in C-2 and are also relatively quiet. He stated that his opinion is that the mini-warehousing developments should be allowed by right in the C-2 zone.

Mr. Merrell stated that the staff stands by their recommendation. However, if it is the consensus of the Commission to recommend a C-2 zoning for part of this property, the staff would like to recommend that it be subject to a Bill of Assurance limiting the use of that portion of the property to mini-warehousing.

In answer to a question from Commissioner Allred, Mr. Merrell stated that there wouldn't be a screening requirement since this property abuts an A-1 zone on one side and Washington County on the other.

Dale Caudle stated that they would agree to signing a Bill of Assurance to limit the development of that property.



Planning Commission  
July 9, 1990  
Page 3

In answer to a question from Commissioner Nickle, Mr. Caudle stated that they have no development plans for the property fronting on Wedington Drive at this time.

Mr. Merrell stated that the staff would like the Bill of Assurance to also include the access to the back property be limited to Ruppel Road.

~~There being no one else wanting to speak to this, the public hearing was closed.~~

Chairman Hanna stated that mini-storage would be a compatible use for that area, and it is too bad they have to have a C-2 zoning for that use. With the Bill of Assurance that was offered, he feels that this is a reasonable request.

#### MOTION

Commissioner Ozment moved to recommend a rezoning of the north (back) 3.5 acres to C-2 with a Bill of Assurance that it will be limited to mini-storage development and that the access would be from Ruppel Road and to recommend a rezoning of the south (front) 1.5 acres to R-O, Residential-Office subject to staff recommendations, seconded by Cato. The motion passed 6-0-0 with Cleghorn, Tarvin and Klingaman being absent.

#### PUBLIC HEARING FOR REZONING PETITION #R90-16

#### GEORGE LEONARD MCCANDLESS - N OF SYCAMORE, W OF COLLEGE AVE

The second item on the agenda was a public hearing for rezoning petition #R90-16 for property submitted by George Leonard McCandless and represented by Steve Gunderson for property located on the north side of Sycamore, west of College Avenue. The request was to rezone from R-1, Low Density Residential, to C-2, Thoroughfare Commercial.

John Merrell, Planning Management Director, stated that this piece of property fronts on Sycamore and adjoins commercial property on College. He stated that it is the feeling of the staff that an R-1 zoning does overly restrict Mr. McCandless, but they feel that C-2 is too intensive for that property for the reasons pointed out in the staff report. There are several R-O businesses on the south side of Sycamore and the staff's recommendation is to approve a rezoning to R-O.

Steve Gunderson, representing Mr. McCandless, stated that they requested a C-2 zoning, because there is a piece of property on the east side of the subject property zoned C-2. When he initially filed the petition, he wanted to have all of the property zoned in a similar manner. However, after reviewing the staff's recommendation and the city ordinances, the applicant is of the opinion that an R-O zoning would be amenable.

Charles Richardson, who lives at the corner of Sycamore and Green Valley, stated that this is a very viable neighborhood which is anchored by Woodland School.

July 17, 1990

Mayor Martin stated that a vote for this resolution would be to authorize staff to negotiate the best figures for a contract of purchase and a vote against would only be delaying the inevitable steps to a material recovery facility.

Linebaugh asked Rose to read the resolution again.

Director Green asked if there would be time for additional public input for the subject until negotiations stopped, and Director Kelley stated that he felt a vote for location of the site was a definite indicator of where the facility should be located. He stated that discussion regarding the specific type of facility might need further public input but as far as the location of such site was concerned, the vote for or against the resolution should be taken at this meeting presently.

Upon roll call, the resolution passed by a vote of 7 to 0.

RESOLUTION 115-90 APPEARS ON PAGE      OF ORDINANCE AND RESOLUTION BOOK

#### CAUDLE REZONING

Mayor Martin introduced consideration of a request filed in R90-16 by Dennis, Dale and Jeff Caudle for property fronting on Wedington Drive and Ruppel Road.

The parcel consists of 5.05 acres fronting on Wedington Drive and Ruppel Road. The request is to rezone from A-1, Agricultural to C-2, Thoroughfare Commercial. Staff recommended rezoning to R-O, Residential Office, to keep the area in harmony with the type of growth the City has encouraged in that location, subject to a bill of assurance on tree preservation.

The Planning Commission recommended unanimously rezoning the North (back) 3.5 acres to C-2, Thoroughfare Commercial, with a bill of assurance that it will be limited to mini-storage development and that the access would be from Ruppel Road and to recommend a rezoning of the South (front) 1.5 acres to R-O, Residential Office.

The ordinance was read for the first time. Director Marinoni, seconded by Kelley, made a motion to suspend the rules and place the ordinance on its second reading. Upon roll call, the motion passed 7 to 0. The ordinance was read for the second time. Director Marinoni, seconded by Kelley, made a motion to further suspend the rules and place the ordinance on its third and final reading. Upon roll call, the motion passed 7 to 0. The ordinance was read for the third time.

Upon roll call, the ordinance for rezoning passed unanimously.

ORDINANCE NO.      APPEARS ON PAGE      OF ORDINANCE AND RESOLUTION BOOK

Planning Commission  
August 13, 1990  
Page 7

FINAL PLAT OF BROOKHOLLOW FIRST ADDITION  
ERC PROPERTIES - N OF STEARNS ST, W OF OLD MISSOURI RD

The tenth item on the agenda was a final plat of Brookhollow First Addition submitted by ERC Properties and represented by Tom Hopper of Crafton, Tull & Associates for property located on the north side of Stearns Street, west of Old Missouri Road. The property is zoned R-2, Medium Density Residential, containing 7.22 acres with 25 proposed lots.

Don Bunn, City Engineer, advised that this plat went to Plat Review last Thursday, but did not go to a Subdivision Committee meeting. There didn't seem to be any problems associated with any of the easements. The staff recommends approval of this final plat.

Tom Hopper, representing the developers, stated that all the improvements are in place with the exception of jointing some of the concrete streets which will be done on the first dry day.

In answer to a question from Commissioner Klingaman, Mr. Hopper advised that the shaded half was the first phase that was filed and the second half is what is being filed now. He added that they plan to develop the property with single-family dwellings only.

MOTION

Commissioner Ozment moved to approve the final plat subject to the Plat Review comments and staff's comments, seconded by Tarvin. The motion passed 6-0-0.

CONDITIONAL USE FOR SELF-STORAGE UNITS  
DALE CAUDLE - E OF RUPPLE RD, N OF WEDINGTON DR

The eleventh item on the agenda was a conditional use for self-storage units submitted by Dale Caudle for property located on the east side of Rupple Road, north of Wedington Drive. The property is zoned C-2, Thoroughfare Commercial, and contains 3.5 acres.

Becky Bryant, Associate Planner, advised that the Planning Commission rezoned this property from A-1 to C-2 on July 9th. As before, the staff isn't in favor of a commercial operation at this location. However, the Bill of Assurance that has been signed by the developers, restricting the use of the land to self-storage units and restricting access to Rupple Road plus the tree-protection plan does resolve many of the staff's concerns.

Jeff Caudle, representing Dale Caudle, stated that they are aware of the restrictions on the property and the tree preservation plan and have no problems with them.

In answer to a question from Commissioner Klingaman, Mr. Caudle stated that they have a firm understanding in regard to the tree preservation plan that a percentage of the number of trees on the property will be maintained.

Becky Bryant advised that a Bill of Assurance was signed as part of the rezoning; it details the tree preservation plan.

MOTION

Commissioner Ozment moved to grant the conditional use, seconded by Klingaman. The motion passed 5-1-0 with Ozment, Cleghorn, Tarvin, Hanna & Klingaman voting "yes" and Springborn voting "no".



Planning Commission  
October 8, 1990  
Page 6

MOTION

Commissioner Tarvin moved to approve the large scale development plan subject to the staff's comments, the Plat Review minutes, and the Subdivision Committee minutes. The motion was seconded by Commissioner Cleghorn. The motion passed 7-0-0.

LARGE SCALE DEVELOPMENT PLAN FOR MINI-STORAGE  
DENNIS & DALE CAUDLE - E OF RUPPLE RD, N OF WEDINGTON DR

The fourth item on the agenda was a large scale development plan for Mini-Storage submitted by Dennis & Dale Caudle for property located on the east side of Rupple Road, north of Wedington Drive. The property is zoned C-2, Thoroughfare Commercial.

Don Bunn, City Engineer, stated that the entrance to this development is proposed to be off of Rupple Road. They were granted a conditional use just recently for the purpose of constructing mini-storage. There was a question at the Subdivision Committee meeting regarding the terms of the Bill of Assurance on tree preservation which was a condition of approval. The staff's recommendation is that the developers work with the staff to make sure that all the conditions of the Bill of Assurance are met. Also, the Fire Chief's recommendation of the placement of two fire hydrants within this development was questioned. The State Fire Code, which was adopted by the City of Fayetteville, requires a hydrant within 500' of each unit. A fire hydrant located at the entrance on Rupple Road would satisfy that requirement. However, the Chief has indicated that, because of the construction there and what he considers the unusual conditions, a fire hydrant should be located in the development about half way. It is the staff's recommendation that the large scale development be approved subject to the installation of the fire hydrants as required by the Fire Chief and working with the staff on the Bill of Assurance.

In answer to questions from Chairman Hanna, Mr. Bunn stated that the plat shows two phases of development for which they want approval at this time.

In answer to a question from Chairman Hanna, Ms. Bryant stated that the question of whether one fire hydrant placed in the middle of the development would meet the distance requirement of the ordinance was raised. She noted that the Fire Chief has stated that the ordinance gives him enough discretion to require an additional fire hydrant in certain circumstances regardless of the 500' criteria. And, he felt that there were circumstances on this property that would warrant two fire hydrants. Mr. Bunn stated that the Fire Chief felt that, if only one fire hydrant were placed in the center of the development, a fire at the entrance might preclude them reaching that hydrant.

MOTION

Commissioner Tarvin moved to approve the large scale development subject to the staff's comments, the Plat Review comments, and Subdivision Committee comments including the installation of two fire hydrants. This was followed by discussion.

Dennis Becker, representing the petitioners, stated that they agree with the staff recommendations. He noted that there isn't a fire hydrant at the corner of Rupple Road and Wedington Drive. There was not one installed in connection with the Speedee Mart development at that location. Because of this, the petitioner in this case is required to put in two. Had there been one on the corner, they would only have to install one. He stated that they were told that Speedee Mart didn't go through the large scale development process, so there was



Planning Commission  
October 8, 1990  
Page 7

no chance to look at the overall fire hydrant plan. Therefore, it slipped through. He suggested that in all fairness to developers, they look at this loophole between large scale development, which does its job in looking at utilities and fire hydrantes, and smaller properties that are developed without the same detailed review. Other than that, they are in total agreement with the staff recommendations.

In answer to a question from Commissioner Cleghorn, Ms. Bryant stated that the questions about the percentage of trees to be preserved was resolved to her satisfaction. She believes that they will be able to meet the criteria.

~~Commissioner Cato seconded the motion. The motion passed 7-0-0.~~

LARGE SCALE DEVELOPMENT PLAN FOR ADDITIONAL PARKING  
TYSON'S FOODS - 2700 SOUTH SCHOOL AVENUE

The fifth item on the agenda was a large scale development plan for additional parking submitted by Skip McCloud on behalf of Tyson's Foods. The property is located at 2700 South School Avenue and zoned I-1, Light Industrial & Heavy Commercial.

Don Bunn, City Engineer, stated that this large scale development consists of the addition of 200 parking spaces at the Tyson's plant. The additional parking is required as a result of some additions inside the plant. Two issues were raised at the Subdivision Committee meeting: 1) the additional drainage that will be created by the new parking lot, and 2) the Planning staff's recommendation that they do some landscaping within the parking lot, although it is not a requirement. The petitioners have agreed to look at their drainage ditches to make sure they are sized to handle the drainage properly. The staff is recommending approval of the large scale development subject to an investigation of the increase in run-off, construction of a sidewalk along South School Avenue, the Plat Review comments, and Subdivision Committee comments.

Skip McCloud, representative for Tyson's, stated that, based upon the Planning staff's recommendation on the landscaping, they have added landscaping in the center islands of the parking lot. They have studied the drainage and feel that it is adequately designed. He noted that the drainage at this time goes to the west and north slightly. The drainage that comes towards the north of the building toward the subdivision property for which the citizens were concerned should not be affected by this parking lot because there is a break in the terrain.

In answer to a question from a member of the audience, Chairman Hanna advised that the new parking lot will be to the south of the building.

MOTION

Commissioner Cato moved to approve the large scale development subject to the staff's comments, seconded by Tarvin. The motion passed 7-0-0.

CONDITIONAL USE FOR TANDEM LOT

JAY BERRYMAN - S OF SYCAMORE ST, E OF COLLEGE AVE

The sixth item on the agenda was a conditional use for a tandem lot in connection with the lot splits requested (the next item on the agenda) by Jay Berryman for property located south of Sycamore Street and east of College Avenue. The property is zoned R-1, Low Density Residential.

Don Bunn, City Engineer, stated that the total property is about 8.8 acres and the proposal is to split the property into three tracts. Tracts 1, 2, & 3 will



BILL OF ASSURANCE

This declaration of a Bill of Assurance made this 8<sup>th</sup> day of January, 2001, by  
the undersigned owners of the following described real estate located in the City of Fayetteville,  
Washington County, Arkansas, and more particularly described as follows, to-wit:

SEE ATTACHMENT

WHEREAS, the aforesaid owner of the real property described above has secured the  
approval of the Fayetteville City Council to amend the Fayetteville zoning map and rezone the above  
described 0.52 acres that adjoins the existing storage facility to the north from R-0, Residential Office  
to C-2, Thoroughfare Commercial; and

WHEREAS, the owners have promised and agreed to subject the development of said real  
estate pursuant to certain covenants and restrictions pertaining to same; and

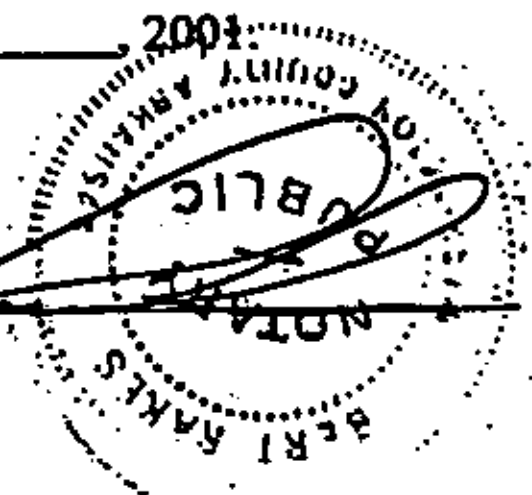
WHEREAS, the owners are desirous of making a declaration of the same in the form of this Bill  
of Assurance with the intention of guaranteeing the preservation of certain values and amenities in the  
community and to bind themselves, their successors and assigns and the aforescribed real estate and  
its subsequent owners with the obligations and restrictions hereinafter set forth for all present and future  
development and use of said property.

NOW, THEREFORE, the owners declare that the above described real property shall be held,  
developed, transferred, sold, conveyed and occupied subject to the covenants and restrictions herein  
set forth:

The use of the 0.52 acres that adjoins the existing storage facility to the north shall be limited to  
a climate controlled storage facility and/or mini-storage facility and shall contain screening to be  
approved by the Planning Commission.

WITNESS my hand and seal this 8<sup>th</sup> day of January, 2001

  
Dennis Caudle  
ACKNOWLEDGMENT



STATE OF ARKANSAS )

)SS.

COUNTY OF WASHINGTON )

Now on this 8 day of JANUARY, 2001, came before me, the undersigned  
Notary Public within and for the aforesaid County and State, Dennis Caudle, who acknowledged that  
they had executed the foregoing Bill of Assurance for the consideration and purposes therein mentioned  
and set forth.

WITNESS my hand and seal as such Notary Public this 8 day of JAN 2001.  
2001.

  
Notary Public

My Commission Expires: 7-11-02

## LEGAL DESCRIPTION FOR BILL OF ASSURANCE (DENNIS CAUDLE)

A PART OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$ ) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$ ) OF SECTION TWELVE (12) TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT ON THE WEST LINE AT SAID FORTY ACRE TRACT WHICH IS 267 FEET NORTH OF THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE EAST 373.1 FEET; THENCE SOUTH 0 DEGREES 10 MINUTES EAST 90 FEET; THENCE EAST 253.6 FEET; THENCE NORTH 0 DEGREES 25 MINUTES EAST ALONG AN EXISTING FENCE LINE 90 FEET; THENCE WEST 254.52 FEET TO THE WEST CONTAINING A LOT OF ABOUT 22,770 SQUARE FEET MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

**BILL OF ASSURANCE**

This declaration of a Bill of Assurance made this 8<sup>th</sup> day of January, 2001, by the undersigned owners of the following described real estate located in the City of Fayetteville, Washington County, Arkansas, and more particularly described as follows, to-wit:

SEE ATTACHMENT

WHEREAS, the aforesaid owner of the real property described above has secured the approval of the Fayetteville City Council to amend the Fayetteville zoning map and rezone the above described 0.52 acres that adjoins the existing storage facility to the north from R-0, Residential Office to C-2, Thoroughfare Commercial; and

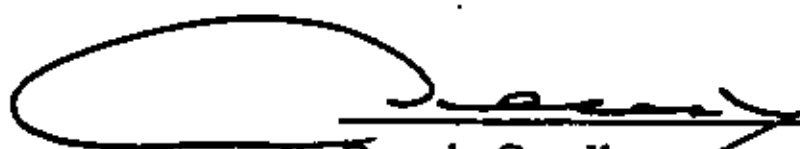
WHEREAS, the owners have promised and agreed to subject the development of said real estate pursuant to certain covenants and restrictions pertaining to same; and

WHEREAS, the owners are desirous of making a declaration of the same in the form of this Bill of Assurance with the intention of guaranteeing the preservation of certain values and amenities in the community and to bind themselves, their successors and assigns and the aforescribed real estate and its subsequent owners with the obligations and restrictions hereinafter set forth for all present and future development and use of said property.

NOW, THEREFORE, the owners declare that the above described real property shall be held, developed, transferred, sold, conveyed and occupied subject to the covenants and restrictions herein set forth:

The use of the 0.52 acres that adjoins the existing storage facility to the north shall be limited to a climate controlled storage facility and/or mini-storage facility and shall contain screening to be approved by the Planning Commission.

WITNESS my hand and seal this 8<sup>th</sup> day of January, 2001.

  
Dennis Caudle  
ACKNOWLEDGMENT

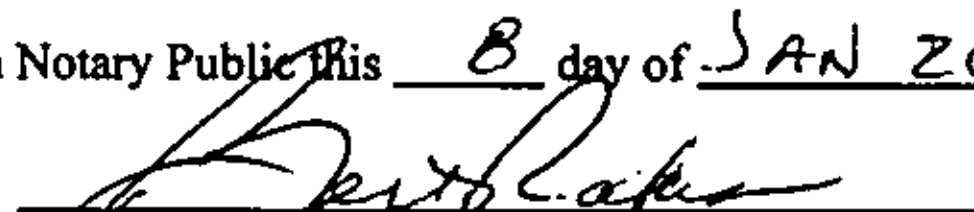
STATE OF ARKANSAS )

)SS.

COUNTY OF WASHINGTON )

Now on this 8 day of JANUARY, 2001, came before me, the undersigned Notary Public within and for the aforesaid County and State, Dennis Caudle, who acknowledged that they had executed the foregoing Bill of Assurance for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 8 day of JAN 2001, 2001.

  
Notary Public

My Commission Expires: 7-11-02



LEGAL DESCRIPTION FOR BILL OF ASSURANCE (DENNIS CAUDLE)

A PART OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$ ) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$ ) OF SECTION TWELVE (12) TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT ON THE WEST LINE AT SAID FORTY ACRE TRACT WHICH IS 267 FEET NORTH OF THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE EAST 373.1 FEET; THENCE SOUTH 0 DEGREES 10 MINUTES EAST 90 FEET; THENCE EAST 253.6 FEET; THENCE NORTH 0 DEGREES 25 MINUTES EAST ALONG AN EXISTING FENCE LINE 90 FEET; THENCE WEST 254.52 FEET TO THE WEST CONTAINING A LOT OF ABOUT 22,770 SQUARE FEET MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

January 9, 2001

**AGENDA SESSION  
FOR THE  
CITY COUNCIL  
JANUARY 16, 2001**

**NEW ITEMS:**

1. **Land Purchase:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Rosie Dorsey, Rowie Howard, William Barker and Alice McClelland for the purchase of 18.88 acres of land off Huntsville Road in the amount of \$151,000.
2. **First Night:** A resolution approving a budget adjustment in the amount of \$15,000. (Trumbo and Zurcher)
3. **Grant application:** A resolution authorizing the Mayor to apply for a federal grant to continue funding of the 4<sup>th</sup> Judicial District Drug Task Force.
4. **FOI:** Informational item on the Freedom of Information Act.
5. **City Attorney:** Jerry Rose-Discussion of appointment of Interim City Attorney.

**ADDITIONAL INFORMATION**

1. **RZ 00-25.00:** Additional information for Caudle rezoning- Bill of Assurance and Legal description.
2. **Committee Appointments for Council**



January 9, 2001

**AGENDA SESSION  
FOR THE  
CITY COUNCIL  
JANUARY 16, 2001**

**NEW ITEMS:**

- Consent* 1. **Land Purchase:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Rosie Dorsey, Rowie Howard, William Barker and Alice McClelland for the purchase of 18.88 acres of land off Huntsville Road in the amount of \$151,000.
- New Business* 2. **First Night:** A resolution approving a budget adjustment in the amount of \$15,000. (Trumbo and Zurcher)
- Consent* 3. **Grant application:** A resolution authorizing the Mayor to apply for a federal grant to continue funding of the 4<sup>th</sup> Judicial District Drug Task Force.
- New Business* 4. **FOI:** Informational item on the Freedom of Information Act. (*John Watkins*).
5. **City Attorney:** Jerry Rose-Discussion of appointment of Interim City Attorney.

*1/12/01 - CLOSE APP.*

*INTERVIEWS  
AT 1/16/01*

**ADDITIONAL INFORMATION**

1. **RZ 00-25.00:** Additional information for Caudle rezoning- Bill of Assurance and Legal description.
2. **Committee Appointments for Council**

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

## TENTATIVE AGENDA CITY COUNCIL JANUARY 16, 2001

A meeting of the Fayetteville City Council will be held on January 16, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street Fayetteville, Arkansas.

### A. CONSENT AGENDA

1. ☒ **APPROVAL OF THE MINUTES:** Approval of the minutes from the December 19, 2000 City Council Meeting.
2. ☒ **BID 00-79:** A resolution awarding a contract to Harrison Davis Construction Co. of Fayetteville for their low bid of \$1,982,600.00 for the construction of the Fayetteville Senior Center. An approval of a budget adjustment in the amount of \$78,083.00 which is funded by the Council on Aging. *(need backup.)*

### B. OLD BUSINESS

*Remove. OED Review Committee*  
*1.*  
**GRADING AND DRAINAGE:** An ordinance approving amendment to the City's Grading and Drainage ordinances. The ordinance was left on the second reading at the December 19, 2000 City Council meeting. This ordinance was tabled on second reading at the January 2, 2001 City Council Meeting.

**RZ00-25.00:** An ordinance approving rezoning request RZ00-25.00 as submitted by Dennis Caudle for property located at 1192 Rupple Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, Thoroughfare Commercial. This ordinance was left on the 1<sup>st</sup>. reading at the January 2, 2001.



**CITY OF FAYETTEVILLE**  
City Administration Building, Room 219  
113 West Mountain Fayetteville Arkansas

**FINAL AGENDA**  
**CITY COUNCIL • JANUARY 16, 2001**

A meeting of the Fayetteville City Council will be held on January 16, 2001 at 6:30 pm in Room 219 of the City Administration Building located at 113 West Mountain Street Fayetteville, Arkansas.

**A. CONSENT AGENDA**

1. **APPROVAL OF THE MINUTES:** Approval of the minutes from the December 19, 2001 City Council Meeting.
2. **BID 00-79:** A resolution awarding a contract to Harrison Davis Construction Co. of Fayetteville for their low bid of \$1,982,600.00 for the construction of the Fayetteville Senior Center. An approval of a budget adjustment in the amount of \$78,083.00 which is funded by the Council on Aging.
3. **LAND PURCHASE:** A resolution approving an Offer and Acceptance between the City of Fayetteville and Rosie Dorsey, Rowie Howard, William Barker and Alice McClelland for the purchase of 18.88 acres of land off Huntsville Road in the amount of \$151,000.
4. **GRANT APPLICATION:** A resolution authorizing the Mayor to apply for a federal grant to continue funding of the 4th Judicial District Drug Task Force.

**B. OLD BUSINESS**

1. **RZ00-25.00:** An ordinance approving rezoning request RZ00-25.00 as submitted by Dennis Caudle for property located at 1192 Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, thoroughfare Commercial. This ordinance was left on the first reading at the January 2, 2001.

**B. NEW BUSINESS**

1. **FIRST NIGHT:** A resolution approving a budget adjustment in the amount of \$15,000.
2. **FOI:** Information item on the Freedom of Information Act.
3. **INTERIM CITY ATTORNEY:** Interviews with Interim City Attorney candidates.





**FINAL AGENDA**  
**CITY COUNCIL • JANUARY 16, 2001**

A meeting of the Fayetteville City Council will be held on January 16, 2001 at 6:30 pm in Room 219 of the City Administration Building located at 113 West Mountain Street Fayetteville, Arkansas.

**A. CONSENT AGENDA**

1. APPROVAL OF THE MINUTES: Approval of the minutes from the December 19, 2001 City Council Meeting.
2. BID 00-79: A resolution awarding a contract to Harrison Davis Construction Co. of Fayetteville for their low bid of \$1,982,600.00 for the construction of the Fayetteville Senior Center. An approval of a budget adjustment in the amount of \$78,083.00 which is funded by the Council on Aging.
3. LAND PURCHASE: A resolution approving an Offer and Acceptance between the City of Fayetteville and Rosie Dorsey, Rowie Howard, William Barker and Alice McClelland for the purchase of 18.88 acres of land off Huntsville Road in the amount of \$151,000.
4. GRANT APPLICATION: A resolution authorizing the Mayor to apply for a federal grant to continue funding of the 4th Judicial District Drug Task Force.

**B. OLD BUSINESS**

1. RZ00-25.00: An ordinance approving rezoning request RZ00-25.00 as submitted by Dennis Caudle for property located at 1192 Ruppel Road. The property is zoned R-0, Residential Office and contains approximately 0.52 acres. The request is to rezone to C-2, thoroughfare Commercial. This ordinance was left on the first reading at the January 2, 2001.

**B. NEW BUSINESS**

1. FIRST NIGHT: A resolution approving a budget adjustment in the amount of \$15,000.
2. FOI: Information item on the Freedom of Information Act.
3. INTERIM CITY ATTORNEY: Interviews with Interim City Attorney candidates.