

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL JUNE 5, 2001

A meeting of the Fayetteville City Council will be held on June 5, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES:** Approval of the minutes from April 17 and May 1, 2001.
2. **POLICE PHYSICAL FITNESS POLICY:** A resolution adopting a revision to the Police Department's Physical Fitness Policy.
3. **COPS FEDERAL GRANT:** A resolution accepting the \$225,000 COPS Universal Hiring Program Federal Grant and approval of a budget adjustment in the amount of \$37,617.00 from Use of Fund Balance.
4. **INTERLOCAL AGREEMENT:** A resolution approving an interlocal agreement between the City of Fayetteville and the City of Johnson for the installation and ownership of a traffic signal at Wilkerson and Joyce.
5. **SIDEWALKS AND TRAILS COMMITTEE:** A resolution establishing an advisory committee to be known as the Sidewalks and Trails Advisory Committee, setting forth the selection process for membership and the responsibilities of the Sidewalks and Trails Committee.
6. **SAGE HOUSE:** A resolution approving a long term lease with Economic Opportunity Agency of Washington Co. Inc. for Sage House.
7. **COX COMMUNICATION:** A resolution approving an amendment to the present franchise agreement with Cox Communication to release them from their obligation to carry a Little Rock, Arkansas, network affiliate broadcast station.
8. **PARKING DECK:** A resolution approving Amendment No. 2 in the amount of \$12,000 to the contract with Garver Engineers for additional geotechnical study regarding the proposed parking deck for the downtown area.
9. **ARKANSAS BUSINESS TECHNOLOGY PARK:** A resolution approving a grant application for assistance from the Economic Development of Arkansas Fund.

B. OLD BUSINESS

1. **TREE PROTECTION AND PRESERVATION:** An ordinance amending the Tree Protection and Preservation Ordinance to allow for a variance, reduction or alteration in the requirements of the Tree Preservation Ordinance. The ordinance was left on the second reading as amended at the May 15, 2000 meeting.
2. **HMR TAX:** An ordinance amending § 35.20 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax. The ordinance was left on the first reading as amended at the May 15, 2001 meeting.
3. **PARKS HMR TAX:** An ordinance amending § 35.31 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax. The ordinance was left on the first reading as amended at the May 15, 2001 meeting.
4. **SPECIAL ELECTION:** An ordinance calling and setting a date for a special election for the adoption or rejection of ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel, and Restaurant Tax and the Parks Hotel, Motel, and Restaurant Tax. The ordinance was tabled at the May 15, 2001 meeting.

C. NEW BUSINESS

1. **IMPACT FEES:** A resolution approving a contract with Duncan and Associates to conduct Phase 2 of the Development Impact Fee Study for water, wastewater treatment and collection, roads, and parks.
2. **AD 01-1.00:** An ordinance approving an amendment to Chapter 171 "Streets and Sidewalks", Section 171.13 "Width of Driveway Approachs" and Chapter 172 "Parking and Loading", Section 172.01 "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways and provide for a minium curb radius.
3. **ROLL-OFF TRUCK:** An ordinance approving a bid waiver for the purchase of a used diesel powered roll-off truck to be utilized by the Fayetteville Solid Waste Division.
4. **HENDRICKS SEWER SERVICE:** Consideration of a request to provide sewer service outside of the City Limits.

City Council June 5, 2001

	Roll-		Consent BD LG		
Young	✓		✓		
Zurcher	✓		✓		
Trumbo	✓		✓		
Davis	✓		✓		
Santos	✓		✓		
Jordan	✓		✓		
Reynolds	✓		✓		
Thiel	✓		✓		
Coody	✓				

COX Com.	BD RZ				
Young	✓				
Zurcher	✓				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Thiel	✓				
Coody					

City Council June 5, 2001 *3RD* *Sup. Rules.*

<i>TR</i> <i>PROT</i>	<i>TT</i> <i>BD.</i>	<i>PASS</i> <i>+ BD.</i>			
Young	✓	✓			
Zurcher	✓	✓			
Trumbo	✓	✓			
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
Reynolds	✓	✓			
Thiel	✓	✓			
Coody		6-2-0.			

<i>HMP</i>	<i>TT</i> <i>VS.</i>	<i>PZ</i> <i>LG.</i>	<i>BD</i> <i>RP</i>	<i>PASS</i> <i>+ BD.</i>	
Young	✓	✓	✓	✓	
Zurcher	✓	✓	✓	✓	
Trumbo	✓	✓	✓	✓	
Davis	✓	✓	✓	✓	
Santos	✓	✓	✓	✓	
Jordan	✓	✓	✓	✓	
Reynolds	✓	✓	✓	✓	
Thiel	✓	✓	✓	✓	
Coody		2-6-0	6-2.	6-2-0	

Handwritten notes and scribbles, including the word "W" repeated multiple times and other illegible markings.

City Council June 5, 2001

<i>PAK HMR.</i>	<i>H KS. 2ND.</i>	<i>KS 3RD. RR</i>	<i>PAK H RR</i>		
Young	✓	✓	✓		
Zurcher	✓	✓	✓		
Trumbo	✓	✓	✓		
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
Reynolds	✓	✓	✓		
Thiel	✓	✓	✓		
Coody		6-2-	6-2-		

<i>SP elect.</i>	<i>BD RR</i>				
Young	✓				
Zurcher	✓				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Thiel	✓				
Coody	5-3-0.				

City Council June 5, 2001

<i>imp det fees</i>	<i>KS LG.</i>				
Young	✓				
Zurcher	✓				
Trumbo	✓				
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Thiel	✓				
Coody					

<i>AD 01-1.00.</i>	<i>H 2ND BD.</i>	<i>KS LG. 3RD</i>	<i>PASS</i>		
Young	✓	✓	✓		
Zurcher	✓	✓	✓		
Trumbo	✓	✓	✓		
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
Reynolds	✓	✓	✓		
Thiel	✓	✓	✓		
Coody					

City Council June 5, 2001

<i>Roll off tank</i>	<i>L.D. 2ND KS</i>	<i>L.D. 3RD H.</i>	<i>Pass</i>	<i>enjoy L.D. BD.</i>	
Young	✓	✓	✓	✓	
Zurcher	✓	✓	✓	✓	
Trumbo	✓	✓	✓	✓	
Davis	✓	✓	✓	✓	
Santos	✓	✓	✓	✓	
Jordan	✓	✓	✓	✓	
Reynolds	✓	✓	✓	✓	
Thiel	✓	✓	✓	✓	
Coody					

<i>Handbook seems same.</i>	<i>L.D. to approve w/o amendment.</i>	<i>ed. amend. BT. to approve cont up. amend. renewal.</i>			
Young	✓	✓	✗		
Zurcher	✓	✓			
Trumbo	✓	✓			
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
Reynolds	✓	✓			
Thiel	✓	✓			
Coody		BT			

Adjourned at 9:00 pm

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A. CONSENT

1. **APPROVAL OF THE MINUTES:** Approval of the minutes from April 17 and May 1, 2001.
- 68-01 2. **POLICE PHYSICAL FITNESS POLICY:** A resolution adopting a revision to the Police Department's Physical Fitness Policy.
- 69-01 3. **COPS FEDERAL GRANT:** A resolution accepting the \$225,000 COPS Universal Hiring Program Federal Grant and approval of a budget adjustment in the amount of \$37,617.00 from Use of Fund Balance.
- 70-01 4. **INTERLOCAL AGREEMENT:** A resolution approving an interlocal agreement between the City of Fayetteville and the City of Johnson for the installation and ownership of a traffic signal at Wilkerson and Joyce.
- 71-01 5. **SIDEWALKS AND TRAILS COMMITTEE:** A resolution establishing an advisory committee to be known as the Sidewalks and Trails Advisory Committee, setting forth the selection process for membership and the responsibilities of the Sidewalks and Trails Committee.
- 72-01 6. **SAGE HOUSE:** A resolution approving a long term lease with Economic Opportunity Agency of Washington Co. Inc. for Sage House.
- 75-01
Removed
From
Consent
73-01 7. **COX COMMUNICATION:** A resolution approving an amendment to the present franchise agreement with Cox Communication to release them from their obligation to carry a Little Rock, Arkansas, network affiliate broadcast station.
- 73-01 8. **PARKING DECK:** A resolution approving Amendment No. 2 in the amount of \$12,000 to the contract with Garver Engineers for additional geotechnical study regarding the proposed parking deck for the downtown area.
- 74-01 9. **ARKANSAS BUSINESS TECHNOLOGY PARK:** A resolution approving a grant application for assistance from the Economic Development of Arkansas Fund.

B. OLD BUSINESS

- PASS 4/3/6*
1. ✓✓✓ **TREE PROTECTION AND PRESERVATION:** An ordinance amending the Tree Protection and Preservation Ordinance to allow for a variance, reduction or alteration in the requirements of the Tree Preservation Ordinance. The ordinance was left on the second reading as amended at the May 15, 2000 meeting.
- PASS 4/3/7*
2. ✓✓✓ **HMR TAX:** An ordinance amending § 35.20 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax. The ordinance was left on the first reading as amended at the May 15, 2001 meeting.
- PASS 4/3/8*
3. ✓✓✓ **PARKS HMR TAX:** An ordinance amending § 35.31 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax. The ordinance was left on the first reading as amended at the May 15, 2001 meeting.
- POSTPONED IN DEF.*
4. **SPECIAL ELECTION:** An ordinance calling and setting a date for a special election for the adoption or rejection of ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel, and Restaurant Tax and the Parks Hotel, Motel, and Restaurant Tax. The ordinance was tabled at the May 15, 2001 meeting.

C. NEW BUSINESS

- PASS 7-6-01*
1. ✓ **IMPACT FEES:** A resolution approving a contract with Duncan and Associates to conduct Phase 2 of the Development Impact Fee Study for water, wastewater treatment and collection, roads, and parks.
- PASS 4/3/9*
2. ✓✓✓ **AD 01-1.00:** An ordinance approving an amendment to Chapter 171 "Streets and Sidewalks", Section 171.13 "Width of Driveway Approaches" and Chapter 172 "Parking and Loading", Section 172.01 "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways and provide for a minimum curb radius.
- PASS 4/3/20*
3. ✓✓✓ **ROLL-OFF TRUCK:** An ordinance approving a bid waiver for the purchase of a used diesel powered roll-off truck to be utilized by the Fayetteville Solid Waste Division.
- PASS 7-7-01*
4. **HENDRICKS SEWER SERVICE:** Consideration of a request to provide sewer service outside of the City Limits.

meeting adjourned 9:00pm.

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B. OLD BUSINESS

- PASS*
1. **TREE PROTECTION AND PRESERVATION:** An ordinance amending the Tree Protection and Preservation Ordinance to allow for a variance, reduction or alteration in the requirements of the Tree Preservation Ordinance. The ordinance was left on the second reading as amended at the May 15, 2000 meeting.
- PASS*
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- Postpone
No time
limited*

C. NEW BUSINESS

- PASS
To do study
only*
1. **IMPACT FEES:** A resolution approving a contract with Duncan and Associates to conduct Phase 2 of the Development Impact Fee Study for water, wastewater treatment and collection, roads, and parks.
- Remove
entrance
PASS*
2. **AD 01-1.00:** An ordinance approving an amendment to Chapter 171 "Streets and Sidewalks", Section 171.13 "Width of Driveway Approaches" and Chapter 172 "Parking and Loading", Section 172.01 "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways and provide for a minimum curb radius.
- PASS*
3. **ROLL-OFF TRUCK:** An ordinance approving a bid waiver for the purchase of a used diesel powered roll-off truck to be utilized by the Fayetteville Solid Waste Division.
- PASS*
4. **HENDRICKS SEWER SERVICE:** Consideration of a request to provide sewer service outside of the City Limits.
- amended
if annexed
to city*
- PASS*

**MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
APRIL 17, 2001**

A meeting of the Fayetteville City Council was held on April 17, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

CONSENT

APPROVAL OF THE MINUTES: Approval of the minutes from the April 3, 2001 meeting.

LSD 01-5.00: A resolution approving a waiver of right-of-way dedication for 15th Street as required by Section 166.10(c) for LSD 01-5.00 submitted by McClelland Consulting Engineers, Inc. on behalf of Randy Salsbury of Allied Storage, LTD for property located at 85 W. 15th Street.

RESOLUTION 49-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TCA CABLE: A resolution approving an extension with TCA Cable Partners to temporarily operate the cable communication system until June 30, 2001.

RESOLUTION 50-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

UNIFORMS: A resolution awarding a contract with Cintas Corporation for Bid No. 01-25 to provide uniforms.

RESOLUTION 51-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

DOUBLE SPRINGS RD: A resolution approving a city-utility agreement between the City of Fayetteville, and Arkansas Western Gas Co. for the necessary adjustments for the Double Springs Road Bridge over Owl Creek.

RESOLUTION 52-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

DOUBLE SPRING BRIDGE REPLACEMENT: A resolution approving funding for a bridge replacement on Double Springs Road in the amount of \$229,537; and approval of a budget adjustment.

RESOLUTION 53-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AD 01-13.00: A resolution adopting the drainage study for floodplain and floodway delineation for Mud Creek Tributary at CMN Business Park, Phase II, prepared by Holloway, Updike and Bellen, Inc. for Milholland Company, dated September 2000.

RESOLUTION 54-01 AS RECORDED IN THE OFFICE THE CITY CLERK.

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

OLD BUSINESS

GRADING AND DRAINAGE: An ordinance amending the City's Grading and Drainage Ordinance. This ordinance was tabled on the second reading at the January 2, 2001 City Council meeting.

Alderman Young moved to bring the item off the table and to consider it. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Alderman Young moved to suspend the rules and go to the third and final reading. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance for the third and final time.

Alderman Young stated the item they were discussing under Old Business was the original draft the Ordinance Review Committee and Ad Hoc Committee had come up with. The items under New Business were new and revised from the Ordinance Review Committee.

Alderman Davis stated he had given the revised ordinance to members of the Ad Hoc Committee. They did not see a problem with the new ordinance. He suggested they let this ordinance go and that they discuss the new proposals.

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

ORDINANCE FAILED.

NEW BUSINESS

PHYSICAL ALTERATION OF LAND: An ordinance amending §169.03 of the Code of Fayetteville, Physical Alteration of Land.

Mr. Williams read the ordinance for the first time.

Alderman Davis asked that they not move through all three readings tonight to give the public more time.

Mr. Gary Lowery, an area resident, suggested that when the city amended its ordinances that they include any other permits required. They should make sure that applicant had all the proper permits and necessary items that were required, not only for city, but the State and U.S. agencies.

Alderman Young stated the next ordinance on the agenda included some of those concerns. The Grading and Drainage ordinances were tied together. If they passed this, there was a requirement to show proof of the State permits.

ORDINANCE WAS LEFT ON THE FIRST READING.

STORMWATER AND DRAINAGE: An ordinance amending §170.03 of the Code of Fayetteville, Stormwater Management, Drainage and Erosion Control.

Mr. Williams read the ordinance for the first time.

Alderman Davis stated there had been a couple of comments from the Ad Hoc Committee members. Their concerns had been the word "shall". He suggested they consider the word, "may". The City Engineer would be in a better position to determine if the Stop Work Order should be issued at the time of infraction based on the circumstances better than the City Council. It should be left to a professional judgement on whether or not a work order needed to be issued. He noted Section C.4. did not mention anything about time.

Mr. Beavers, City Engineer, stated he personally liked "may" so that he could counsel with the Public Works Director who might know of circumstances that he did not. The Council needed to determine what their intention was. There would not be any physical danger to any adjoining property if they used the word "may". Engineers would not issue a permit if there was. He added, he felt they were only talking about one to two percent of their projects.

Alderman Young asked if there were any grace days.

Mr. Beavers stated there were fifteen days.

Alderman Thiel stated she felt they should leave the word "shall" in there because it was more of a directive than "may."

Alderman Young stated if they put "may" in there they would be relying upon good judgement. But, if that did not happen, then what recourse did the public have?

Mr. Beavers stated from his understanding the intent was to limit the number of submittals they got from the engineers. They were not talking about protecting adjacent property owners or citizens. Engineering would not issue the permits to being with if they felt that there was any danger to any

property owner or citizen. They were talking about a small percentage of engineers that took multiple reviews to get their plans approved.

Alderman Young stated that while they were reviewing plans under this ordinance, they were out there grading under the other ordinance. That was the danger to the public.

Alderman Davis stated he felt that they should leave it to the City Engineer's professional judgment. The engineers would know the situation and the Council did not.

Mr. Beavers stated he thought it would be prudent if they were to combine the grading the drainage ordinances as part of their Phase II Stormwater Program, which they had to have by the fall of 2003. They would be starting work on it at the end of this year or the first of next year. They would be having public meetings. He added, he felt there would be many changes through this process.

Mr. Richard Maynard, an area resident and member of Ad Hoc Committee, stated the intent of the ordinance was never the stop work order. The intent was to cut down on the number of submittals. The stop work order was only there to get the message out that they could not use phased permitting to get their grading done and to take their time on their drainage plans. It was not intended to stop someone's work, it was to cut the number of submittals and that was all.

Mr. Gary Lowery, an area resident, stated they needed to make sure that people who purchased a home knew exactly where their responsibility ended and the city's began. His subdivision had problems with a retention pond. He added he preferred the use of the word "shall".

Ms. Kay DuVal, an area resident and Ad Hoc Committee member, stated she had also worked on the revisions. She suggested the stronger the law was the less work there would be to do two years from now. She had asked for the word, "shall" all along. They did not know what was coming in development. The clearer and more exact the wording was the less room there was for confusion and misinterpretation.

Ms. Coleen Gaston, an area resident (attorney), encouraged the council to delete the language, "the addition of grading, clearing, or filling" from the exception.

In responds to questions, Mr. Williams stated it was his understanding that it had been placed there for home owners who need to clear their property of vines and scrub brush.

Mr. Gary Lowery, an area resident, asked when were individuals to know if they needed a permit or if it was the city's responsibility to take care of it. They had problems with drainage all over this city. They needed to take care of them. Who tells who, who needs a permit? Where did he go if he wanted to clean something up.

Mayor Coody replied if it was a city easement, publicly owned, it was the city's responsibility. If it was on private property, the city was very reluctant to spend public money on private property. Citizens had a responsibility to try and keep drainage easements and ways open.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

COMMUNITY DEVELOPMENT BLOCK GRANT: A resolution accepting the 2001 Community Development Block Grant in the amount of \$665,000.00. The mayor congratulated Ms. Yolanda Fields for her work in acquiring the grant. There was no further discussion.

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

RESOLUTION 55-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZA 01-1.00: An ordinance approving annexation request RZA 01-1.00 as submitted by Michele Harrington on behalf of TMC and Associates for property located east of Sunshine Road and north of Highway 16. The property is in the City Planning Area and contains approximately 40 acres. The request is to annex subject property into the City of Fayetteville.

Mr. Williams read the ordinance for the first time.

Alderman Reynolds stated the response time from the Garland Avenue Fire Station was seven minutes. In the future there would be a station at Ruppel Road and Wedington.

Alderman Jordan asked if they were going to have good fire. He noted the city required the water to be on and the fire hydrants to be placed before construction could begin on the houses.

Wayne Krug, applicant representative, stated the Planning Commission had voted 9-0 to approve the request.

Alderman Santos stated there would be an increase in responsibility for on every department. There would be some impact on the city. He commented it would be nice to have impact fees to pay for some of the impacts.

Alderman Jordan stated what concerned him was a lot of large developments going in when the city was already under a lot of stress for city services. Large developments did concern him.

Alderman Young stated he assumed that it would be left the first reading because he was still looking for a sewer plant report.

Alderman Thiel stated at the agenda meeting the city attorney said that they should have an acknowledgment from developers stating that the city could not guarantee sewer services.

Mr. Williams, City Attorney, stated he had prepared a waiver form for everyone to sign who came for an annexation, rezoning or whatever. The applicant would sign a waiver stating that they had received a copy of the notice that the city's sewer plant was at or near capacity and that the city could not guarantee a sewer hook up until a new sewer plant was built.

Mr. Bunn stated he would have the sewer report for their next meeting. Last years report stated that the city had two and half years remaining, if they continued to develop at the same rate. He noted the number of housing units and the number of apartment units had not been as high as in the past. He felt confident in saying there was probably a year and half at least left. He added he felt confident that the city would be able to provide this development with sewer.

Gary Lowery, an area resident, expressed concern about annexing in a lot of Large Scale Developments and Subdivisions because at the current time the City was not able to fulfill all of its obligations to the current citizens that were already inside the city limits. He added, in his opinion the city was not able to provide adequate street maintenance and upkeep of the streets, let alone the curbs, gutters and sidewalks. A lot of people were asking if the city kept expanding and growing and didn't have the funds to provide the proper city services to all the residents then why did they keep expanding. Why did the city keep growing? He answered, because people kept coming here that's number one. Number two the city was worried about what they were going to do and how they were going to increase the budget. We have less than 66,000 people in the City of Fayetteville. A community that is about the same size as the City of Fayetteville had an annual budget of \$46 million dollars. Fayetteville's budget was \$85 million. That same city had 634 employees. Fayetteville has 636 employees. They are able not only to sweep the streets but to plow the streets, if necessary. They're able to go out and do what needs to be done repairing the road, patching the cracks, fixing the sidewalks do what's necessary. Fayetteville was not able to enforce all of its codes and ordinances. Fayetteville was not able to produce the kind of work ethic that there needed to be in a city of this size. One of them was our garbage collection services. They were going to have a lot more of these purple garbage sitting out there in these streets. First of all, Fayetteville was violating a State law. The State law says you cannot have these bags out there on the street. That Act 93 of the State law. The State law says that these garbage containers must be waterproof and have a close fitting lid or cover to keep insects out. These garbage bags don't have a lid or cover.

Ms. Lou Weiss, an area resident, agreed with that gentleman wholeheartedly. Thank you.

Ms. Barbara Morman, an area resident, asked if this was a speculative rezoning or annexation? Is it the owner that's asking for this to be done. For the area to be annexed and rezoned or it because the owner wants to sell the land to somebody who wants a particular project out there.

Mr. Krug stated that in this development there are project engineer and the project engineers have already met with both Kim Rogers at the Parks Department and Kim Hesse to survey the project. I guess the answer to questions is once the land is rezoned the development will begin. It is not something that's going to be used down the road. The developer is well aware of the current limitations on the sewer system and they'll willing to proceed with this.

Barbara stated that was not the answer to her question. She asked is the owner, as of this moment in time, the developer?". The person who is going to be the owner after the annexation.

Alderman Young asked if the developer that was going to develop this was going to buy the property contingent upon rezoning or annexation?

Mr. Krug answered that's correct.

Alderman Davis stated he thought Bridgeport, which adjoined this property, was pretty well sold out. He added, there must be a market for this type of development in the area, if most of the other lots were sold.

Mr. Krug stated that was correct and asked that the Council if they would consider moving this one to the third reading tonight subject to or contingent upon the signing of the waiver which the developer's were completely aware of.

Alderman Davis replied it was standard procedure to have at least two meetings when considering an annexation and rezoning. He would prefer to hold off tonight and leave it on the first reading in order to give the people in that area an opportunity to come up here and address this at a later time.

Alderman Zurcher stated the governor and several state agencies recently did a poll in urban areas in Arkansas asking citizens what they were really concerned about in urban areas. The number one concern was sprawl. The way cities were sprawling out and were losing the country sides. We're losing our natural areas because of this growth on the edges of town. He stated he was willing to keep a open mind and to listen to the discussion and have another meeting on this but he had to say his initial reaction to this was that he did not think that would be their best investment. He didn't know if it would be entirely responsible looking at all the infrastructure costs that the city will have to take on if they annexed this land.

Alderman Thiel stated according to the reports from the various city departments it didn't look like there would be that many additional infrastructure costs.

In response to questions, Mr Krug stated the cost of constructing streets and water and sewer came with development of the subdivision.

Alderman Zurcher replied he didn't mean the streets inside this development.

Alderman Thiel stated Wedington had already been widen. She stated she had reservations about taking more property into the city when they were having difficulty servicing what we had. However, because of where the property was located and the proximity to the future wastewater treatment plant and the Boys and Girls Club she stated she thought it was a plus. She noted the property adjoined developments that had a rather large park. They needed to consider that this development could bring in a lot of greenspace money or more greenspace to adjoin the Red Oak Park. She stated she was not opposed to in-fill but they were seeing more and more development on hillsides, on the little lots that are left which she felt could create major drainage and flooding problems down below. She added that when this development actually started the may have some kind of an impact fee in place.

Alderman Young stated the specific question Randy has raised was urban sprawl. Every time they started talking about water and sewer and roads and you say we just don't have enough money then you need to look and say maybe development isn't paying. That's the bottom line. If we continuously have these problems that's possibly where to start. But as far as urban sprawl. That's a dilemma. My suspension is the federal government is going to address that in the future years. What we are doing here now hopefully will address it with impact fees. At least that's a start. This a dilemma that you get into whenever somebody requests annexation or even just a rezoning or even an infill. Its all balled together and you look at over all you just say well if all this development is paying its own ways. If all these new people are contributing then why are we having these budget constraints down the road.

Alderman Jordan stated that they could not continue to string out and get as far as Goshen. Some where down the line we've got to learn to fix what we have, what is broken, and then move on with it.

Alderman Santos stated development never pays for itself. It's a burden on the rest of us but, if the city did not annex and enforce the city's regulations out there would be substandard developments, a ring of slums around Fayetteville. The city needed to come up with a better system to make development pay for itself.

THE ORDINANCE AS LEFT ON THE FIRST READING.

RZ 01-6.00: An ordinance approving rezoning request RZ 01-6.00 submitted by Michele Harrington on behalf of TMC and Associates for property located east of Sunshine Road and north of Highway 16. The property is zoned A-1, Agricultural, and contains approximately 40 acres. The request is to rezone to R-1, Low Density Residential.

Mr. Williams read the ordinance for the first time.

Alderman Santos stated this rezoning went with the annexation and that it should also be left on the first reading.

Alderman Zurcher stated he did not know if there was a precedent or not but seemed that if they were really worried about bad development out in the county then why didn't the city just go ahead and annexation all of the growth area and just leave it agricultural. Looking at these two proposals I'd be all for leaving it agricultural it's a benefit to the city that way.

Len Williamson, TMC & Associates, stated he was the developer desiring to purchase the property. He explained the property adjoined Bridgeport Subdivision. The property literally looked like a bomb with off on it. He stated he knew developers were not well received, but this property needed to be cleaned up. He stated he had developed in Elkins, Fayetteville, and Springdale. Because this property was probably messier than any property he had ever seen. This was a beautiful piece of property. Fayetteville sewer runs right across the heart of the property. Fayetteville services have already been annexed onto the property. It was in a draw with nice trees and greenery. They knew that there was planned growth out there as it related to that infrastructure. They were laying right next to a nice subdivision, Bridgeport and the sewer already on the property it just seems unreasonable to let it fall into the county and be developed with septic tanks with Fayetteville sewer running right across the property.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

AD 01-12.00: An ordinance approving an amendment to Chapter 161, Zoning, of the Unified Development Ordinance to include additional multi-family zoning districts, RMF-6, RMF-12, and RMF-18.

Mr. Conklin, Planning Director, stated that last summer during the General Plan update they talked about some of the problems the city was having between R-1, Low-density Residential, Single Family to the Multi-Family Residence, R-2 which allows 24 units per acre. Some the situations we've had when you do change your zoning from R-1 to R-2 it jumps from 4 units to the 24. In the past we've had developers submit to the city a Bill of Assurance to reduce their density down to more the level that they plan to actual developing. Typically, that was around 8 to 12 units per acre. The staff brought forth to the Planning Commission, the Planning Commission has recommended to the City Council three new zoning districts to allow 6 units per acre for multi-family, 12 units per acre, and 18 units per acre. The bulk in density area calculations and ratios are the same as R-2. Basically, changes the density and are using the same setback standards and other standards within the zoning districts. I think this going to have a positive impact on the city. Its going to allow staff when meeting with developers to actually plan a better fit for their zoning instead of 4 units per acre to 24. We'll be able to actually discuss with them what they plan on bring forth to the Planning Commission and better fit density for their project

Mr. Conklin stated that Planning was not changing anyone's zoning classification. These were three new zoning districts so when they did bring zoning requests forward they would be able to apply for one of these three new zoning districts. The Council had adopted the General Plan on December 19th. This was one of the first ordinances they were bring forward to implement the General Plan.

Alderman Davis ask Mr. Conklin asked if Bills of Assurances approved in the past would be reconsidered for the new zoning districts.

Mr. Conklin replied that if this ordinances was passed the Planning Division would not go back and change what the City Council done in the pass. They would continue to enforce the Bill of Assurances.

In response to questions from Alderman Davis, Mr. Conklin stated that the city would still have an R-2 zoning district, which was 24 units per acre. This amendment would basically setup three additional multi-family zoning districts. Now there would be more options.

Alderman Santos stated this was a great idea.

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

Mr. Williams read the ordinance for the second time.

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

Mr. Williams read the ordinance for the third and final time.

Gary Lowery, and area resident, congratulated Tim Conklin on the endeavor and the city staff for bring the item forward. In his opinion this was an exceptional idea and exceptional plan. It allowed a buffer between the lower site properties which are in the R-1 district all the way up to R-24 which is apartment complex. This will be a great buffer from the lower density type establishments to the high density and congratulated the city and the staff for doing so.

Richard Maynard, an area resident, stated he supported the amendment. He added it would keep everybody honest. Also replaces a Bill of Assurance and certainly gave the Council more options. There's always a *but* with everything. He reminded the Council it did not ease their concerns. He reminded the council that zoning was a social contract made with the residents. And yes what the city giveth, the city can taketh a way. The citizens needed to be included. If the city does things that just because of this that we will just accept any rezoning that's just not going to be the case.

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

ORDINANCE 4307 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RULES OF ORDER: A resolution amending the Rules of Order and Procedures of the Fayetteville Mayor/City Council by adding paragraph D.6. to suspend or waive by two-thirds vote of the membership of the City Council including the Mayor. Therefore a motion to suspend the rules requires six affirmative votes to pass.

City Attorney Williams stated often times the council moved to suspend the rules and he had wondered if the mayor would have a vote in that. He had called an Municipal League attorney and received some information. Then he had looked at the statutes. The reason he wanted to do it at this point in time in case the mayor ever wanted to vote he wanted the rules to be set and agreed upon now, when it's not controversial one-way or the other whether the mayor would vote yes or no or choose not to vote. He thought that this should be clear. There was not a direct case specifically on point that said that the mayor had the power. However, the statute that granted, that entitled the organization of the city council, subsection b says "the mayor shall have a vote when his vote is needed to pass any ordinance, by-law, resolution, order or motion." And in his opinion a motion to suspend the rules would be one of those motions. There were a couple exceptions to that which were dealing with the constitutional issues which this would not effect. In other words, the mayor could not vote for an emergency clause. That's a constitutional issue and also the mayor could not vote if there had been an initiated acts by the citizens. The mayor could not vote to appeal the initiated act. But apart from that he thought the mayor could and so he presented this just to get this issue clearly established in case it ever comes or be a time where the mayor would want to suspend to the rules.

Alderman Young asked if Mayor Coody had brought this forward.

City Attorney Williams interrupted and stated he had brought this item forward.

Alderman Young ask the Mayor if he was in favor of it and then requested to proceed on to the next issue.

Mayor Coody responded by stating he was neutral and ambivalent and deferred to the wish of the Council.

Alderman Young stated that as Kit mention there was no case law on this and Arkansas Supreme Court had not ruled on this. Mr. Williams was using Attorney General opinions on other issue and trying to apply it to this. The only purpose for this proposal that he would see was to reduce the public opportunity to speak to issue before this Council. If the Mayor wanted to vote on these issues

then he suggested the mayor go with these opinions. And if somebody didn't like the way he voted, then they could file a lawsuit, and take it to Arkansas Supreme Court and have a decision made. But don't ask for his blessing to thwart the ability of the public to speak to this Council. Not only to speak to it, but also the citizens out there to have the right their representative here to vote and if the mayor wanted to suspend the rules and go through all three readings in one night when someone might not be there then that denies the voters their right to have their elected officials here to vote this issue. He reiterated that he was opposed to this.

Alderman Davis agreed with Alderman Young. He stated that by suspending the rules it limited what the mayor was voted by the citizens to officiate what the council did in the chambers. And by doing this gave the mayor the opportunity to railroad things through which he don't think was Mayor Coody's intention. It could be perceived by the public that that could happen. He did not think the council wanted that perception out there but that could be the case. He added, he thought that the council needed to make sure that citizens had the opportunity to come up and talk to the Council on any given issue and not to have the perception that he could on any given night have three readings on something because the council passed this type of ordinance. He stated in his opinion if the council didn't have two-thirds out of the eight there was no reason to put the mayor in the position to have to make that decisive vote, to give the appearance that they were trying to hurry something on through.

Mr. Williams stated the council was allowed to adopt rules and procedure as long as they were not in violation of the State law. The State law on §14-55-202 that: "All bylaws and the ordinances of a general or prudent nature shall be fully and distinctly read on three different dates unless two-thirds of the members composing the municipal council shall dispense with the rules." So what does it mean, "members of the municipal council?" There has not been a case directly interpreting that to be the mayor. But the next section, the next statute, that means that the Supreme Court interpreted the language, "the whole number of members elected to the council" to mean that the mayor was a member of the council so that that particular council could do it. To him the same thing as members composing the municipal council.

Alderman Young stated there was also a rule that the mayor was an ex-officio member only.

Mr. Williams replied, but not for voting purpose. For voting purposes the underlying statute says when his vote, "the mayor shall have a vote when his vote is needed to pass any ordinance, bylaw, resolution, order or motion." And so regardless of whether or not this actually is a part of our Rules and Procedures, if it ever came to that and he was not recommending that the mayor vote one way or the other, but by his interpretation and the Municipal League's attorney was that the mayor had a vote.

Alderman Young stated if the mayor wanted to vote to suspend the rules and go on Mr. Williams research and opinion, okay, but, don't ask the council to put it in their Rules and Procedures.

Mayor Coody stated since this centered around the mayor's office and it was apparently controversial he did not have any interest in pursuing this. He added he would certainly never do anything to thwart public input and try to pass ordinances just to try to keep the public out of the public's business. He requested the item be withdrawn.

City attorney stated that it certainly did not have to be passed. It was still going to be the law as he interpreted it. The council had one city attorney and that was him and that was his interpretation. He added that occasionally its been the rule to put something on the agenda when it wasn't put on there in time. Like the last meeting, we had to suspend the rules to place an item on agenda so that we can pass it an emergency situation. So sometimes you need to suspend the rules for those types of situations also.

Alderman Jordan stated that even if the council did not passed this, the mayor could still vote on it.

Mr. Williams replied , yes.

Alderman Jordan stated it has never been done before, but that would be a new practice.

Mr. Williams replied the way he read the statutes in the case he thought it was clear that the mayor for purposes of motion to suspend the rules-if his vote was needed to pass and only if it was needed to pass can he then vote. If there were five alderman here and we had a quorum and the mayor was also here and everybody votes to suspend the rules the mayor could at that point vote to suspend the rules and without his vote it would not pass.

Alderman Young stated but if it went to the Supreme Court they may not agree with that.

Mr. Williams replied they already agreed with it.

Alderman Davis replied, no the Supreme Court had not. They have interpreted it with language very similar by the statute but they have not addressed this particular issue.

Alderman Young stated the courts may agree that the whole purpose of thing was to have at least six alderman here and that would thwart the public. But you don't know what the Supreme Court's going to do.

Alderman Young moved to deny the resolution. Alderman Santos seconded the motion. Upon roll call the motion carried by a vote of 7-1-0. Zurcher voting nay.

RESOLUTION FAILED.

BAUM BASEBALL STADIUM: An ordinance allowing the University of Arkansas to use Fireworks for the annual occasion of the celebration of fireworks night marking the end of the Razorback Baseball Season at Baum Stadium.

Mr. Williams read the ordinance for the first time.

Alderman Davis stated this was something the council always did. It gave them an opportunity to get recognition from the community. So the people will know when the final game was and be out there for the fireworks display. Its always a very nice fireworks display.

Mr. Williams stated the normally do an ordinance every year, however, this was an ordinance a permanent ordinance.

Alderman Thiel asked if these fireworks made any explosion when they went off in the air.

Scott Varady, the associate general counsel at the University, stated generally they do cause some noise, obviously. As Mr. Williams had stated and Mr. Santos pointed out, the purpose for this ordinance was just to grant permission so the council would not have to go through this process every year. We just thought it would be more convenient for the Council to approve it in one shot and not have to worry about it from year to year. But they could come back if the council preferred.

Alderman Santos stated he had complaints, but they were for the three or four or five football games a year.

Alderman Jordan stated he had the same complaints about the noise at the stadium when a rocket for every point that they scored. He added if they did not have a very good team they won't score very much.

Alderman Santos stated the cannons had been taken out.

Scott Varady stated the fireworks that have been used at the football games have been fired on University property, therefore, was State property and they were not technically obligated to request permission from the city. They did not do them last year because of the ongoing renovation and construction to the stadium.

Alderman Reynolds stated baseball to him was a youth program. His family comes in for the celebration because they did baseball more than they did football. This was once a year and he bet here would be 10,000 children who came to see this.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman

Davis seconded the motion. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance for the second time.

Alderman Trumbo made a motion to suspend the rules and go to the third and final reading of the ordinance. Alderman Davis seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance for the third and final time.

Alderman Jordan asked if this was going to be at Baum Stadium.

Mr. Varady stated that technically the fireworks were launched across the street from Baum Stadium on the southwest corner of privately owned property.

Alderman Jordan asks if the council passed this, then it can be displayed somewhere else or somewhere else on campus.

Alderman Santos said it was for the baseball field.

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

Mr. Williams stated we need to have a vote a separate vote on the last fireworks ordinance for the emergency clause.

Mayor Coody called for the vote on the emergency clause. Upon roll call the clause carried unanimously.

ORDINANCE 4308 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

J.D. CHINA: An appeal of a Planning Commission decision for Large Scale Development LSD 00-36, J.D. China.

Alderman Santos stated he had decided to honor the request for this appeal because he wanted to see if maybe we could do it better. He had heard a lot last year about College Avenue and approving the appearance of College Avenue. The city had a similar commercial strip developing on west Sixth Avenue and he hated to see a mayor twenty years from now saying we got to do something about Sixth Street when we had this opportunity and let it slip. He wanted to see if there was any room for negotiation. He suggested a rezoning for the back lot to allow them to move the restaurant back to save some of the trees and save some of the existing appearance of Sixth Street. That was the only reason he was appealing. There were questions about the rare landmark trees. He was having a hard

time with this plat. He asked the petitioners to explain their position and if they can do any better.

Andy Feinstein, Engineering Design Associates, stated he was the project manager and principle designer for this project. They had spent approximately twelve to thirteen months trying to prepare this plan to satisfy the current city ordinances. As far as the tree preservation they had done several iterations on site design. They had changed the building shape and size. They had looked carefully at trying to maintain suitable grades through out the project area to comply with ADA requirements. He felt that they had prepared an adequate plan to satisfy all city's requirements and their clients needs. They had designed a facility which was approximately 6,000 square feet with 191 seats for their patrons. A conditional use for additional parking had been granted to allow a total of 58 parking spaces, approximately four patrons per parking space, which was not considered excessive for this type of facility. They had some rare trees located toward the front of the lot and large trees scattered towards the middle and the back. When they realized that they were going to have difficulty complying with the preservation requirements their client agreed to purchase an additional portion of land to maintain an intact tree canopy. They've agreed to provide an easement on that area to satisfy the tree ordinance. They were very confused as to why they were here tonight.

Alderman Trumbo stated he knew that they had gone above and beyond. He stated he was not going to vote for approving this appeal because he thought it was a very nice development. They had been very cognizant of the tree and the preservation.

Mr. Feinstein stated that there were no plans to resubmit this with any changes. They were at a make or breakpoint here tonight as to whether the client had the resources to proceed with an entire redesign and to incur the extra costs that may come in to accommodate the suggested changes.

In response to questions from Alderman Davis, Mr. Feinstein stated they were split zoned in there and they complied with both the 25% on the residential portion and 15% on the commercial portion. They were in excess of what would be required for both of tracts.

Alderman Davis stated he applauded them for going in to make sure that they followed what the ordinance said, supposedly, by making sure they had adequate canopy. He was not going to vote for the appeal either.

Alderman Young questioned tree easement, did they know what that was?

Tim Conklin replied the Tree and Landscape Administrator had put together language and worked with Planning staff and basically what they were trying to do was to make sure this developer understood that this tree preservation was going to be preserved to perpetuity. This was a tree preservation plan and these the trees were going to be saved. That future owners will know that these trees cannot be removed in the future.

Alderman Young stated that was his concern. It goes with the land and that it be looked at and was it legal to do that.

Mr. Williams stated that when this property was rezoned there was a Bill of Assurance that was passed with this presented by the owner of the land to the City Council at that point in time in order to secure or help secure the rezoning to commercial. And that Bill of Assurance ran with the land and guarantee the preservation of certain values and amenities in the community and binds themselves and their successors and assign to save 60% of all the trees on the land. Later the owner and the buyer of this property sued each other in court to remove this Bill of Assurance. And the judge determined the City was not a party to that suit. But the judge determined that that Bill of Assurance should be declared null and void and held for not leaving the aforesaid property subject to the tree protection and preservation ordinance of the City of Fayetteville, Arkansas. They might have what they think was some sort of forever tree easement, the language in this Bill of Assurance done on September 12, 1990 where it said that the preservation of 60% of the all the existing trees with a caliper of 8" or more would be done had been held null and void. He could not guarantee what might happen in the future to any other legal documents that they have supposedly guaranteed trees on that other lot.

Alderman Young stated the reason he was raising this issue was mainly for the people that were considering revising the tree ordinance because he thought they had been discussing tree easements and some other mechanisms. Every time they've said that he has been wondering what it was they were talking about. Now if its legal fine. But he had never have scooped it out but it may or may not be a legal document that will stand in the courts.

Mr. Williams stated there was a local chancellor that held that, in a very friendly lawsuit between the owner and buyer of the property. He took it away. He said it no longer had any force and effect. He noted that one of the reasons that the judge gave for that was that in his order and he quoted that "the aforesaid property remains subject to any tree protection and preservation ordinance implemented by the City of Fayetteville, Arkansas." And by that he meant not the big lot but the commercially zoned lot which he thought under this plan was going to be fully graded and every tree would be gone in that lot.

Alderman Young stated he personally could understand what the judge was doing but he thought a tree easement might be a little more difficult for a judge to nullify.

Alderman Young ask if the lots were combined then. Or will they be.

Mr. Feinstein replied that actually the lot was a sing lot which was split zoned. They were never separate. There was a lot split approved by this Council sometime in the past. However, it was never consummated or recorded.

Alderman Young asked was this all one piece of property.

Mr. Feinstein replied yes.

Alderman Young replied which meant that the back portion was part of the tree preservation plan which was locked in then.

In response to questions from Alderman Jordan, Mr. Feinstein stated they were covered by the same deed. If they had opted to purchase the rear lot, then they would have consummated the lot split.

Alderman Jordan stated basically they were getting their 20% by combining the two lots.

Mr. Williams asked how do they have one lot with two different zonings.

Mr. Conklin explained they had many situations in the community where people owned a single piece of property with more than one zoning designation.

Alderman Thiel suggested some kind of a deed with an easement just for the conservation of trees in that particular lot.

Conklin stated that staff along with the landscape administrator had a standard type conservation easement that was recorded over at the county courthouse that removed the development rights off of land by legal description to save or preservation the trees. He would have to defer to the city attorney, but the landscape administrator and city planner were trying to make sure that future developers and owners of property were put on notice that these were tree preservation areas that could not be developed.

Mr. Williams stated just like other easements, that easement would have to run in favor. They would have to own that easement as a city so that they will be able to then enforce it.

Alderman Santos stated as it stood now, the applicant had approval for that lot split. They could sell that back lot again. Somebody could develop that back lot as R-2. It would be very easy for them to say that couldn't reasonably preserve any trees on there or certainly wouldn't have to worry about preserving any landmark trees. Was it feasible for you to develop that front lot and save the landmark trees. It's the same questions they had with the CMN development. The trees must be preserved unless they cannot be preserved. And that's what Ms. Hesse had decided and the Planning Commission agree with her was that you couldn't develop that lot and preserve any trees. So instead you they're going to preserve the trees on the back lot except if a similar case follows as the one Mr.

Williams just described, the people who buy the back lot wouldn't be anymore obligated to that tree preservation agreement than you they're obligated to the previous tree preservation agreement.

Mr. Feinstein asked what would be the status at that point since they've already had a plan on the boards, would the current lot split still stand? Or would you ask, would the City expect a resubmittal for a lot split at that point?

Alderman Young stated that was a more fundamental question. Tim, now that was all one lot. The back portion was tied in with the tree preservation plan for that large scale development. Was that correct?

Conklin responded, correct.

Alderman Young asked can they sell that back portion and still comply with a large scale development?

Conklin stated they were moving the development rights off.

Alderman Young asked if it just went through any kind of easement.

Conklin stated he could not answer that question.

Alderman Young stated the Tree Committee needed to look it too.

Alderman Davis asked you are deleting the developmental rights of that back portion of property, correct?

Conklin stated they were attempting to remove the development rights off that back portion of the property. That will preserve the trees.

Alderman Davis asked that will do what?

Conklin stated it will preserve the trees. That's what they attempting to do. If there was a legal issue with that I can get with the city attorney but they're...

Mr. Williams stated they will have to get the consent of any owners for any easement that they're provided. They would have to sign a deed based upon granting us the easements rights to that. So they don't take it off their lot. They have to give it in a legal document, a deed, to the City.

Alderman Young stated they still own the property, it's just that the City has a easement.

Alderman Santos stated which will be much stronger than a Bill of Assurance.

Alderman Young stated right, that's my impression.

Mr. Feinstein stated in reference to the Bill of Assurance. I have the minutes of the 1990 Planning Commission meeting where there was actually six tracts that they're contiguous at that they were that they're under the same situation. It was a condition of rezoning approval to have that Bill of Assurance placed. The Burger King was one of those lots, incidentally. And from my understanding talking Kirk Elsass, the developer at the time, it had a similar force cover at the time. But somehow it was all they needed to proceed with its development and there was only one or two trees left standing on that tract.

Alderman Zurcher stated things have changed.

Alderman Davis addressed Kim Hesse, he assumed that through landscaping there will be some tree replacement.

Alderman Reynolds stated he had toured on Monday and I was the only alderman on the bus. They had some no shows.

Alderman Zurcher said they called us and told us there wasn't a tour.

Alderman Jordan said they told us not to come.

Alderman Reynolds stated, anyway they toured that site and what I've seen, yes, there was some rare and landmark tree on that property and they talked about it and they talked about maybe they could do the other lot and not do that lot. But the matter that comes up tonight was its all one lot. They have followed every instruction that the city has asked them to follow. And the other thing was that they were cleaning up a blighted piece of property that's been an eyesore out there for a lot of years. And it's not sprawl, it's infill, or building where they need them. Right where they need them, on a bad piece of property. I think that they need to uphold our rules through the Subdivision Committee, the LSD, the variance for the parking, and their 9 and 0 vote. They followed everything to a 'T' til now. They probably need to uphold our rules and regulations and they probably need to go along with letting the people develop that property. But they still need to go back and redo our tree preservation and they need to redo our laws for future developments. And they probably need to it right away. They're working on it right away. But its not going to cover that project. I mean they they're covered. They have passed the rules and passed our laws.

Alderman Santos stated you can say that they they're complying with the tree preservation ordinance if you truly believe that none of these trees in the front of the lot could possibly have been saved. And it seems obvious to me that they could be possibly saved, if you move the commercial

development to the back of part of that residential lot in the back. If you slip the whole thing back 20 ft you can leave the front 20 ft and then they they're going to have a tree lined Sixth Street instead of the strip. You don't call it sprawl, you call it strip development when you get what they have on 71B.

Alderman Zurcher suggests to ask Kim about it.

My name was Douglas Lee, I'm the applicant of that property. They were right now in a little shopping center in the corner. They want to show our restaurant signs in the front. But if you move our location way to the back, I mean.

Alderman Santos stated not way in the back, just 20 ft. I think off a five land road that wouldn't be that far removed from the street.

Mr. Lee replied 20 ft you say. They tried everything. They tried a lot of different ways to get that goal. That's the reason they bought the extra lot in back. Because there was no way around it.

Alderman Santos stated he sees an obvious way around it. You bought that extra lot, you could use that extra lot. You'd have to ask for a rezoning, but I think they'd be completely supportive of that.

Alderman Zurcher stated he would like to ask some questions of Kim Hesse, our Tree and Landscape Administrator. There wasn't anyway that these rare and landmark trees could be saved there on the front?

Kim Hesse stated she had worked with these applicants for 13 months. They started during the Steele Crossing controversy. They came to my office asked me to look at the site. I walked out to the site, as they saw the other day on the tour, there were nice trees on that property. That was in the middle of a heated controversial time during Fayetteville. Basically, I told them they needed to save 15%. That was the big issue at the time. Save that canopy requirement. That's what I asked them to do. So I thinned through probably six scenarios myself. Using the footprints that they gave me and the number of parking required. They didn't even have the thirty extra spaces at the time. They just looking at the number that's all they needed under the ordinance. You have to understand that there's a constant grade on that site. If you going to put a building in, obviously, you they're going to have to grade for the building. If you they're going to put in parking, obviously, you can't exceed too much of a grade or you have troubles with your doors opening. You have troubles with ADA. Every time I worked around, move the parking, move the building, turned the building, changed the way the parking was configured. When I came to the point to trying of trying to grade it, I could not get it to work. What I think was the problem here was people don't understand what it takes to preserve a tree. I will not accept a preservation of a tree if they're inside that canopy. If what they're talking about--what I did was devise a status picture of the canopy. These they're circled of the actual canopy site.

Alderman Santos interrupted to ask did you look at any options using that back lot though?

Hesse stated that at the time the back lot was not even being considered, but I would like to continue if I could, I want you to look at the canopy spread. If you cut, just a quick lesson in tree preservation, tree roots that were within the top 12 inches of the soil, ninety percent of the trees roots from the top 12 inches of the soil, you cut six inches, you cut 4 inches, you've cut a lot of roots. Basically, that root spread goes beyond the canopy which was the canopy drip line and it doubles that. It can even go up to 5 times that. On a site where its canopy covered, those roots go beyond that because they have competition with the neighboring tree. So automatically, the general rule was through tree preservation if you can keep the critical root zone you have a good chance. The crucial root was that root zone directly under the canopy. When you start impeding upon that critical root zone, number one, if you're grading around that tree or filling around that tree you've already lost half of the roots automatically. Fill was just as bad as cut. Fill suffocates the roots. It diverts the water away the roots. Without roots, without water, without air the roots don't work, the canopy dies, the canopy doesn't, the tree buckles. Especially with large trees. It was much more difficult to preserve a large tree. If they go and fill that drip line in the canopy, I will not can it as preservation. You can do a little bit of fill if you use aeration. That site its not the issue. It's cut. Because it's a sloped up hill. Even putting a drive--basically if you move that restaurant back, you will have to move it back at least that far which was probably 34 ft. That was going to save about 1, 2, 3, 4 trees. The large tree up there, it's roots go under that house. When the house was removed they're going to already damage that tree. But the house had to be removed. What I would look at was, can they save those rare and landmark trees. Was there anyway with the site plan that they give us, with the use that they give it, with the buildings they put and the number of parking, if I can come up with a way have them save trees that's what I ask them to do. I don't ask them to save one tree in the middle of a parking lot. Because you never give them enough room and it was suffocated by the asphalt. I ask them to save trees in groupings. So when I looked at that site I said it can't be done. That's when they came to me and said they're willing to by an additional lot to get the canopy covered. They can save all those trees in a grouping. Those trees they're providing some better benefits to wildlife and things like that. There was a better chance that those trees will survive. If they like try to pick around one tree here and one tree there I'm not going to guarantee that they can save those trees. I think they've got to be careful here. If they start asking the developer to spend extra money, I mean you're talking big extra money, in construction costs to build retaining walls, to do aeration systems, to do different construction methods to save trees, if you don't do it right they're all just going to sit there with some shape lot to try to work around a tree and watch that tree die in five years. To me that was extremely irresponsible. So that's why I made my recommendation. I know how to grade a site. I know what the constraints of that site were. And I know what they they're asking. The only way to get that to work on the site unless they're going to the extent of really moving it way to the back of the lot you got to really balance what they're they saving and what they're they giving up then. They're they saving 2 or 3 trees and giving up 10%. You see what I'm saying. You've got to balance what you're saving and what you're losing. The only way I saw to really do it was to really effect the density of that site. And I'm not the person to make that call. I don't believe that ordinance was created to

control density. If it was I would like to know that because it would make my decision a lot easier. I think they have to be very careful and I, absolutely, am against saving a tree half way. Just by not cutting it down and working around it maybe they can save it. I'm definitely against that if they're giving up canopy that I know they can save. And I do not want to expect a developer to spend \$5,000, \$10,000 more on a retaining wall and watch that tree die.

Alderman Davis thanked Ms. Hesse.

The mayor ask for any comments from the public.

George Weiss, 1614 Swinger Lane, stated I've a general concern here. There's a piece of property someone will buy it to develop a particular thing. It would seem to me that person should know—I mean they have that piece and they could save trees on it if it was a different kind of development. That was the kind of thing that I think they ought to be concerned with. Not buy a piece of property and then develop and put something on it that will require taking down all of the trees. That particular piece of property could probably have been if you didn't have a big parking lot and you had some smaller business that required a smaller parking lot you would have preserved a lot more trees. That was what I think in general the City ought to be thinking and the developers would be thinking about. They should know right from the beginning that was a piece of property they want to save so much and if they can do it they don't buy it, they don't build. Thank you.

Barbara Moorman, 3450 Finger Road, stated I was going to start out by saying pretty much what George just said. You look at the lot, it's narrow, its steep, its covered with trees. Some of them they're really old. You look at that lot and you don't decide that you they're going to go in with a project that's going to wipe out everything that's there. It's going to require grading. It's going to have to turned sideways cause the lot's so narrow and it's going to require cutting out all the trees. I think that when our tree ordinance says a lot had to be reasonably developed I do not think it's the correct interpretation of that phrase that it had to developed with the specific proposal that a perspective buyer comes up with. I think there had to be some examination of that wording and some serious examination. You have setbacks and other restrictions. You know if somebody comes in on a lot let's say that 150 x 150 and they want to put down a building that's exactly that size they can't do it. And I think that you ought to interpret your tree ordinance with the same seriousness that you interpret space and arrangement ordinances. I also want to point out that in that Bill of Assurance which was offered by the owner in exchange for the C-2 zoning and the other lots as they'll that they're given a C-2 zoning in exchange for Bills of Assurance. There must of been some sense the city planner at the time was John Merrill, there must of been some sense that something C-2 worthy could be done on those sites and still save a minimum of 50% of the trees. So I don't think that C-2 and saving some of those trees they're mutually exclusive. But there they're some other things that haven't been mentioned and you really have kind of talked about that. I think that that particular plan was not really a question of what our ordinance calls for. Which was either preservation or replacement. That was—since that was another lot that bought to satisfy the

requirements, that was really off-site mitigation. The applicants they're being all they needed to save it's trees on it's second lot to compensate for the trees being cut on the C-2 lot.

Mayor Coody stated to Ms. Morman she had about another half minute, sorry.

Ms. Morman replied I'm sorry.

Mayor Coody stated she had about another half minute and he's sorry.

Ms. Morman stated, okay then, let's talk about your tree easement. I don't think that an impound forest was going to be maintainable. I think the first thing that was going to happen it was going to become a nuisance. Or at least it's going to be called a nuisance. You're going to have people hanging out there. You're going to have trash collecting. You've got to have a management plan. If you're going to do that thing, then you've got have a management plan or a court was to strike down that easement saying that it's a nuisance and it's not appropriate. I've got a conservation easement on my property. I've been studying them for 10 years. I can tell you they can disappear just like those bills of assurance. Thank you.

Mr. Gary Lowery stated I'm going to go a different track. I've been listening to our city attorney and I've been listening to our city planner over here. They they're talking about Bills of Assurances. They're talking about lot splits. They're talking about recording of documents. They're talking about getting things taken care of. While I'm quite sure I heard Tim Conklin say that that lot split was not recorded.

Tim Conklin stated the lot split was approved, but they have not come in and had the deed stamped to be recorded.

Mr. Lowery stated okay. So then in other words, it was still one lot. So now they're back to square one. They still have one lot and don't they have a certain amount of time to make that lot split legal by taking it to the county clerk and recording it. Wasn't there a set time?

Conklin stated that they do not give a set time. They grant approval and if they decide not to split the property they never see them again.

Mr. Lowery stated I think that's one thing the City ought to maybe do was give it a set time. Anytime somebody comes in and wants to split a lot, that lot split should be recorded within a certain period of time or that lot split becomes null and void. There's number one. Number two, Kit Williams referred to Bill of Assurances. His predecessor can tell you that Bill of Assurances they're not worth the paper they they're written on unless its recorded. The City had had a bad practice in the past of not recording its Bill of Assurances. As a matter of fact it's continuing that practice. They need to record every legal document whether it be an easement, a bill of assurance, or lot split.

These things need to be recorded so they they're enforceable. The judge saw fit to turn out the bill of assurances and said not that the Architectural Landscape Committee had decided that that was the way to go. But unless you have an easement dedication and filed as in any type of property when you have plat map that's filed with the county recorder. Any document or contract, that's filed with the county recorder's office. These things need to be recorded. I don't see any problem with the property. I don't see any problem with going ahead with the design and layout on it. And I'm in support of it. Thank you.

Mr. Bob Hill stated I'm with the Nickel-Hill Group. I represent the owner of that property. And know that have been a lengthy process so I'm going to cut there some of my speech. They already covered a lot of it. I want to talk about something that they don't often talk about in that room. I think it was something that's very important and that's about people that they're involved. They have rules and regulations that they have to live by and that they're good that they have those. I think that they sometimes forget about the people side of these issue. The applicants, I guess I'm also speaking on behalf of them, have complied with all the city's requirements that you all have acknowledged. They've worked for over 13 months to do that. Agreed to pay an additional price to buy the additional land back there which was, they keep talking about separate lots, but it really wasn't. I'm the real estate person involved in that. They got the lot approval but never did it. So they agreed to buy that in order to comply with the canopy. They've gone above and beyond the call of duty to do what they need to do. To fulfill the requirements of not only the planning office but also with the tree and landscaping administrator. Sometime I think that out thoughts in here they're always that developer or something was involved in a project like that. And there's no developer here. There's a landowner who was a resident of the City of Fayetteville that's been here. The owner of that property has lived on that site. She lived there with her husband for over 40 years. And when he passed away, she still lived there til about 12 months ago and moved into the City Hospital. She was a resident. She's lived here forever. She was a school teacher here. The applicants here that want to buy the property they're city residents too and have been for a long time. They have a fine restaurant and want to relocate it down to that site. And I think it would be a great addition to that part of town. There they're trees, there's no question about that. But that's what our city's tree ordinance and landscaping ordinance was all about. It allows people who want to build something the right to mitigate those trees and do something else and that's what they've done by buying the additional land back there. There's always an issue of you can have one tract of land that had no trees on it and another tract that's full of trees. How do you treat those two things? I'm sure that the owner of that property, Fay Sutherland, I'm sure that her and her husband never had a conversation 30 or 40 years ago like Fay maybe they ought to cut some of those trees down. Because when you're 92 years old the city might not let you build something there because there's too many trees. You won't be able to sell your land and so now she was sitting in City Hospital worried about whether or not she can pay her bills or not. I don't think that's right. They didn't make a conscious decision to save the trees or to cut them down. They didn't clear the land to raise crops or grow livestock so they just let the trees go.

Mayor Coody stated Mr. Hill I'm sorry time's up. Go ahead though and finish up.

Mr. Hill stated he had basically made his point. People, there they're property rights involved in that and I think you they're diminishing the property rights of the owner and diminishing the property rights of the applicant also if you appeal of the decision of the Planning Commission.

Ms. Hesse stated I would just like to respond to some of the comments. A real important issue was hit on. And that was you know to what extent do they effect the development's proposed use and the proposed development. How do you interpret the ordinance. You know what was reasonably developed. Last Monday, they were in front of the Planning Commission, again, talking tree preservation. It was interesting because someone in the public brought a letter that was written by the Sierra Club back when the ordinance was being written. There were several comments as to how they felt the ordinance-what the intent behind the ordinance was. I probably don't have enough copies here but I'm going to pass that around. The part that was circle was what I want you to look at. And I'll read that. "They propose the following sentence to be added. For the purposes of that paragraph the tree necessary to meeting the requirement of the canopy must be preserved unless doing so would a) result in the violation of local, state and federal law; or b) render the property undevelopable for the applicant's state purposes." They intended for us to allow a stated purpose. To work and try to come up with a way to design the site in a tree friendly way. They didn't ask us to dictate what should be on that property. They didn't ask us to approve or disapprove what's being proposed. Now that was the intent back then. That the intent of the Sierra Club. That was the main question that they have still struggling with in our Ordinance Review Committee. To what extent can they control what's being proposed on a site. I would love for that answer--love for you to vote on answer like that. But nobody wants to do that. That's the big question. That's all I wanted to say.

They mayor asked for any other comments or questions from the public.

Mr. David Garcia stated I live at 120 North Block in Fayetteville. I think that that discussion was heading at a much deeper issue. And I'm not sure how they as a city can address. And that's how they can reconcile what would appear to be conflicting interests. The interests of people who want to develop on new property and new commercial developments. The interests of people who want to preserve the quality of life that they see in that area. People that they're very committed to saving every possible tree. People that they're committed to as much business expansion as they can have. And until they they're able to bring all those different people to the table to sit down together and begin talking out some come answer as to how proceed I think they they're going to proceed to continue these kind of conflicts. I know speaking for one point of view those who they're against the CMN development I know that a lot of the concern that our voices, our interest they're not being heard by the city. Now I hear a lot from the development community. A concern that their voices and their interests they're not being heard. I just want to say that I think at some point they need to work someway to bring all the different voices to the table. All of them to sit down together and to

begin to work that out. If you don't do that than they will have these battles on every lot, on every large scale development, over every tree in the city of Fayetteville. But I don't think they need to have those so I think there was a better way to go which was let's start bring the development community together with the environmentalist community to sit down and talk to each other about what was reasonable development. What was sustainable development. What was it that they can't agree on. And begin to work these conflicts out. I don't know if you all here they're the ones to take the initiative in doing that. I don't know if they as a community need to take the initiative in doing that. But if somebody doesn't do that they they're going to back in these battle over and over again. Thank you.

Alderman Jordan stated yes, the way I see that thing, and they've thrashed that thing around for quite awhile, they have the tree issue, the developmental issue. If our ordinances said that you they're going to save 15% of the trees then that's what they need to say. I think the ordinances need to say what they mean and mean what they say. They don't need to say they'll let's say "you need to save 15% but however unless" then they go through these controversies and conflicts and problems. And I think they need clear cut ordinances in that city that definitely states what needs to be done on a plot of land. If the applicants had known that they need to save 15% on that plot of land to begin with and it was clear cut they probably would have said they'll okay maybe they'll build somewhere else. If it only said that. But it said "unless" so they buy another plot of land and now they they're within the letter of the law. They've not broken any laws or any ordinances. So I think one way they can address a lot of these problems was to have more clear cut ordinances on tree preservation.

Alderman Young stated he agrees with Lioneld. I've been sitting here thinking that that large scale development had really raised some fundamental questions, in my opinion, then CMN Business Park did. There were things—they'll I asked Tim a question and he didn't know whether they could sell that other lot. Those they're the type of things that need to be addressed when they look at the tree ordinance again.

Alderman Jordan stated he agreed. Let's get something black and white that they can go on. That's what I would say.

Alderman Trumbo made a motion to denied the appeal and was seconded by Alderman Davis.

The mayor states the motion was made and seconded. He asks did they just hear the appeal? So there had been

City Attorney interrupted to say I'd like to make one more comment before you vote. Contrary to some indications that Bill of Assurance was actually filed of record in the Circuit Court as it should have been October 4, 1990. And that didn't mean that it was still enforceable. There have been Bill of Assurances that have come through since I've be the city attorney. When they do I'm going to request that certain things be in the Bill of Assurance to make them enforceable by the city. So

hopefully in the future when the city was given on it will actually mean something they can enforce.

Alderman Santos stated he would like to make a comment before they vote too. I'm not going to be able to vote with Trent's motion because I don't believe that—they haven't considered the back lot, they haven't considered the possibilities. Once that back became put the picture the entire picture changed. What was possible before saving landmark trees as the ordinances call for became possible as soon as they decided to purchase that lot. They they're making a decision now that going to be a precedent or that of Sixth Street was developed, as bad as it had already been developed. That was one opportunity to change that. That was one opportunity to take one niche out. That could be the most beautiful restaurant on Sixth Street. It could be more beautiful than any restaurant on 71B. But I'm not gonna have that on my conscious for the rest of my life to drive by and know that I contributed to the destruction of that highway just like many people before me contributed to the destruction of College Avenue and South School.

Mayor Coody stated he was going to speak for just a minute, if I may please. I don't think it's an opportunity to save unique piece of forest there on Sixth Street. It's our last opportunity. And I know that was going to pass. I know that that development will go forward. I can count heads along with everyone else. At the same time I realize that—and I'm grateful – I've been there before and eaten there. It's a good restaurant and I'm proud that they wanting to expand and do some good. I wish that they could find a way to be more innovative in their design as other restaurants have been able to and other business in working around the beautiful assets that are there on a piece of property. And use those as a calling card for customers. There's a lot of the cities have been able to do. If you look at the Burger King site which was exactly right door and you know that those trees spilled over into that lot and you look at what's there now—the Burger King site and you look at what it's going to be—the site next door. You have an absolute spectacular piece of land there and it's going to become just like everything else on Sixth Street. I'm going – I speaking out of school here. I'm not suppose speak at these meetings but I can't help myself on that one particular issue. You have a phenomenally beautiful site and I wish that you would rethink your position voluntarily and may consider a design when you might be able to take advantage of that beauty-unlike-that you're not taking advantage of now. So if you they're willing to look into any kind further design element I would do whatever I can to help getting you in touch with some folks that had backgrounds in doing that kind of work. Maybe they would come to the same conclusion that your current engineers have come to. But I would hope that you can do whatever you can because you have an opportunity to make an oasis on Sixth Street. It would be the only one its kind and our last opportunity to try something like that. If you would consider that I would appreciate it very much. Thank you.

Alderman Zurcher stated I guess I would just second the remarks. They really do have some work to do on our tree ordinance as it stands right now. I think even if that plan falls within the letter of the law I don't feel like it falls within the spirit of the law or at least not what people really want to see in Fayetteville. If you go out there and you'll see what I mean. If you'll look at the development that they've had on College Avenue and on Sixth Street and that kind of strip development. I feel

like people in that city had said they don't really want that kind of development. Now whether these guys should be punished because our ordinance wasn't what it should be I'm not going to argue that. I don't know if that would be fair. I don't believe that our tree ordinance should come down to the judgment of one person. If person says a rare and landmark tree can be saved or not. I don't think it should come down to that. As they're looking at changing our tree ordinance I just hope they can look at these things and make a little bit stronger. I wish you'd go back and look at ways that you could make the frontage a little prettier than what it's going to be.

Mayor Coody asked do you think there was any willingness on your part to maybe retry that and make-and put a little bit more effort in that and try that.

Mr. Fienstein stated just that I think the problem was that they have a visibility issue to where they are at now. They have pear trees that block the facade. You have to get right on the sidewalk to see their current signage. The attraction out at Sixth Street was visibility. That's the whole point of wanting to locate there. If you push them back into the lot and leave the trees up front they might as they'll stay where they they're. I think the issue of preserving the frontage trees and there they're some exemplarily species out there. It just doesn't work in that particular area. I'm a member of the Tree Ordinance Committee. I'm very sensitive to that whole issue as they'll. I've tried my hardest to design our way out of that hole. And I could not come up with a viable solution that was economic that was acceptable to the client and I'm going to have to defer to them to decide whether to direct us further with that. But I think I was mostly responding to your comments Kevin, Mr. Santos, that pushing it back doesn't necessarily get us any where. They still have the same issue of visibility which was the draw to be down on Sixth Avenue. They have Braum's right out front. They have Burger King right out front. To have that facility pushed back there they they're compromising their marketability.

Alderman Santos stated I don't see it that way.

Alderman Jordan asked how big was the sign.

It's 200 ft tall. It's within compliance.

Alderman Zurcher stated he had one other questions he hadn't thought of before. On that back lot they're there any rare and landmark trees? It's just not very clear. What's back there?

Ms. Hesse replied you've got six to eight inches caliper trees.

Alderman Zurcher stated you're argument would be that they can't develop with their intended use because if they pushed back people couldn't see them they'll enough?

Ms. Hesse answered my comment to Mr. Santos about pushing it back a few feet? I mean back into

the back lot here. I couldn't comment on that I haven't worked on it.

Alderman Young stated it's a balancing act between saving a few in the front yeah. But how much square area they're you going to destroy in the back that could be preserved.

Ms. Hesse replied that if they did try to develop the back you would have to more grading which was going to take the solid canopy out. They could either possibly save a few large trees in the front but the point was they would have stay clear of those trees and don't try to fit them into a parking lot or put a drive underneath the. That's want was crazy. That's what doesn't work.

Alderman Zurcher asked if there would be a way to get in behind?

Alderman Reynolds stated I don't think you want a restaurant on that section of Mitchell Street. You need to go out and look at it.

Ms. Hesse stated what I do think was important about the back was that it was residential. Even though they they're putting commercial next to residential. I don't want to lose that site. One good thing about the canopy in the back was that it does provide that buffer.

Alderman Thiel stated one quick question. Were they doing any replacement trees in the front landscaping? Why aren't they doing some.

Ms. Hesse stated that there was a standard commercial design standards and requirements for the parking lot. By our replacement standards if you meet the other landscape requirements you've met the replacement. They have asked for replacement because they have met they've met the 15% minimum actually the 20% minimum. That doesn't come into play because they've met their minimum percent but they do still—they they're still required to put in the two inch caliper trees. I think some of the recent development that comes in represents our current ordinance like the drug store on Township.

Alderman Thiel interrupted by saying that's what I thought. In other words the front will not look like what's there on 62 now. Because they have changed.

Ms. Hesse stated by saying that our ordinance had changed. They have a bigger greenspace requirement between the development and the right of way.

Alderman Thiel asked and there will be some trees planted there, small trees? I personally think that they've met all the ordinances. Everything they've gone up against so far. I think the—I would rather see a large group of the existing trees that will be good in 20, 30 years down the road in behind stay rather than us pushing that back up there and getting closer to a residential area. I'm going to have to support that I think. Particularly in view of our new ordinances pertaining to the right of way

where they have to do some planning on the front.

Alderman Reynolds stated there were liquor stores and filling stations and restaurants and Charlie's Chicken and they've put in some trees out there. How many replacement trees was going to go into parking area for future growth?

Mr. Conklin stated 13 trees.

Alderman Reynolds stated 13 trees in the front parking area.

Mr. Conklin stated to answer Alderman Jordan's question about freestanding sign stands about 15 ft tall.

Mayor Coody stated they have a motion to deny the appeal and a seconded and if so shall motion pass? Upon roll call the appeal was denied with Aldermen Jordan, Zurcher and Santos voting no.

FAYETTEVILLE YOUTH CENTER: An appeal of a Planning Commission decision for Large Scale Development LSD 01-4.00, Fayetteville Youth Center.

Alderman Santos stated they have a preliminary plat here and 80% of that property was in the flood plain. They have property just to the north of it owned by the same person who donated and sold that land. If they could slide that whole thing up just a little bit to the north the development costs would be million and million of dollars less to the citizens of Fayetteville, to the taxpayers of Fayetteville who they're being asked to contribute to that. I would like to get the public behind that project and I think the public would support it a lot more they had a complete accounting of the costs of what the city was going to be asked to contribute. I've heard numbers ranging from on the supporters of the project told me only \$800,000 dollars was being asked from the city. I believe our budget director says that number was more like 4.2 to 4.5 million dollars was going to be asked of the city, of the taxpayers. It's a private development. I've heard a lot about they they're not suppose to ask questions or they they're jeopardizing a grant from the Reynolds Foundation which I understand was the only thing that could jeopardize that grant would be the Boys and Girls Club not raising private funds in addition to the city funds. I don't think that the Reynolds Foundation was interested in the city's contributions. The way I understand the grant, as little as I understand about it, and I am hoping that there they're people here that can tell me more. Was that 1.8 to 2 million that's suppose to be raising privately was what the Reynolds Foundation grant hinges on not the contributions of the city. If they move that lot to the north they could cut the price of that road in half. They could cut water and sewer in half. They do a lot just by moving that site a few feet to the north. The development costs would incredibly cheaper. The internal costs of flood insurance would be eliminated. There was a lot they could do with that. So now I'd just like to ask all the people who they're interested to help me with these questions.

Alderman Trumbo asked Mr. Hill and Mr. Renner, Fayetteville Youth Center representative, to come up and speak. Not to go back in history, ask all the questions which apparently it was said in the paper that they they're told not to ask questions which I've been a part of that group for close to three years now. They've had a number public hearings, open questions, master facilities meetings, consultants engaged, Jackie New, Susan Anders; site selection, going back to over two years ago just on the site selection. The final master facilities plan, just to let everyone know, that was submitted to the Reynolds Foundation for that 9.25 million dollar grant. The trustees after they approve that grant for that grant for that project here in Fayetteville based on that site that was presented to the Reynolds Foundation said that that would now be a model master facility plan for all future projects before the Reynolds Foundation for other funding. So I think that in terms of the professionalism the amount of time, effort, diligences, public hearings, comments, input. They've gone through all these processes and had all these on various different sites and so Mr. Hill, I think Mr. Santos they've had bunch of questions that people ask. Its like the subchairman of water and sewer. They've had meetings for four years. I just did a survey and 80% of the people I don't know anything about it. I think it's the same thing. They've had a lot of public hearings. They've advertised them. A lot of people seem to busy in their own lives and then when something was decided upon they want to get involved with the process. Whatever questions you have that's what they they're going to do was just answer questions anyone might have up here.

Mr. Mike Hill introduced himself and stated he wanted to start with the question first start about the flood plains. He stated he was not qualified to answer and deferred to the professionals and let them give some background. Then they would get into the the areas of the grant application and processes. He thought the first issue was to address that.

Mr. Mike Anderson, Engineering Design Associates, and your comment about the percentage of the floodway/flood plain I don't know if that's exact or not. But I might would agree that 80%. There was actually three lots involved. There's a lot that's already donated to the city, the parks department. Then there was two other lots that they're on a lot split. The part that the Boys and Girls will actually have ownership of had very little floodway/flood plain on it. But there was bisecting the property coming from the east and to the south and the west was floodway/flood plain. I'm not for sure what point that came into the FEMA map or the firm map. I guess that was during the last revision that happen in the city. I think that possibly during the site selection process they Why aren't even aware of that. Anyway there was a floodway/flood plain through the property. They have began application with the Corp of Engineers to look at what they have to do to develop. There was a 404 permit. One of the things that the Corp of Engineers had already stated was that that stream was ephemeral. For those of you who don't know much of what I am talking about its basically the headwaters of Owl Creek. When you say that its ephemeral it means that it's a stream that's there part of the year. Basically intermittent stream. In our design process one of the things that they they're looking at doing was relocation and rechannelization of a portion of that stream as it was on our property. I think there was a comment about flood insurance. What they propose to do and which will take a conditional lateral map revision and a lateral map revision and to revision

the firm map. What they they're purposing to do was re-route that channel, move the channel to the south side of the property. And in that channel location they will put both the floodway and the flood plain with the channel banks. So that the property--basically that would be on all city property. I think that part of it was on the existing park property and then there was another track of land that had been proposed to be dedicated to the city as parks department facility. The relocation will happen on the city property. The benefit of that would be that the property that the building that the Boys and Girls Club sits on would not have a floodway/flood plain on it. Thus it wouldn't be required to have any flood insurance. One of the things when they thinned to the Planning Commission, and you may have seen that, one of the comments from the Planning Commission was that they make the stream more natural. And through our conversation with the Corp of Engineers that was one their comments also. So they have been working on making the stream more natural. Working on the wetlands and I don't remember if you mentioned the the wetlands or not Mr. Santos. There was also some the wetlands on the property. There was .1 acre of the wetlands that had been designated. It's a low quality the wetlands. It's primarily a result of the high water table there. Its not an area that you would find wood ducks in or water wildlife. Its basically pastoral the wetlands. Part of what they they're proposing also was the wetland mitigation with the Corp of Engineers. Re-establishing the wetlands in the new channel relocation. If they do some mitigation that help, you might not agree with mitigation, they think that could produce a higher quality the wetland in the channel relocation then what's existing on there and meet the Corp of Engineers.

Alderman Trumbo asked correct me if I am wrong with my math, Mr. Santos was saying that the extra millions of dollars by not moving it north, of course your looking at the cost of Ruppel Road all the way down to the water and sewer extension on the links. It was my understanding even with the low lying land and your building cost, you they're looking at about \$90 a square foot for taking that into consideration.

Mr. Anderson stated he didn't know about the square foot but from a civil aspect move that out the only thing you get rid of the floodway/flood plain. That would be the issue you wouldn't be dealing but as far as the buildability of the soils I think would encounter the same conditions north.

Mr. Hill stated the new proposed library was a very difficult site. That's \$150 per square foot. The senior center being built. That's \$145 per square foot. That just kind of puts that into perspective that that was 90 bucks per square foot. Take into consideration the low lying land that you they're going to be dealing with. Ruppel Road was on the Master Street Plans being a minor arterial anyway for a four lane and had been on the Master Street Plan for a number of years. I guess to get back on, the extension of water and sewer was \$124,000. The system and the building costs was \$395,000. The Street Committee that Mr. Davis was chair of talked about that April 10th and it was \$583,000 and parking lot facilities was \$300,000. They had a resolution of intention on the two mils for two years which really doesn't come up until next October. To address just the figures that Mayor Hanna and his administration, Mr. Venable, and the Youth Center going back to the last two years, those

they're the figures in that year's annual budget. It's already been approved by that City Council of the \$124,000 to extend the water and sewer project and to assist in the building costs of \$395,000. That's already in that year's budget. You voted on it.

Alderman Davis stated one thing they found out last help in the Street Committee was that supposedly the engineer had done an estimate on making a four lane road along with the water line, sewer line going back. I believe that estimate was roughly about \$865,000. I brought up in that meeting about possibly working some type of cost share with the developer out there. What I understood from other individuals that help that was a possibility. There's advantageous for all individuals if they go ahead at that point and time with the road with a cost share with the developer. It would be less expense for that individual to do it now verse waiting five, six, seven years down the road. So that may somehow cut back some of our costs. Whether they do that or not they they're looking as Mr Bunn brought forward last help roughly \$583,000 just for a two lane road out there. Then you they're still looking at \$124,000 just for the water and sewer condition. So you down considerably with what they originally thought the first estimate was of a \$1,000,000.

Alderman Trumbo stated getting back to that project, Mr. Hill, looking at the new public library that's 100% taxpayer project. They haven't raised any private funds or if they have it really hadn't percentage was. The Senior Center they couldn't raise a penny for 10 years. That's 100% taxpayer supported project. That in my opinion 18 cents on the dollar at the most a taxpayer funded project with the 9.25 you've already raised \$350,000 in private donations. To give an example, the Senior Center they couldn't raise any money forever because the city never made a commitment to do the streets, hook them up, do some of the construction. They passed the millage for the Senior Center. Boom Pat and Ward Walker would write a check for a quarter of million dollars two them. They've also raised another \$250,000 so I think that in terms of the fund raising, and Mr. Hill and Mr. Renner will address that. It really hurts when you talk to the Tyson Family Foundation, the Walton Family Foundation, quite a few foundations that they're not willing to contribute to that because even in the other perceptions of the other foundations that they're with that grant. There seems to be not the commitment to that project by the City Council and staff and city as was needed before you'll start getting all the private donations. Obviously they just saw that happen at the Senior Center. They never got any money until they started the construction and the millage for fund raising efforts.

Mr. Hill stated they they're in the process with the hired professionals that they they're dealing with on that fund raising unfortunately had been called process. For those of you who have not been haven't been involved with it. They're a little less experienced with it. It's been a slow process for us. Right now in the last couple of them have gotten the final print documents in those kind of issue that they they're going to start putting together the so called private phase of your fund raising. Where you visited with certain donors and so forth and then hopefully in a certain point in time later take it public. Prior to that they asked our directors to make a commitment to help us with that as they they're doing that. That was a long answer to that question you they're asking. To date they have about \$125,000 pledge from our board of directors. They have actually had so total its

\$150,000 because they have another contributor that was outside of the Board that had made a contribution so far. And they also have an endowment that was in place at the Youth Center in the tune of about \$250,000. So as they start that process they basically they're looking today I guess was \$400,000 number that was generated internally through the endowment that they already had as they'll as the pledges the board members have made. So rather than me start a process of going I think I'll just answer questions. I think that will be a lot easier.

Alderman Trumbo stated the worse case scenario was that you get the 9.25 they kick in, the 1.5 million for roads, water and sewer, and building they verbally committed to and budgetary they committed to half million, if you can't raise that other 1.8 million. If the millage doesn't formally pass in October and you don't raise 1.8 million, what happens?

Mr. Hill stated they had a time frame. In our grant application as they'll as the grant agreement. They have a time frame that had be completed in 2003 in August. That was the date of the agreement. So basically speaking they do have a ticking clock. Unlike most of their application or most of their grants what they have done in the past they have gone ahead and let a process begin, construction start, and that you have to have your 20% maintenance fund, funded before you get the keys to the building. That's typical how it works. In our case, at the Boys and Girls Club, they did not have a true history of fund raising that would give them the support, or the confidence that that would occur immediately or through process. So as a conservative gesture on their part, they ask that they raise those funds prior to beginning construction. So that was a contingent part of our grant. On the other hand, they have also all they needed us to continue with our engineering and architectural work and have reimbursed those costs. Understanding that they can't wait because there's a process that had to continue. So they've been generous in that. To answer the question about the 1.8, they have to have the 1.8 raise in a period time that allows us to have that building finished within three years.

Mr. Trumbo stated, okay, I think another big point of contention, there's a big controversy about why not at Walker Park Why did you choose that over there. Going back to '88 you had Jeff Koehn, David McClinton, Venable, Grant Johannsen, Mark Paul, Olly Littrell, Howard Hamilton, long time banker; Tim Theybb, investment guy.

Alderman Davis stated he wanted to go back to the numbers. You stated 1.5 million and with what Don Bunn give us last help from the city for two lanes, instead of 1.5 million you they're looking at \$1,200,000.

Mr. Hill replied it had come down.

Alderman Santos stated in the last help they have seen that much progress when the other price came down close to a half million.

Alderman Davis stated it was actually, \$517,000.

Alderman Trumbo stated the master facility plan in the process it thinned through for all the different sites Walker Park came in number 6 by all these professionals. They kicked in some money. The Reynolds Foundation, which was my understanding, was the first time they kicked in that kind of money to have a master facility plan done for a proposal project that was coming to them for appropriation purpose. I don't know if they they're going to read that or not. A lot of people they're making comments apparently never even read that. It just stated all the different sites and the pros and cons of why that site was preferred and picked by the consultant group in the master facility plan. Am I correct? There had been people who said Hayden McIlroy got a free ride and got a special deal and deed the property. None of that ever seen to have happened. And that was something you paid Jackie New, Susan Anders, New Solutions and you thinned through comprehensive public hearings and I thinned to three or four of these hearings. Public input and looking at the pros and cons. They traveled to three or four other sites in the United States to view their Boys and Girls Club. So it thinned to a very lengthy arms length transaction where there couldn't have been any conspiracy of conclusion or kickbacks on any of the site selections as far as I can see.

Mr. Hill stated the process that the Reynolds Foundation requires on any of their applications was that you include a master facility plan, a strategic plan and a institutional development plan. It was my understanding, I was not on the board at the time that they hired New Solutions, Susan Anders and others to do that project. The Reynolds Foundation recommended certain people and they ask for certain professional organizations that could do that kind of service. And then they through an interview process. Picked New Solutions and began the process that you they're seeing. The strategic plan began in August 1998 and then it dovetailed into the master facility plan in the spring of that year with some site visits.

Alderman Trumbo stated but it was the Reynolds Foundation that picked New Solutions. It was down to three or four and you all picked New Solutions. The board of directors hired. The Reynolds Foundation they won't necessarily tell you who to hire. They leave that up to you. You're an independent organization. So they thinned out and interviewed professional organizations that did that type of service. In the event that they may not have experience it was not uncommon to call the staff and say who would you recommend or hey they they're looking that person. Was that someone you can live with. Because obviously since they they're paying and accepting that application they want to make sure the contractor, the architect, everybody they deal with was someone that they recognize can do the job necessary. More or less it was situation of, at least had been since I've been involved that project. Here was someone they they're looking at was there a problem. No, there's not a problem although they still need credentials information.

Mr. Hill stated no, I won't call it veto per say but you know they would strongly discourage if they they're going down the wrong trail. So far its been my experience that the people they have been dealing have all been acceptable.

Alderman Davis thanked Mr. Anderson for doing a good job in explaining the flood plain and the wetlands issue. Those concerns have been addressed in my mind. One question I have was that 90 sq. ft. was that the additional costs for the wetland and flood plain mitigation you have to do. Or was that the cost per sq. ft. of the building itself?

Mr. Hill stated basically the building they they're looking at a number and the range of with improvements and so forth they targeting a number in the range of \$90 to 95. They trying to stay under \$100 per sq. ft. on all the physical plan itself. At that point in time they they're pretty close to that budget. They've had our preliminary cost estimates done and they're within that budget they started with when sent the application to the Reynolds Foundation.

Alderman Davis asked if he knew how much it was going to costs for the channelization.

Mr. Hill stated in their budget they had broad budget number for site improvements as such for the general grading of the site. And for whatever they do for the building the foundation for the building and its my understanding it will come within that budget. They have, I think that number was somewhere between three and four hundred thousand dollars. Its kinda of guess fact on all the site improvements that they're going to occur there. That's your typical earth work and so forth.

Alderman Thiel stated as far costs to the city, she wasn't sure about that. Why aren't there comments from the city or parks to pay for some of the parking lot?

Mr. Hill stated in December the way he understood it was that the Parks and Rec for the year 2001 will have assigned \$395,000 of their parks and rec budget for that project. Its not specifically assigned to any particular phases of the construction. It's just a \$395,000 amount to be used in construction of the facility. They have a \$300,000 commitment to assist in parking lots. At the time that's done which obviously I assume that's going to be 2003. And then the assistance for \$124,000 for sewer and water to that site. So that's the commitment that had been made to us at least in the December City Council meeting. The Board's was a non binding type of vote and that was what happened in December.

Alderman Santos asked to get back to the site selection again. When that thinned through New Solutions, there's been some criticism about they'll its too far west. Kids can't get there from the center of town. They can walk to California Avenue now like they have forever. But all that was addressed and not just population density maps that you can see where kids they're now. The growth and reason why and you've addressed transportation. Yvonne Richardson Center-how they going to get the kids to their after school programs with all the elementary schools. All that had been taken into consideration.

Mr. Hill stated everything in our budget and plans have been put together for additional costs for transportation and all those issue have been addressed in the master facility plan in some form or

fashion. And the major issue that I kept trying to explain to people, that was a 25 year, 50 year, 75 year type decision . So obviously as they all sit here and snapshot today they might think of a different location. The process that created that site was based on, not only the current structure that surrounds that community, but what they expect and I say 50 to 100 years down the road, who knows what's going to happen. Obviously the recommendation, strong recommendation came from the points that they're in the master facility plan all those points of reference they're in there for you. What criteria they used and all those they're taken into consideration.

Alderman Zurcher asked who owns the current Youth Center.

Mr. Hill stated it was his understanding and according the records he had looked at, owned by the schools. Fayetteville public schools. The land not the building.

Alderman Zurcher asked who owned the building.

Mr. Hill stated the building was owned by the Fayetteville Boys and Girls Club. The way the agreement reads, I understand it, was that at anytime that they seize having recreational facilities at that location the building then reverts back to the schools.

Alderman Zurcher asked once that one gets under way you guys will probably just let the school have that.

Mr. Hill stated he had visited with the Parks and Rec Board, they've visited with the schools, the administration at the Fayetteville Public Schools. All up and down the ladder about what options they have for all of us. They started that even before. I had conversations even before they filled out the application in September of 1999. At that time I'm not sure if anybody thought real seriously that they they're going to be fortunate enough to get the grant. So maybe that wasn't something you think very serious about. It was now time to think about it. They've had good conversations and there's lots of good opportunities and they've talked about it right here I guess the first time they presented that. The possibility of a student union expansion as part of a high school program for those kids that you know they're open campus types. Maybe there they're some things they can do there. They've got the big gym downstairs. They can make some bad practice the areas for soccer/baseball pickup sports. The swimming pool there was an issue. They they're visiting the Parks and Rec about what to do about what to do with that. Because obviously the school systems can't afford to maintain that facility. But those services will be at that new facility also. The only thing I can tell you was that the Board voted prior to making our application that they they're to not have duplicity of services at that location and the other location. And the Reynolds Foundation obviously was concerned about those too. Can they afford to carry the cost of both sites. So its our intention to somehow in a nice smooth transition eventually turn those facilities over. And when I say turn those over there some things they can hopefully work out. Schools can't afford to buy our buildings. And they have some agreements that they trade services so forth. They hope they come

out of that thing with a trade for service type thing. And that's just my opinion. Who knows what happens.

Alderman Santos stated something good was gonna happen whether its for the parks department or the schools.

Mr. Hill stated the worse case, the first priority would be the schools and then the parks and rec and the schools. Obviously if they walk out of there and say here was the keys that's what the agreement says. But obviously they want to make sure they have a smooth transition on that whatever happens. They may keep part of some offices or some activities.

Alderman Trumbo stated the Reynolds Foundation representatives they're here and toured all the different various sites.

Mr. Hill stated they they're here during the first application prior to my tenure in 1996 when they made an application for renovation of that site. They came here in 1996 reviewed it, looked around and said that was not where they put our money. That renovation site was poor. There's no parking. That was not a good deal. So they will do, was they will give you \$68,500 to do a long range planning grant. Because they didn't have that money. They just oh here they want to remodel that facility. So they gave us the \$68,500 planning grant and said now go spend a little money and do a long range plan. At that time they knew they had to have those three pieces. Master facility and the one they talked about, the strategic plan. Those costs they're in the neighborhood of about \$100 or \$150, give or take, thousand dollars. They came to the city, asked for some assistance. They gave it out of the Parks and Rec budget and \$79,800 along with the \$62,500 whatever. And with those two funds, they at the Youth Center, spend 15 or 16 of our own money. That pot gave us the master facility plan, the strategic plan, the institutional development plan, paper architectural drawings, got us over the hump and did the site selection. So basically came to us and said guys you got a great idea. You've got great project but that site was not where it should be. Go find something else. They didn't care where and that's obviously why that encouraged us to have a professional process. They had never been through one. Somebody asked the other day if that process was frustrating. Everything had been frustrating. It was just as frustrating for Dale Clark and everyone else in that project from the time they started in 1998 until they got that application submitted. It's a tedious thing no matter what you do.

Alderman Davis stated to Mr. Hill that he wanted to give him a chance to talked about the operation and maintenance endowment that the Reynolds Foundation requires. I know they don't want their buildings to become run down and they have way to prevent it.

Mr. Hill stated the good thing that they do was that. They require 20% of the grant. So obviously in that case was about \$1,850,000. They allow the interest earned on that to sit on that fund to be used to maintain not only the building itself but to keep the equipment new. Computers, anything

that was in that building from the very beginning. If it becomes obsolete or whatever you can actually take the revenue source from that endowment and replace. Obviously in a new construction, you hope to have a contractor's guarantee for a year. And you have to have certain equipment obviously that will last through some kind of warranty period. So you have, in my opinion, you have a year type process or maybe a year and half, that you will be earning interest. So hopefully by the time you even start maintenance you will have a year or so worth of interest built up and you can invade the corpus when you need some major renovation that needs to happen down the road. A new roof in 25 years and those kinds of things. Hopefully the income off of that will let you maintain. If you they're aware of the Youth Center they have now. Its spitting baling wire. There was no funds for repairs and maintenance. They obviously need to spend a lot of money to get that thing up to snuff. And one of the reasons its deteriorated so was that those funds have not been every year just like you would in a real business office. If they they're in a business environment they can't let our properties get to that condition. But unfortunately the money was not there in that kind of organization. The Reynolds people say they want that to be there for you. And that's real great. It's a problem to raise money if you don't have that experience. But at the same time it was a real gift in the sense that once you've accomplished it you can maintain that structure. I can tell you that John Benberg who was the executive director today. Dale Clark or anybody who was around that organization. If I can look at them and say hey guys you got \$150,000 couple years build up, and every year you going to have 6%, take a number, 5%. You they're going to have \$75,000 a year you can use to maintain that facility and replace old computers and chairs, mats, furniture and those kind of things. They're going to look at us and say what a load off my mind.

Alderman Davis stated if you do million eight at 5% you're looking at \$90,000 a year in interest.

Mr. Hill stated he understands. And they understand that. Don't forgot part of that funding was a four year pay out pledge. So they understand that you don't interest stream upfront too. So allow all pledges that they're made within a four year period to count towards your million eight. In reality as part of our campaign goes forward was if a person comes to us and what to pledge \$5,000 for four years, then they actually get credit for \$20,000.

Alderman Trumbo stated I've always had the utmost respect for taxpayers who have questions about taxpayer's money on projects but there was a difference between questions and allegations from people who never when to any of these meetings and saying these things that they're not true and having all that controversy and then feeding them back to Las Vegas where the foundation was and having created that perception that the city was not behind that project. The Reynolds Foundation thinks the city was not behind that project. All that perception in the press seems to devastate your funding raising ability.

Mr. Hill stated they all know that city had had very extreme difficulty raising money. Every major project, the United Way included, that year had fallen short of their goals. It's difficult. The Reynolds Foundation people they're smart enough to understand that. You also have to understand

the point that I keep trying to make to a lot of people. Was that when they put that project the numbers may be off but it was pretty close. Five to six thousand applicants filled out forms for that grant in 1999. From the time it was sent out in September until it was finally awarded in August. Just about a year process. But 5 to 6,000 submitted. They honed it down to about 50 or 60 by February. They honed it down to 30 or 40 sites visits. And then from that they take 15 or 20. Then from that, at least during our process, our year, they only awarded 7 grants. Some of the conversations with the people at the application process was exactly like you're saying Trent. Was that it was a community supported project and its viable. Those issue they're critical to their decision making process. I can guarantee you that there was a many good applications as ours that was laying there in front them. In fact I think there they're 3 of 4 boys and girls club applicants that made it to the final 15 or 16 site selections.

Alderman Santos stated hopefully after they get everything out in open and on the table and everything was answered, all the questions, they all feel good about that. They hope that a resolution of support from the City Council and Mayor, if that's the will of the governing body, can come forth just as a show of support for the project at the site. Just so it will clear the air from all the perceptions that they're out there, all to Las Vegas to Fayetteville.

Mr. Hill stated Mrs. Santos, I want to give you little more information about numbers just to help you a little bit. I know that was confusing. I'm a CPA by background so that was real easy for me to understand these numbers. But when you hear a number batted around like 15 million dollar project, the project itself was a or what they they're trying to raise was \$15,200,000. Of that number, two million was a operation endowment which they hope that can help us with scholarships, things that they're necessary keep that thing running. They obviously have a working agreement with the city, should I say fixed or operated source of funds from the city. I am going to say around \$250,000 a year with no increases for cost of living, inflation and so forth in the future. So what happens was, they they're they'll aware that they need to be, they need to create a source of income outside of asking the city for the funding they giving us. Our current budget was a little over \$1,150,000. The city was providing about \$160. The city only funding about 20 or 25% of our budget. So what they do have going forward was of the \$15million, two was an operational endowment. That's a wish last. So don't get me wrong. It's not a required funding. It's something they need. So in reality my needs they're 13.2. That's the building and the 1.850. Let's go back to the 15,200,000. The city's commitment of 819 plus 2 million, that's the millage number they want to pick out. I'm using a round number now. That represents 19% of the project. Even if you take and forgot the 2 million that happens from the endowment and go back to the 13.2, you numbers they're still in the 23 or 24%. In other words no city funds they're requested for that. Throw in the streets, pick up 500, 600, pick a number, its still less than 30%. So yes, they need the city but that number was probably as I look it 25 to 30 cents. Would you give me 25 or 30 cents for a buck?

Alderman Santos stated that brings up another question. They will have any trouble with an absorbent was in the membership fee. Its real hard for me to appeal that. I'm a Youth Center

member. I have little kids and I live that ward. I don't think that any of the rest of you can say that. You say membership was very reasonable now. Will they be able to keep it.

Mr. Hill stated they've been going through that process and its been killing us. Because they they're trying to keep our memberships as inexpensive as possible. But they have to face reality. Right now in that facility you see. Last month our gas bill was \$6900. They have a budget of \$1100 for gas. Where was the \$5,000 extra money coming from? It can only come through membership. What I charge for my services. Or somebody gives me some money. There was no other, I don't do any of those kind of things to raise it. So what happens was, as they go forward with that new facility, they they're very cogitative that these things they're going to happen. They hope that these one of kind type facility will increase our membership to the point that they do have people that they're coming and either using our services for, I'm just going to throw something out, like a corporate retreat or something. There was daylight hours that facility was going to be available. So that there can be new ways to earn revenue to provide the services that hopefully if they could ever get that thing down to a very minimal dollar amount. But back to your point. They charge \$30 a year today. And I think its \$80 for family. They our to the Las Vegas Boys and Girls Club. They gave them \$4,000,000 last year so they thinned out and looked that facility. The people on the Board tease me because I'm kind of a meat, a cost kind of person. If I've got costs I've got to find revenue to match. If I don't I'm in trouble. They go out there. They've been having discussion about that issue. The first thing I ask was how much do you charge for membership for your constituency? That was a Boys and Girls Club, a national affiliation, \$30 a child. What do get for family? They don't have family. So if there was five kids in the family its 200 bucks. And I'm telling you that facility was a great facility out there. It doesn't offer any sports programs. I mean outside. It's a self-contained building. There they're some issue and I know that was going to be a tough one. And they don't know exactly what those things they're. But where they have a conceptive effort to raise money in the corporate world if that's the right word. Additional funding raising opportunities that they have and then also can have an operational endowment to defer that. Our budget was \$300,000 to \$400,000 more at the new facility than at the current facility. Given that you can think of a 30% raise in fees. But that was a misnomer. You know because who knows how its going to work out. They they're very conscious of those issue and that's the importance of handling that \$2 million operational grant, I mean operational endowment was to help offset some of those things. So I'm as concerned about it. The Board was as concerned about it. But practically speaking they have to somewhere have revenues to support. The problem at the center they have right now was I don't know how many of you have been there. If you don't have a child playing basketball or you don't have a child playing softball. You probably have never grace the doors of that building in the last 5 or 10 years. I've got people talking about that facility like it was 1965. I lived next door to that facility when I was 7th grade. I used to walk to Hillcrest. I date myself. But I used to walk to Hillcrest. It was wonderful. There was people all up and down the streets there. I knew everybody on the street. They'll its not that way any more. There's student housing. Its rental. You can just go down that facility. So what happens those they're issue they they're all concerned about. I think what the public in general, the older public, as I say myself included in that, if I had no children I

wouldn't be down there. So obviously there was a lot of people. I was completely—I moved out of Fayetteville for 18 years. Moved back in 1995. Joined the Board in '99, walked in that facility and could not believe it.

Alderman Santos stated it looked just like it did when you left.

Mr. Hill answer No! It was better when I left.

Alderman Santos stated that helps explain the site selection a little bit more. You're casting a wider net for a great membership basis because that's what was going to be required to kept the membership rates lower. And so that site, the place by the by-pass makes a lot more sense if you they're going outside the City of Fayetteville.

Mr. Hill stated they have got to have a larger membership base. I think that was to make it accessible. The people on the eastside said it should be on the eastside because that's where lots more children they're. The people in the south part of Fayetteville, north part. Those people took that into consideration. Access for everyone. I mean as they'll as the concerns they have for our existing constituency. South Fayetteville doesn't have a monopoly on under privileged children. There they're as many on the west, I say as many. There they're underprivileged children all over the community. So they they're concerned about that issue and reach out with our S.C. programs at our elementary schools as they'll as concerning ourselves with increasing our transportation budget.

Alderman stated coming from his neighborhood it was going to be a whole easier to get to the new one than it was to the old. I only have to hit three stop lights.

Mr. Hill stated he had people right now talking about going down to Walker Park as example down 265. If you've ever got a truck flipped over down there. How do you get there. It's difficult from the eastside. So those issue, I'm not here to argue one side over another because somebody could pick another side over Walker Park. All I am here to do was say that the professional people that did their job in the time frame that was necessary and they presented that to us. They as a Board took that recommendation to hear and vote for that location.

Alderman Davis stated that when John Denver was here in December they asked him about scholarships for those children that they're needy. And he guaranteed us that they would continue to have scholarships for children and family that cannot participate without the program. So they need to remember those scholarships they're available to those children who they're in need.

Alderman Jordan stated he wanted to ask John something. On the scholarship program how much, they're you going to increase that? I have to disagree with you. I think the south side had a lot of low income children. My concern was, was the scholarship program under the new youth center,

was it going to be expanded and how much more was going to be expanded from what you they're presently doing at the old youth center. I mean do you have those numbers?

John answer he couldn't give him specifics but they they're going to have some scholarships available in the new facility verses where they they're now. My viewpoint on our scholarship mechanism was when a family or individual comes to us and they sit down that individual and go through the very sensitive but necessary series of questions to qualify them for a scholarship they they're in. Mike diluted to it and I'll say specifically. I think our Board had tremendous and specific commitment to making sure that individuals don't get turned away whether it's a kid or whether it's a family or whatever. I think that clearly will continue to apply. I'm not going to try to project an exact number for you. I think I'd be getting ahead of myself.

Alderman Jordan stated he wanted the Youth Center to keep in mind those low income children for sure. Because that's our future.

Mr. Hill stated absolutely. Without question.

Alderman Thiel stated she thought it was real important. I think that the scholarships, the rates, rate increases, all these concerns haven't got a thing to do with that site. They have to do with a new facility and whether or not its going to be basically pay for itself. I think the issue here tonight had nothing to do with some of those questions. I mean they they're talking about that site. Wasn't that. She was quite satisfied with the channelization they they're going to do. And that would my biggest problem with that site was the fact that it was in a floodway and flood plain. Since that's been addressed I think there was a lot of movement to that area of young people. I think that John Goddard had created a map that shows that there's a large population of people in that area. So you know I personally tend to agree with Trent that they need to basically as a council adopt a resolution to support that and go forward with it or stop it here tonight. One or the other. But that halfway movement from our city and the council was not doing them any good as far as raising future funding.

Alderman Zurcher asked where do you think that comes from? I guess my question for Alderman Trumbo was why do you think there was a perception or there was perception out there that people Why aren't really all they needed to questions about that project.

Alderman Trumbo stated he would say that it would be the same when Alderman Schaper was chairman of water and sewer. They had a meetings on the water and sewer thing for four years and just got survey saying 80% of the people don't know anything it. They've been having that meetings for year and half and people just don't take time out of their schedules to come to these meetings and then the decision was made and then they they're mad.

Alderman Zurcher stated you don't think it was the little press ambush that you had anything to do

with it.

Alderman Trumbo stated he didn't know because he thought a lot of people don't go to the public meetings and I think that it was the perception of the Freedom of Information Act and a closed meeting and wanting to change something you don't really know or realize that you really can't change or that it might jeopardize something. You're just doing something for the good of the city you think. And it turns out to be different than what's actually going on. So I think that the press really had a nice subscription increase throughout that episode

Alderman Santos stated that he was glad that asked for that appeal because he thought it was the best public discussion they've heard about that. I think they've had a lot of questions answered. I think that was going to increase support for the Youth Center in the public's mind and in the Council's mind. I liked to withdraw my appeal, if that's appropriate to do at that time.

Citizen says objection Mayor what about public input.

Alderman Santos then states he'll take it back and wait for public input and asks the city attorney if he do that.

Mr. Williams stated he can probably that and he can certainly withdraw it himself.

Alderman Zurcher stated he thought it was a good project and was good thing. One thing that had been brought up to him several times that the fact until recently you guys didn't FOI when you have your Board meetings the press wasn't there. I understand that's been changed since. Was that true. And you know that was a concern for a lot my constituents just because there was so much city money at stake. I understand that law can be very grey and a lot of people don't realize when they should be notifying the press and when they don't need to. But I'm particularly glad that you guys they're doing that with your meetings.

Mr. Hill stated that if anyone had questions, its not like they don't have the opportunity to answer them. You call down at the Youth Center you may grab a staff person that may not have a whole lot. But he or she can sure find a Board person to get back with you. That perception I'm confused about issue to.

Alderman Davis to Zurcher stated that as he recalled they they're not aware that they needed to call anybody. So that happens in a lot of different committees and meeting. People Why aren't aware that that applies.

Alderman Thrumbo stated just to get back real quick and they'll get back to the ambush thing. The way the Reynolds Foundation works, 7 out of 3,000 they're actually funded. I think that was the numbers in the ballpark. Once you're funded, and here's the criteria, if you just wanted to come and

say would you just please give us another year to consider another site because there some controversy here in that town about where it was going. They've got to start the whole process all over again.

Alderman Santos stated the only thing the heard from the Foundation was what was quoted by a newspaper reporter who reached a spokesman because the Board they're suppose not make comments to the press and the public. Was that they would consider any site changes they wanted to suggest.

Alderman Thrombi stated if you wanted to go through the whole process again.

Alderman Santos stated it didn't say that.

Alderman Young stated he'd like to hear from the public.

Mayor Coody stated if people want to speak if you could start cuing up back here so they can save some time, I'd appreciate that. I would ask and remind folks to keep their comments brief please.

Ms. Kay Duval, 1138 East Wood, Ward 1, stated I realize that the location probably was set and would not want to do anything to jeopardize the Reynolds grant. I think that's wonderful. I've known for a long time that the Youth Center needs to be relocated because was land locked when our children they're going there and couldn't expand. I suppose mind was more of philosophical objection. I just want say that as a educator I'm a strong proponent of family participation of the education of our young people. I feel that same participation was important in the extracurricular aspect of the lives of our youths. Recently the Fayetteville City Council appointed me as a member of the Juvenile Concerns Committee, renamed the Youth Advocacy Committee. If--and that was a big if I had been privy to the earlier search procedure for location for the new Boys and Girls Club, I would have voted for a place more centrally located then on the outer limits of the city. Specifically, I would have wanted a place with these aspects. One that was within walking or biking distance of a large segment of our population. Many of them whom have reduced financial resources and the attended transportation difficulties. One that was within easy driving distance for most of the other Fayetteville youth both for their parents and for busing thereby saving on high energy consumption and expenses. Especially at a time when they should be setting examples of stewardship of our remaining fossil fuels. One that was already developed with streets, drainage, sidewalks thereby saving our citizenry on the outlay of public funds. One that provides space for youth and family activities making safety issue easier to monitor. One that provides an esthetically pleasing atmosphere that's beautiful and peaceful. And finally as you probably see where I'm headed here. I think Walker Park had all of these aspects plus the added benefit of proximity to our Senior Citizens Center. Thereby providing healthy intergenerational opportunities for participants of the two centers. The was of our elderly citizenry joined with the energy and enthusiasm of our youth could forge a strong mutually beneficial bond encompassing Fayetteville's entire generational

rage. Again I say IF I had been involved with the site selection as a member of Fayetteville's Youth Advocacy Committee I would have wanted to look for more central location with an eye specifically toward Walker Park. And even at that late date if there was a possibility that that or some youth facility can be developed there I would appreciate your consideration. Thank you very much.

The mayor thanked Ms. DuVal.

Ms. Pat Beason 15 NW Avenue, stated my daughter's membership just expired. She had been a member for two years and I have been in the Youth Center several times in the last 15 years or so. I'm really socked to see that the new location or planned location was west of the bypass. I object to that. I can't imagine all the busing that's going to have to be done. I know that when my daughter was attending Washington Elementary a bus would pick kids up and drive them to the Youth Center. The thought of all those kids having to go all the way across town I really don't like that. That center was being built in a place where because of the bypass not one person not one child east of the bypass-to me it would be a physical impossibility to either walk or bike to new location. I just don't see how a child could ride a bicycle across the bypass or walk the distance. Also the beside the danger its very far away. I've talked to many friends and people that I work with and just asked them without telling them my own view what they think about that location. Not one person had said oh that's great. Or that's going to be really nice. Every single parent that I've talked to objected so that going to be a hard sell to the general public. All the optimism I'm hearing tonight sounds good and its reassuring me. I'm feeling a little better about that but its not what-its coming from you guys. Its not coming from parents. Its not coming from the people that I know and that I have spoken to. It's a little scary to me that all the planning had resulted. On one hand I think there was all that planning, all that professionalism that should make me feel better. On the other hand it's a little bit scary to think that that planning had resulted in what a lot of people think was a big mistake. Thank you.

The mayor thank her.

Mr. Jeff Erf, 2711 Radcliff Rd., stated just one quick question and it relates to the city's involvement in the site selection process. I guess, my question was for one of members of the Youth Center Board.. Was the city's planning division or park and rec division involved in the site selection process.

Mr. Conklin stated the Planning Division was not.

Alderman Thiel stated she was on the Parks Board at the time and they they're not part of it. They did have Tom Stockland, actually Mike. O.E. Luttrell and Tom Stockland they're on there.

Mr. Erf stated he question was if they they're involved in the process did it come back to the Parks Board? Was the Parks Board as a whole group involved?

Alderman Thiel stated no.

Alderman Trumbo stated it had to come back to Parks for the greenspace dedication for that piece of property for the proposed project. I mean the Board had to vote on that to accept that property.

Alderman Thiel stated they voted. You mean the first parcel or the last parcel.

Alderman Trumbo stated it then goes to the Parks Board for the greenspace dedication for the Boys and Girls Club project. That was over a year ago.

Alderman Thiel stated for the first two little parcel he was right.

Alderman Trumbo stated it obviously talked the Boys and Girls Club over a year ago on that site.

Alderman Young stated they evidently committed to our \$395,000 so they must have done that somewhere along the line.

Alderman Thiel stated yeah they did that in November right before I left the Parks Board.

Alderman Trumbo stated he thought the Planning Department was involved indirectly with Mr. Venable who was the head, Public Works Director in terms of lots of meetings with the city official and the Youth Center on that site selection.

Mr. Erf asked Tim if he ever meet with Charlie Venable and talk about the site selection?

Conklin responded not site selection. Met on what it would take for a large scale development.

Mr. Erf stated the reason he that brought it up was because the city had been asked to contribute and I think it was a worthy project but they they're being asked to contribute 30% of the costs. And I as a citizen I would have like to have seen city staff involved in the site selection process not just members of the Fayetteville Youth Center.

Alderman Thiel- you asked if the Parks Board was involved in a site selection or not.

Mr. Erf said they they're not.

Alderman Trumbo stated I don't know if Jackie New was here or Susan Anders was here but it was my understanding through the hearings and minutes that go back to a year and half ago there was Park officials that

Alderman Thiel interrupted they they're never asked. They reported. They got reports. But they

they're never consulted. Because there concerns on the Parks Board at that time about that. But I don't think that's really the issue anymore.

Mr. Erf stated that's a done deal but I just wanted to make a point for future reference. They have capable staff in the city that could be consulted on issue and matters such as that.

The Mayor thanked Mr. Erf.

Alderman Thiel stated she wanted to say one thing. I think that in the beginning of that whole process I don't think that anyone was really paying attention. I think the meetings they're public. I don't think anyone from the Youth Center was trying to hide anything. I don't think the public was interested probably the Parks Board wasn't probably that interested. Because I don't think any of us thought there was a chance that they would get that grant. I think once they got the grant and then by then the site was already committed with the grant. Then all of the sudden there was a lot interest in the issue. And I think that's what had happened in that process. And you know how can you change that or do anything about. I think that in the beginning though the Youth Center did work hard. The Board did at doing things the right way. And the process was done the right way. I think that there just Why aren't enough of the city official probably attention. And the citizens because they just didn't know it was going to happen.

Mr. Hill stated she hit the nail on the head. You stole my thunder. The issue was that. I think of that as a citizen. I've come into that process in 1999 and assigned to the master facility planning committee when one of our members had to resign. And I was at the last meeting when the site had already been selected. And you can go through the last of the people who they're there as part of that process. When they finished the final application I sat in on a couple of meetings which included a lot of top administrative people here at the city. At the time I didn't know what position they held because of how political I was. I just knew that the mayor and some other people that they're here need to know people. Who knows. They at least talked to those people. They did provide and I have had an open line of communication with the parks director since I came to that community. Dale Clark. And after Dale Clark, Connie Edmonston, about some processes that I thought needed to be change in that community before I came on the Boys and Girls Club. So once the money was provided for that study, they provide copies of the master facility plan and strategic plan because it was paid for by the Parks and Rec budget. So obviously if they paid for it they should have received something. Once they finished our final report which I believe the date on that was probably July of 99. They did our last application in August and thinned through the first part and mailed it in September I think. But they provided to the city and to the parks a copy of each of those documents. I had meetings with everyone and I think that was a point they'll taken, at no time, and I don't know how many of the other Board members had that conversation with anyone else. But at no time did anyone from City Council. I know that through communication and documentation that they've seen that they they're at least flooded with information in June and July prior to our application. So there was plenty of time for someone, granted they didn't throw up a red flag and say press and the

newspaper here it was. Come tell me here it was but they thinned through the process and the product was out there. So its always concerned me that someone says I haven't seen, I didn't know it, I didn't comment. They didn't buy that property until October of 2000. October of 2000. And until January when they had the meeting, and I have been on the Parks Board. I talked to Connie and I had no idea that they had problem with site location. Had no idea that anybody, anywhere had ever said anything to me about the site location. Now granted, if they had of said something in '99 they could do something different. They all have our opinions on when but there was ample opportunity for who I consider the major players, before they finished our final application if there was a problem. And that's just my observation as a citizen I guess. It just makes sense that if you pay \$7,800 for a report surely some where you would read it and see that first site selection and Walker Park was sixth or whatever it was. Someone would said-called up and said they don't-called Dale because Dale was still at the Club at that time. So anyway that's just because he asked about the Parks involvement.

Mayor asked if any one else from the public would like to speak.

David Garcia stated I live at 120 N. Block. I apologize for yelling at the back of the room. Councilman Santos I'm glad you did not withdraw your application and did give the public an opportunity a chance to speak. It's a matter of fact I really appreciate the fact that you filed the appeal in the first place. Otherwise that discussion would not be going on at all. Some of the discussion was when people actually noticed what was going with the Youth Center. I know if did not come up on my radar until Councilman Trumbo started beating up the mayor about it in NW Ark. Times. I was not a supporter of the mayor. I was actually a supporter of Cyrus Young in last campaign so I thought it was pretty funny see Councilman Trumbo beating up the mayor back and forth. But I did have to wonder why that mayor I hadn't even bothered to vote for wasn't even suppose to be asking questions. And that's what began me asking questions and then when I heard the president of the board or chairman of the board or whatever he was of the Boys and Girls Club also expressing outrage that anybody would even dare ask a question. That made me question all the more seriously. I had no doubt some process that involved some people in the city of Fayetteville. But I can tell you just by looking around that city council room tonight assuming that more or half the people room they're supporting the Boys and Girls Club I believe that to be the assumption. I do not see one other Hispanic face. I do not see one black face. I do not see anybody that looks like poor white or white working class. I suspect that that was the process that thinned on among a very particular segment of community. I think again they they're coming back to the problem they came to with J.D. China. If only certain segments of the community they're listened to. The people that they're not listened to they're going to make their voices heard one way or the other. Whether they riot in the streets like they did in Cincinnati or get arrested in development parking lots like that did last summer. One way or another people will be heard. If when the question first stated coming up they would had that kind of discussion as a community, at the city council, or some other form, where questions could be asked, reasonable questions could be asked, reasonably questions could be answered. But no that was not the case as a matter of fact the

supporters of the Youth Center seemed to be willing to entertain questions until the Arkansas Democrat Gazette and the NW Ark Times both ran editorials asking why can't people ask questions. And then tonight they they're entertaining questions. That should have been there from the beginning. If they could have sit down and talked about that together they wouldn't have had to have these kinds of conflicts. Two more things and I'll sit down and shut up and let someone else talk. I don't think at that point there was community support for that proposed Youth Center and think a resolution from that council saying so would be a mockery. I say that because in the last help I both passed out leaflets at the farmer's market about the Youth Center and sent out email about that whole conflict to several of the local email lists. All of which was evolved from talking with hundreds of people about that issue. I talked to one who support a westside location. I talked to 25 or more who thought it was either ridiculous or outrageous to put something so far out on the westside of town. That's 25 to 1 more better opposition. These they're not friends of mine. That was not my own circle. That was from the farmer's market people, sending out messages on the public email last and getting people's responses. So I do not think that at that point there was that community support. I think there could be that community support if the community concerns they're addressed and am encouraged by taking the questions seriously tonight at least. And answer them and talk about it. Again they have Councilman Santos to thank for that. The last point Councilman Thiel, several times tonight I've heard you say it's a done deal that the westside was going to be developed. That the sewage plant was going to be there. That the Youth Center was going to be there. That all that development was going on. Again I would suggest that they all need to talk about that as a community before they they're ready to say it was a done deal. Because there they're significant segments of the community that do think so. But that's all. Thank you.

Alderman Thiel stated what she was referring to I think was the grant. My understanding to what the Board had said publicly there's a very good likelihood that they would not get that grant if they start go through that site selection process again. And I doubt very seriously if the city was willing to put up 9.2 million dollars toward a Youth Center. So that means if they build one without that grant its not going to be nearly the facility that they they're talking about here. That's what I mean by done deal. I really—from everything that I've heard and read about that I think that the grant would definitely be jeopardized if start going to another site selection process.

Alderman Trumbo stated to Mr. Garcia that he attended the few of the library public meetings on their site selection. He said he didn't like where the library was going. I have another preferable site but there they're some professional people that spent 200 grand that had some pros do all that and said that's where the new library should go. I don't do that professionally and I don't like the site. There they're some other sites that I preferred but that's the process it thinned through.

Alderman Davis addressed Mr. Garcia stating there was a news conference or a public hearing that you all had I guess in January. Where you invited the council members, Planning Commission and anybody from the public that wanted to attend and ask questions. I know a large number of people did go at that point and asked some questions. There was an opportunity for someone who wanted

some input beside just tonight.

The mayor asked if any else would like to speak.

Rebecca Thatcher stated I am the manager, along with my husband Terry Thatcher at Washington Apartments which does happen to be on the westside of Fayetteville. They they're community of 128 units, with a community of around 315 people. I thought I would get up and say that I know 315 people that they're pretty excited about that being out there at Wedington. They have been fortunate to have the Fayetteville Youth Center transporting us into the California site for years. They've been there. They've gone there. They didn't whine about the fact that was wasn't in our neighborhood they got ourselves there. Also out in that neighborhood was Betty Jo Drive. That had been in the paper recently that was trying to clean up its area. Its had some crime and drug activity that had been played up in the NW Ark. Times. So that was a good location. You have a community that had government regulated affordable housing of over 300 people there. You've got the Betty Jo Drive. Obviously a positive presence in the neighborhood can only help. There was other indications that the city itself realizes there was going to growth out in that area. They have a new middle school out there. They have a baseball field out the Mt. Comfort. McDonalds just built out there. You don't think McDonalds was building out there if they think that there was not growth in that direction. I think that that study was probably they'll done with the idea of now and into the future. Because there was very indication that now it will fulfill a need and it will do a need in the future. So on behalf of the westside of Fayetteville they think it's a great idea.

They mayor thanked Ms. Thatcher.

Barbara Morman, 3450 Finger Rd. stated I think that all that was really about promoting growth in the west part of town. I know that the Boys and Girls Club was a good thing but I also know that it doesn't really have to be out west. Now all that business about the west site started--by the way how much time to I have? Mayor responds 3 minutes. She exclaims 3 minutes. When did you impose the time limit. The mayor said pretty much everyone tonight. That was a new thing with the city council they discussion two them ago about limiting public input to about 3 minutes. I just wonder how you qualify public. Okay. It started in 1997 when they wanted to put the middle school out there in exactly the same place. You understand that that Boys and Girls Club was going to go exact in the same place the middle school was going to go. It's the same location. Middle school gets moved out and whoops something comes in to fill the vacuum. And I think really and it been certainly been said by the developers themselves that the whole point was to give the west side a boost. And I think that really should be decided on by the whole city. I mean was that your policy. It certainly was not your stated policy in the UDO. Its not your stated policy in the 2020 Plan. But your whole objective was to give the west side a boost. That was what you they're doing when you put the middle school out there. And that's what you did. And now that what you going to do when you put the Youth Center out there. Its what you they're doing every time you annex. Another one came up tonight. Annexing out west over and over again. That was in violation of the 2020 Plan

stated goals and principles of compactness, town activity, centrality and respect for the environment. Now I think that that really was a city responsibility to take care of the youth. It's a city function and providing cultural and recreational activities for young people was your responsibility. And it shown by, for example, in 1998 Kevin Crosson's introduction to the proposal to fund the site selection process says the city would fund the entire Youth Center program if the Youth Center organization did not exist. The council agreed with that at the time and it voted \$80,000 contribution to the site selection report. Into which it really didn't have any input. Now they also have a working agreement between Parks and schools and the use of the city and school facilities share the Parks Director until 1998. What I'm trying to say was that there so many indications that the city considers these programs for young people to be a city obligation and certainly agree that they they're. Most people would agree that that was a legitimate function for the city. And because of that the city should be one who's calling the shots. You should chart the course. You should hold the public meetings. You should be responsible for finding out all that information. Presenting it to the public and asking the public what they think. You should have been responsible for at least half of the input into the site selection and the choosing of the team. My understanding was and that may be wrong but half of that site selection team was the wife of the head of school district. Now there they have two people connected to the school district pushing developments on the west side. The middle school and the Youth Center. I just think that decision making about how they do that job of taking care of young people should be shoulder by you the people responsible for it and not farmed out to someone else. I hope that's not over shooting the 3 minute mark. Thank you.

The mayor thanked Ms. Morman and told her a lot of that was done in the previous administration and a lot of us Why aren't involved with that.

Alderman Santo voiced that he thought they Why aren't going to enforce a 3 minute rule and just ask people to be as brief as possible and to stop them if they got off the topic. Mayor was response was oh was that right. There was some discussion among council.
Alright Debra.

Ms. Morman stated she just wished you'd asked members that they're proponents of that not to ramble as they'll if you going ask the public not to ramble.

Debra Byron stated I'm a resident of Fayetteville. For me the Youth Center here was not really the issue. The issue was sprawl. And I think the last election pretty much indicated that the voters they're very concerned about sprawl. They've had two survey's hit the newspaper recently that tell us that people's number one and number two concern was controlling growth. Another issue was the perception that the city's use of taxpayer's money was to subsidized development. I know that, I think my understanding of down the road you they're going to ask for a 2 mill property tax increase to raise more money for the Youth Center. They've already heard tonight that people they're very concerned about uncontrolled growth. They've heard that the city already wasn't maintaining the streets that they have. They need more sidewalks in town. You've already all they needed tonight

an infill development that's going to destroy more rare and landmark trees and yet they were asked to believe that they were trading infill so that they will control sprawl. But looks really like what they were getting was both. They gonna get infill that's going to destroy the greenspace that's left in the city. And they going to get sprawl and the Youth Center site on the west side of town going to contribute to sprawl on the west side. You they're about to pull the plug on one of the last controls you have on the west side of town. I think it was very fair to predict that now just as soon as you pass that you going to see people lining up to annex 40 acre plots and rezone them. You've already got one before that you they're on the 2nd reading of. You're going to have them lined up because now all the development was going to want to be out there. You're driving it. You're allowing the development to be driven out west. There's going to be millions of taxpayers, local taxpayer dollars that will be spent extending roads and utilities to that site that will ultimately subsidized sprawl. I was at the last Planning Commission meeting. They were concerned that being rushed. The word illegal, legality was used, the word irregularity was used over and over again. They they're very concerned that they they're doing something that was a rush job. So I would just like for all of you to please ask and answer that at some point. Where was the controlled and carefully planned growth that was mandated in the last election.

The mayor thanked Ms. Byron.

Tim Theybb stated I live at 1031 East Rebecca, east of the bypass. I just want to say a couple of things. That comes from my kids, 7 and 4. Please for once do something for the kids. Help them out and allow that to be built. I haven't seen anyone ready to step up with \$10 million dollars other than the Reynolds Foundation. The Reynolds Foundation based that upon a long arduous study. The first place the Board looked at to locate the Youth Center was in south Fayetteville. Walker Park was the first place reviewed. Along with the site down where the city was proposing to have the jail. In that area. When they had an opportunity to meet with the constituents, the shareholders, the stakeholders, all of the city. The minority community was involved. People on the west side was involved. South side were involved. North and east. The overriding concern of south Fayetteville was parents were uncomfortable having kids down there at Youth Center. They were uncomfortable it was scary for them. They were losing some of the participants because they didn't want to. They still kept that in place. They still wanted to keep it in south Fayetteville. So the next spot that really was interested was near Ramee. Over there by Ramee. The price tag was a million five for a piece of land. They're not going to come up with a million five. The city wasn't going to come up with a million five. It was not available. They reviewed seven different sites. They looked at every aspect and kept going back to the stakeholders. The people who use the facility. What do they want. And if the people would look at the strategic plan they would see what those stakeholders wanted. They wanted a nice greenspace lot of land. Land that could be developed 20, 25 acres if possible. That doesn't exist in the middle of Fayetteville. It doesn't exist. That was how they came to that selection out there. That was why they got it there. The final point was it was an arduous study there was a lot people involved. The city had the proposal in there hands for going on 18 months and its just come up to this point when people have been concerned. So I would like to see someone else

pony up the money if they think they can. They should. But they have something in hand and for my 7 and 4 year old I don't want to tell them it didn't happen because of a political agenda. They want to see this occur for our kids because they were future of Fayetteville.

The mayor thanked Mr. Theybb and asked if anyone else would like to speak to this. See none it was brought back to the Council.

Tim Conklin stated Ruppel Road will need to be included in the C.I.P. coming up and voted on by the Council. Parking lot additional funding of \$300,000 will have to be included in the C.P. to be voted by the Council. A lease agreement will have to come forward to allow the Youth Center to use our plan and that will have to be approved by the Council. And then of course, the two mills to be voted on later this year. So you do have additional decision that will have to be made by the City Council to actually fund Ruppel Road parking, the lease agreement, park plant and the village.

Mayor Coody asked what was the first numbers they'll have to take out of the C.I.P., they'll have to vote on.

Mr. Conklin stated the road which was about \$600,000, \$500,000. The parking lot \$300,000. Those two projects have not been included in the past LIPS. It was approved last December in the 2001 was \$124,000 for water and sewer and \$395,000 of HER tax money to used toward the Youth Center construction.

Alderman Santos stated they were still looking at close to a 4 million dollar public investment in this infrastructure. Parking, streets, water, sewer, the value of the land. It's still a very big public investment. I don't know. I'm sorry I jumped the gun and try to withdraw my appeal a couple of hours ago. I still want to do that but I had a feeling then that everybody was kind of starting to come together. I guess I was wrong. And maybe this was something was really going to require a vote of the people. I heard Mr. Trumbo say something about a millage in October. You mean kicking in October, they're not voting on it.

Alderman Trumbo stated all they did previously was just pass a resolution of support for the 2 mills for the Youth Center. It had to come back to the City Council for an ordinance before it can actually be implement and sent to the county clerk this October.

Alderman Jordan asked so the people will vote on the property tax.

Alderman Thiel stated no. All the several of the council members talk at the same time.

Alderman Trumbo stated that the millage they have implemented right now was going towards the Senior Center with a provision it will expire or the City Council will vote to extend that to Youth Center.

Alderman Santos stated that it would be a good sign of public support if they had an election. Let the public-see how supportive they were. If the public was not willing to contribute this 4 million dollars then they were just not willing to contribute 4 million dollars.

Alderman Thiel asked if he was talking about a special election though. Oh people love special elections.

Alderman Santos stated the people who turn out were the people who concerned.

Alderman Thiel stated that's true. And if their serious about this. What does a special election run now. About 20,000 I understand.

Alderman Trumbo stated constitutionally they had the availability of those extra millage to come to a vote of the City Council. You'd have to vote your conscious based on your constituency on whether or not you feel as though it should be within your right to allocate that millage at a vote here not at a citywide election. That's what they did with the Senior Center.

Alderman Thiel stated I'm understanding. Right. You're talking about the millage. I understood though that you mean something sooner than that. Because if they wait until then that's going to hurt their fund raising.

Alderman Davis stated its non existent if that's the case.

Alderman Thiel asked you're suggesting a vote to the public on what now?

Alderman Santos responds on the millage increase.

Alderman Thiel asked vote on it now?

Alderman Santos responded as soon as it needs to be voted on. I mean just because they put a road in the C.I.P. doesn't mean it costs us anything. They could take it back out later.

Alderman Thiel stated that her understanding of this project was that will really hamstring their fund drive effort and possibility even the grant because I understand that there's rumblings about that. They're not accustom to bad publicity whenever they give that kind of money to a city.

Alderman Davis stated he wished that she would have brought this up when they voted on the resolution back in December.

Alderman Trumbo stated it was your prerogative if you want to do something to bring that to a special election and sign petitions you obviously have that right to start that movement.

Alderman Thiel stated all the citizens do.

Alderman Zurcher stated they'll they can vote up here to have a special election. The resolution you guys passed at your very last meeting of an outgoing council I don't see how that could hold a whole lot of water.

Alderman Santos stated he did complain that they really didn't have a whole lot of authority to promise the intent of a different council.

Alderman Thiel stated she was not opposed to the idea at all. I am just saying if they do this they don't need to wait until October to do it. Or whenever they, July or whenever they need to pass this millage. They need to do it as soon as possible I would think.

Alderman Davis stated he only had one call from one constituent that's complained about the location. Everyone else that I have spoke to had been in favor of what was going on out there. So don't know what Trent's found out in his portion of the ward but my portion of the ward had said nothing but support.

Alderman Trumbo stated he had nothing but support.

Alderman Thiel stated she hadn't received anything but support or anything to the contrary. So you know if people want to call me madly now they can.

Alderman Santos stated he wanted to encourage people to let us know.

Alderman Thiel stated on both of the issues.

Alderman Santos stated he lived right off Wedington Road and he had heard nothing but complaints. Even from his neighbors right there.

Alderman Young stated he had calls both ways.

The mayor ask the council's wish tonight to go from here.

Alderman Trumbo stated what he would like to do was to propose a resolution of support from the city council for the Fayetteville Boys and Girls Club project on Ruppel Road site.

Alderman Santos stated he would go along with that but he would also like to ask for a special election to let people decide if they want to.

Alderman Davis stated he felt like they were elected officials to represent them.

Alderman Santos stated in the voting both his self, he would be glad to vote for it.

Alderman Jordan stated they didn't have to decide tonight whether or not they were going to have a special election. What they were trying to do was a resolution to support the Boys and Girls Club.

Alderman Zurcher stated they don't have to do that either.

Alderman Davis stated right now what they had to decide want to do with the appeal.

Alderman Santos stated he wanted to withdraw the appeal.

Alderman Young stated right now there was a motion made by Trent in support of the Boys and Girls Club at the Ruppel Road site.

Motion seconded.

Alderman Santos stated wait a minute this wasn't on the agenda. Do they have to do one those emergency deals to do this.

Alderman Young stated no this was the agenda. You look right there.

Alderman Santos stated he didn't see a Boys and Girls Club resolution.

Mr. Williams stated he had two comments for the council. No. 1 Since there seems to be some disagreement on what's going to be happening here. Our Rules and Procedure say that they don't consider the issue of motion of resolution, ordinance or anything like if it's not been on the agenda at the time of the agenda meeting unless they suspend the rules like they did a couple of weeks ago when they wanted to put something on. And the other thing I just might caution both sides here was that a resolution of support was going to be a lot more supportive if have a strong favorable vote. So I would think it might make more sense just to wait the two weeks and see if in fact there can become a consensus on this board. So that you can speak in one voice the Reynolds Foundation and to the citizens of Fayetteville. But you want, if somebody wants to move to suspend the rules to put a resolution on the agenda I actually drafted one up thinking they might do that. But

Alderman Trumbo stated he would rather vote on it. I have gotten to know the personalities on this council pretty they'll and I just don't see us agreeing on this. Whether they wait two weeks and they talk or they hold hand.

Alderman Santos stated I'll vote for a resolution to support but I'm not going to vote on a millage increase.

Alderman Reynolds stated Mayor, I haven't had 20,000 phone calls but I have had two letters. One from Mr. Garcia and another from a lady on West Street. That's the only two letters I've had in opposition of this in Ward 1. I've had a lot of calls in support. But I've had two

Alderman Santos questioned in support of 2 million dollars or getting 9 million?

Alderman Reynolds stated in support of the Boys and Girls Club in west Fayetteville.

Alderman Reynolds stated you were looking at spending some dollars for the youth of City of Fayetteville. You have to decide what's more important, to pass a possible grant away for another location. A location which I think was good. It's a lovely building that's going to take concerned of the youth of the City of Fayetteville for years to come. If you want to squander that and just forget about it. Eventually what's going happen was that the maintenance was going to be so high for that particular location that the deals were going to be shut. Because the cost of maintaining was going to be cost prohibiting.

Alderman Santos asked what do you thing the people want.

Alderman Davis responded I think they want a Boys and Girls Club.

Alderman Reynolds stated Mayor I would like to say one more thing. All these people here tonight. All the fellows that got up here to talk. They were just volunteers. They're here fighting us to get something for our kids in this city. They don't get paid a dime. They're here trying to slay them. They're trying to do something for our kids. They need to help them. They need to do it for our children. My kids were all grown. And I've got grandis. They're going to go to that club hopefully. That's all I've got to say. Let's help them. Let's not fight.

Mayor Coody stated they have two suggestions. One was to pass a resolution in support and another suggestion from our city attorney to see if they can reach a consensus and then vote on this in two weeks and see they can make a unanimous decision.

Alderman Thiel stated my only concern was, if they don't have a consensus on this council I don't see where that's a really solid piece of support.

Alderman Zurcher asked, they have to have six votes to suspend the rules right? Let's vote it.

City attorney answers someone had to make a motion to suspend the rules.

Alderman Trumbo makes the motion to suspend the rules. Alderman Santos seconded. Upon roll call the motion carries with Alderman Zurcher voting no.

Mr. Williams stated he had prepared a possible resolution. Why don't you all listen and you can certainly change it if you would like to.

Upon reading of the resolution in support, **Alderman Santos moved to pass the resolution with Alderman Davis seconded. Upon roll call the resolution passes with Zurcher voting no.**

The mayor thanked everyone for coming and adjourned the meeting at 11:10.

**MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
MAY 1, 2001**

A meeting of the Fayetteville City Council was held on May 1, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Jordan, Reynolds, Thiel, Young, Zurcher, Trumbo, Davis, Santos. Also present were Interim City Attorney, Kit Williams; City Clerk, Heather Woodruff; and members of staff, press and audience.

The meeting of May 1, 2001 was opened with the flag salute.

The mayor proceeded with the meeting by saying that it was going to be the best City Council meeting of his life after learning that they had found Haley Zega today at Buffalo River and she is healthy and everything is okay. I could not be happier and I am sure that thousands of other people around here feel the same way. We just want to send our congratulations and thoughts to the family, Steve and Kelly, and the grandparents, Joyce and Jay Hale because we know how concerned they've been. Everybody from the City, we had fireman go out there, we've had policemen out there, our prosecutor, we've had citizens, city employees, a lot of folks cared enough to go out there and do everything they could to help in the search. And it paid off. I could not be more proud of not only the people of Fayetteville but everybody in this entire state that turned out. There were Melbourne police there. There were people from all over this part of the world out there looking for Haley. So I just want to say thank you very much on behalf of the family. I'm sure they wouldn't mind me thanking everyone in Fayetteville.

CONSENT

APPROVAL OF MINUTES: Approval of the April 17, 2001 City Council minutes.

AIRPORT HANGARS: A resolution approving a grant application to the Arkansas Department of Aeronautics for the rehabilitation of airport hangars. The terms of the grant are a 50/50 split of project costs.

CMN BUSINESS PARK: A resolution for AD 01-18.00 to adopt the hydro logic and hydraulic study for CMN Business Park II, prepared by Garver Engineers.

DOUBLE SPRINGS ROAD: A resolution authorizing the City Attorney to seek court ordered possession for the fee simple acquisition of 0.46 acres and the acquisition of 0.168 acre of temporary construction easement in two parcels from Gary Tipton and Sarah Tipton, husband and wife, and Conley Worley and Virginia Worley, holders of a life estate in conjunction with the Arkansas State Highway and Transportation Department replacement of Double Springs Road Bridge.

CHILDREN'S HOUSE: A resolution approving a long term lease with the Economic Opportunity Agency of Washington Co. for Children's House and Sage House.

The mayor stated I think we need to pull Item No. 5 and discuss the reason for pulling this after the rest of the Consent Agenda is approved.

Alderman Davis asked have we seen the minutes?

City Clerk Woodruff responded by saying we need to remove this.

The mayor said okay. We'll remove the approval of the minutes too then. We'll just vote on Item Nos. 2, 3 and 4 on this Consent Agenda.

We have a motion and second to approve these items on the Consent Agenda. Upon roll call the Consent Agenda Item Nos. 2, 3, and 4 were approved.

We will approve the minutes of the meeting at the next meeting I suspect.

City Clerk Woodruff responds maybe, if I recover.

No. 5, the Children's House: The mayor and city attorney to bring us up to speed on that.

City attorney responds the reason he asked to have this removed and tabled was so that we could take --the staff could take another look at this. This is tied to the memorandum that I sent you concerning the millage and the Arkansas Constitution which puts limits on what the city can do with tax money. That would also include property. I think we can certainly work out a lease with the economic opportunity agency for these properties. I wanted to do a little work on the lease and make sure it's going to pass constitutional mustard.

The mayor says thank you.

The city attorney says I would ask actually that you all would table this to the next meeting. I think it should be ready to go by then.

Alderman Trumbo made the motion with Alderman Davis seconded.

The mayor stated we have a motion to tabled this. Upon roll call the motion passed unanimously.

The mayor states so it is tabled.

OLD BUSINESS

PHYSICAL ALTERATION OF LAND: An ordinance amending §169.03 of the Code of Fayetteville, Physical Alteration of Land. The ordinance was left on the first reading at the April 17, 2001 meeting.

The city attorney asks do you wish me to read the entire ordinance or how much.

Alderman Young made the motion to suspend the rules and go with the second reading with Alderman Jordan seconded.

The mayor stated we have a motion and second to suspend the rules of the meeting. Upon roll call the motion passed unanimously.

The city attorney read the ordinance for the second time.

Alderman Young stated there is one aspect of the, I believe the next one actually, Colleen Gaston had a question about and she's not here. Jim Beavers wasn't able to get hold of her so I would like to leave this on the second reading.

Alderman Santos said we have a letter here from Richard Maynard.

Alderman Young said that was another reason. Richard had called him up last night and he couldn't be here until 7 o'clock. And he'd like to be here when we actually passed this.

Alderman Jordan stated that Richard had called him as well and he wanted to be here when we did this. So I'd like to leave it.

The mayor asked so we want to leave it on the second reading? Alright.

City attorney stated to mayor he should for public comment.

The mayor then asked for public comment on this issue.

If you miss tonight there is always two weeks from tonight. Alright we'll go to the second thing under old business.

STORMWATER AND DRAINAGE: An ordinance amending §170.03 of the Code of Fayetteville, Stormwater Management, Drainage and Erosion Control. The ordinance was left on the first reading at the April 17, 2001 meeting.

Alderman Young makes the motion to suspend the rules and go to the second reading. Alderman Jordan seconded.

The mayor stated we have a motion and second to suspend the rules. Upon roll call the motion passed unanimously.

The city attorney read the ordinance for the second time.

The mayor asks for any comments.

Alderman Davis wanted to make a change on this underneath (D) No. 1 on the 2nd page towards the bottom. We've got No. 1, we got single family/duplex.

The mayor asks where are you, I am sorry.

Alderman Davis states again-page no. 2 on the back side (D)1. Single family/duplex. That is a different definition than what we show on §169.03 for (4), (B)4 on page 1. I think those definitions need to run and say the same thing. They need to run together.

The mayor asks if Alderman Davis had those examples to point out specifically the differences in language.

Alderman Young asks what part.

Alderman Davis responds (B)4.

Alderman Young says okay.

Alderman Thiel says you're right I think they should read the same too.

Alderman Davis states these should be the same and I would like to have the definition on §170.03 be same as what is on §169.

Alderman Thiel stated she agreed. I think it is more complete. Well no actually though the one on §169 discusses the percentage at slope in the floodway plain. We need to incorporate those things I suppose. I don't want to leave those things out because that's the grading, that's the drainage. City attorney says I think his proposal was actually to use one definition in 169 for the definition in 170.

Alderman Thiel asks Alderman Davis if that was what you were saying.

Alderman Davis responded yes. To take the 169 over to 170 and take that definition. They should be the same.

Alderman Thiel says okay and forget the granny residence part?

Alderman Davis says I think probably if this was tested it would probably be easier for our attorney too.

City attorney responded I would rather have one definition. These are similar sorts of ordinances, not identical but they're similar and I would rather have a single definition. I think it would be clear also to the development community.

Alderman Thiel stated Right. I just would want to make sure that nothing was omitted from the one on D1 that is critical without really looking at them.

Alderman Santos said existing platted tract of land, is it in 169?

Alderman Jordan says 169 is really pretty simple.

Alderman Thiel says actually maybe Kit could—our city attorney could possibly work these two together and make sure that there was something else wrong on the ordinance. Erosion is spelled wrong on the title.

City attorney asks which one.

Alderman Thiel says on 169. Both lines. Drainage and Erosion.

The city attorney says yes, you're correct.

The mayor says I'm glad we got that taken care of.

Alderman Thiel states, I mean, if you're going to redo it, go ahead and get the spelling correct.

The city attorney says sorry we're not changing it.

Alderman Reynolds states he just went to law school.

Alderman Young asks did you could up with some wording between the two for next time. Okay, I'll try to do that and hand it out at the agenda session.

Alderman Young says the only thing, Bob, do you want to eliminate granny resident or leave that in.

Alderman Davis says I think we ought to leave that in. Probably 169 is a little broader over all.

The city attorney says I try to come up with something and make it a fairly broad definition if that's what the council wishes.

Alderman Davis says I think they need to be the same. There is no reason to have the difference.

Alderman Thiel says she agrees.

Alderman Young states to double check with Jim Beavers in case there's something about the granny residence.

Alderman Thiel states I would like to mention one other thing if we're going to discuss this.

Jim Beavers states I'm confused. Alderman Davis you're wanting to take the exemption from the grading ordinance for a single family house and transfer that into the drainage ordinance where there is an exemption for a single family house? You all were talking about changing definitions. Definitions of what.

Alderman Davis says okay. Jim, do you have it in front of you?

Beavers says yes, sir.

Alderman Davis if you will look at 169.03 on B(4) you've got a definition there for single family/duplex.

Beavers says no sir. It's not a definition. That's an exemption. Single family duplexes are exempt unless where it crosses over and the lot is 15% or greater, or it's in the flood plain.

The city attorney says that's the same as an exemption in the second paragraph and is also mentioned as an exception just like it is there.

Alderman Davis asks then when you go to D(1) in 170.03 that's an exemption also.

Beavers answers yes, that's an exemption on the drainage ordinance for single family residence or duplexes. If the house has been built by a developer in a subdivision. If you are a spec house builder you can build two houses in a subdivision. The problems we've encountered in Mission Hills is where the drainage ordinance kicks in. This was added, and I'm not trying to defend it, and I don't necessarily care if you take it out.

Alderman Davis states you're the one who has to work with it. So I'd like-I told you all a long whatever you'd like is what I'd like to see in here.

Beavers states right. This was added due to public comment at the Mission Hills Subdivision. Where a tract builder goes in and builds more than one house, he's not automatically in compliance with the ordinance. It had to do with an erosion control call.

The city attorney states why don't we get with Jim in the interim this week and we'll try to come up with some language hopefully that will work.

Alderman Young says now keep in mind that grading and drainage are two different ordinances. So they may have to have a little differences.

Alderman Davis says okay.

Alderman Thiel stated she also got a call from Colleen Gaston, and since we're discussing this rather than tabling it, her concern was I think she mentioned this in Ordinance Review Committee, well maybe she didn't. But anyway. Under Item, this 170, under Item No. 4, maintenance. The ordinance review really didn't suggest adding grading, clearing or filling activity. I think that our city attorney suggested that and he had valid reasons because of people doing work on their own property, their own lot. But that's covered under here with the exception under single family/duplex. It concerns me that people feel like, well, if they don't think it will change or effect the quality rate, volume, or location of stormwater flowing on the site, or run-off from site, they can go ahead and grade, clear and fill? I think that really is lending a little bit broader definition. I agree with Colleen on that.

The city attorney states I guess you'll need to make a motion then to strike those words that you feel are not appropriate.

Alderman Thiel responds by saying, alright, I'll make a motion so moved.

Alderman Zurcher seconded.

Several alderman speaking at one time.

Alderman Young which words.

Alderman Santos doesn't understand.

Alderman Thiel says on 170 under maintenance, No. 4.

Alderman Young says you have to have in your motion which specific words do you want.

Alderman Thiel states I would like to eliminate grading, clearing or filling. The three words under Item No. 4, maintenance.

Alderman Santos says we talked about that last time.

Alderman Jordan says let me ask you this, does that mean if I want to clear out my road ditch with a shovel I would not be allowed to that?

Alderman Thiel says no. That's maintenance.

Alderman Santos says that's maintenance, or is not clearing.

Alderman Thiel says I think grading requires a piece of equipment.

Alderman Davis says I agree with grading and filling but I don't know about the word clearing.

Alderman Thiel responds okay.

Alderman Jordan replies a lot of times he'll remove stuff out of my road ditch instead of the city doing it and

Alderman Thiel asks can I amend my motion then to just remove grading and filling.

The city attorney says with the permission of the person who seconded it.

Alderman Santos replies I second it again.

Alderman Thiel says do you want me to repeat it again.

The mayor says yes please.

Alderman Thiel states the motion again. Under item no. 4 under maintenance to remove the words grading or filling.

Alderman Santos seconded.

The mayor asks so it should read "maintenance. Maintenance, clearing or activities that does not change or effect the quality rate, volume or location if stormwater flows on the site or run off from the site."

The mayor states alright we have a motion and second. Shall this amendment pass. Upon roll call the motion passed unanimously.

Alderman Young asks so that means that we might be down to discussing the whatever change in the wording that Kit comes up with the next time. And probably next time we'll discuss whether it should be "may" or "shall". I'll wait until then.

Alderman Thiel says that on 159. I had some good responses to these.

Alderman Santos states okay we are on the second reading.

The mayor states we'll go on to No. 3 then.

RZA 01-1.00: An ordinance approving annexation request RZA 01-1.00 as submitted by Michelle Harrington on behalf of TMC and Associates for property located east of Sunshine Road and north of Highway 16. The property is in the City Planning Area and contains approximately 40 acres. The request is to annex subject property into the City of Fayetteville. The ordinance was left on the first reading at the April 17, 2001 meeting.

The city attorney asks do you all want me to read this ordinance or the title.

The mayor states he would just soon him read the title.

The city attorney says somebody make a motion.

Alderman Thiel made a motion to read the title and Alderman Santos seconded.

A motion and second to suspend the rules on the second reading. Upon roll call the motion passed unanimously.

The city attorney read the ordinance for the second time.

The mayor asks for questions or comments from the city council.

Alderman Jordan states yes, I would like to say if we're going to annex this that waiver be signed by the developer saying that he may not be able to have sewer hookups due to the stress we have on the hookups right now.

Tim Conklin speaks up to say a waiver has been signed by the applicant.

Alderman Jordan that's good.

The mayor asks for any other comments from the council.

I'm Len Williamson. I'm here to represent TMC & Associates in this matter and to answer any questions that you might have.

The mayor said thank you and ask for any questions.

Alderman Santos states the only question he has is there really any reason to not go ahead and go to the third reading. I haven't heard any objections.

Alderman Davis said he was going to wait and see if anyone would get up tonight but no one showed up to oppose it at the Planning Commission. Nobody showed up to oppose it last week. And if no one showed up tonight I'd say go ahead.

The mayor stated he'd like to see if anyone in the audience would like to join us in expressing an opinion on this. He then I will now entertain a motion to take it to it to the third and final reading.

Mayor asked the audience for comments. Seeing none brought it back to the council. motion is made and Alderman Jordan seconded.

The mayor stated we have a motion and second to move to the third and final reading. Upon roll call

the motion passed unanimously.

The city attorney read the ordinance for the third and final time.

Alderman Zurcher I just wanted to say one thing. It's just a matter of principle for me. I don't believe that continuing to annex land on the edges of town and rezone them from agricultural to residential or commercial, really anything else, is the right way for the city to go. I'm sure these developers have a great plan. I'm sure they're going to build something that looks nice that people can be proud to live in. But on that principle I'm going to have to oppose this annexation. I don't believe the citizens of Arkansas or the citizens of Fayetteville like sprawl when they see the results of it. Do they pour out. Do they show up and storm city hall with each little annexation and rezoning. No. I don't think they should be expected to but I think on the general effects of sprawl are more expensive infrastructure for the city. Worse traffic problems. Basically just a strain on the city infrastructure. For that reason I'll be voting against this.

The mayor asks for any other comments.

Alderman Thiel says I'll say what I said last time. Actually, I think, I tend to agree with you about the sprawl. I think in this particular situation though it's kind of being encompassed with an area that's already developed. We already have a lot of the infrastructure out there. It's not going to be extremely costly to the city. There is a lot of growth out there. I think that acquiring additional park land or money in lieu of park land will be advantageous to the Red Oak Park that we already have out there. That and possibly by the time this does start developing we may have additional impact fees that we can utilize and help citizens that already live here. And I'm also very concerned about the development, over development of some of our fragile hillsides and infilling. I support infilling but I'm also seeing some real concerns on Mt. Sequoyah where people are buying up these little lots that are left and developing them. And that really concerns me. Because that creates a problem all the way down the hill and all the way down to this area. So in drainage and flooding problems. People are going to come here and so, you know, I'd also rather see something like this that's compact that we have the infrastructure going to then see so much over development on our hillsides.

Alderman Zurcher states that we have a hillside development ordinance. No we don't.

Alderman Thiel says no we don't.

Alderman Zurcher says do we not.

The city attorney says the grading ordinances.

Alderman Thiel states this grading ordinance right here is what basically we have.

Alderman Young stated that we changed and added what we call hillside.

Alderman Thiel says but it just pertains to grading. It doesn't pertain to the amount of surfacing that can go on lots and that's something we need to address in the future. None of us have really had time to get into the study of that. But I think that once some of these studies that the Tree and Landscape Committee has commissioned are going to do a overall view, map of the city, and the concentration on some problems we have. I think we really do need to address the impervious surfacing that we're allowing on lots. Because of our drainage, flooding, wetlands situations. I know Austin has something like this that basically its not just the house you know that takes up the lot. It includes the driveway, you know everything that's impervious and creates ground water runoff, springwater runoff. But anyway I don't think that our hillside ordinance right now is doing real good job to protect some of the areas on Mt. Sequoyah that I've been called about. People are just terrified about what's going to happen to their house down below.

Alderman Zurcher states he'd have to agree. I don't think your concerns are invalid. I do think that maybe it's just time and I'll go even so far to say that our growth plan, this is in the growth zone. That the plan we have right now will probably back you up and back people up who would want to support this annexation. I think it's time we look at it again. And think it's time we look at not making all those areas way out on the edge of town as the growth zone and take some of these areas where the parking lots are so huge and some of these areas that aren't utilized in town. Take into account that we don't want to lose our trees in town and these other things. There are a lot of considerations. I just don't feel like the sprawl is the answer to it. That's just where I'm coming from.

The mayor asks for any other comments or questions on the council and any other comments or questions from the public.

My name is Barbara Moorman. I just have a question, do you as a council have a policy on annexations and rezonings. Is it just a matter of something marked A-1 in the map in the growth area and somebody has a buyer and the buyer wants to do a particular development and they come to you and they say, I want you to rezone this from A-1 to R-1, R-1.5 or whatever. Is it kind of automatic that you do that? Because I noticed looking back over the years, and looking at our zoning map, now you don't really have an A-1 designation inside the city. But you did have on the map before this one. And I don't know why that was removed. You've substituted I think it's some kind of open space or greenspace and parks. But they don't occur in the some areas you see. So its not really a one for one substitution. What you've really done, or somebody, I don't know who, I don't mean you. What has happened is that the—it's just automatic to assume that these A-1 sections, parcels are going to become residential or commercial, as the case may be, as if it were inevitable. And it use to be that you could consider that they be in the city with all the agricultural uses that allowed for agricultural land inside in the city. As some one who lives in the growth area that's a concern to me.

Seeing what's happening around me and seeing what has happened progressively across Sixth Street from me. Where now, I mean it isn't simply a traffic problem. I'm almost glad to see traffic problems because I'm hoping against hope that that may slow things down a little bit. We're moving too fast. Growth is great. I mean I don't really think but you do so I'll say it. But there's such a thing as too rapid growth and really destroy the quality of a community. It can destroy a community. I do back to my question which was, do you have a policy on annexation?

Alderman Trumbo says Well it goes Barbara, I remember on the council, 4 years ago, there was a proposed annexation/rezoning for a development on Stubblefield Road across from Savannah Estates. The developer went to Planning Commission, it came forth unanimously approved, came to city council, there was a lot of negative feelings from local neighbors in that area that didn't feel it was appropriate there on Stubblefield Road and it was denied. So I think it is really on a case by case basis.

Ms. Moorman says so you don't have an overall policy regarding the A-1 areas in the growth area when some body comes to you and wants--when a developer with a speculative development and wants it rezoned, you don't have an overall policy.

The mayor says he didn't think so and asks Tim if insight.

Tim Conklin responds by saying that as regards to annexation and rezoning, I'm very concerned that Washington County does not have zoning and our subdivision regulations are not as strict outside of the city. And so when something in our growth area is intiguous to the city and there's an opportunity for them to comply with our park land dedication ordinance, tree preservation ordinance, grading and stormwater, and our urban subdivision regulations. You can get park land, or in lieu of fees for park land and fire protection and street lights, I think it benefits us then to have subdivision that could occur in Washington County on septic systems with infrastructure that does not meet our current city standards. Also allowing a development to go on the sewer, I understand the argument that you make and other alderman are making, What is sprawl? That's a good question. Is it better to have density of 4 units per acre or density at 1 house on 1 1/2 acre on a septic systems occurring out in Washington County all over which does occur every two weeks in my office. More people on less land or the same amount of people on more land. Those are some issues that you have to think about This is in our planning area. There is a middle school just north of the site. There is an elementary school just north of the site. There is the Fayetteville Youth Center which is going to be south of this area.

Moorman says, you're kidding.

Conklin states, my point is that when you are looking at this area, I'd rather have it come into the city then develop under our regulations. Be on a sewer systems, have a higher density and consume less

acreage for more people and be more efficient to provide those services to that population. So when I take a look at an annexation like this that's my steps in making that recommendation.

Moorman says, okay, I guess that my question would still stand. Is that your policy? You would go ahead, your feeling is that your policy, I don't know if it is written or not, I guess it's not. But your policy would be to annex when you're asked to annex but not to actually say ahead of time what you think would be the best zoning. You see in my mind, a few years I thought that when you get an annexation it was based on what you thought would be the good thing and wise for the community. For community not an response when you are on the spot to a particular request for a very particular type of project which is what we are usually talking about here. I don't need to go on any further. I've taken enough of your time. But thank you for listening.

The mayor stated to Ms. Moorman she brought up an interesting point. As soon as we get staff, right now we are completely overwhelmed because we are kind of understaffed and overworked. It's hard for us to pick up an issue that very important like this one and be able to do a really thorough examination of it. I hope—as soon as these folks come on board that we are bringing in. These guys have extensive backgrounds in growth, planning and urban development and all kinds of things. We'll be able to hopefully pitch problems to them and they'll be able to tackle them and maybe this one of those we'll be able to see if they can do something about.

Moorman says well just don't pave my paradise please.

Alderman Santos says we don't really have a policy. It's individual decisions made by us as individuals on case by case basis. But my individual, personal policy is I give the speech that Tim just gave every single time on of these comes up. I didn't give it tonight since I just gave it two weeks ago. But that's they are all different. Yet pretty much the same and that we want them to develop under our regulations and I think that is anti-sprawl to have at least 4 units per acre rather than 1 unit per every 1 ½ acres. Then you are moving people further and further out. This is an anti-sprawl.

Moorman says then I guess, I'm sort of asking for a uniform policy where you have the vision to say we think this ought to happen because these are the reasons why we think, overall these areas should be agricultural, or they should residential, or they should be commercial. When I look at your zoning map it's a question in my mind what is going to happen.

Alderman Santos states we don't zone property outside of the city. It has to be annexed into the city to be zoned.

Moorman says okay, so you don't have a policy regarding

Alderman Santos states the policy is that an anti-sprawl policy is pretty much set forth in the general plan and this is all we can do to try to reduce that sprawl.

Alderman Young states in answer to part of your question. You're asking have we gone and analyzed all this and annexed something in what we think is in the best interest of the community. Okay, that is different than what is being proposed here. This owner or future owner is coming to us asking to be annexed. Okay. If we go and analyze a lot of the property on the edge of town and say yes we need to annex this and rezone it such and such, such and such. If those owners don't want to be annexed, then it has to go to an election. That's the main difference between and what you are talking. Yes we can analyze all the properties on the edge of town but maybe those people don't want to be annexed at that time.

Moorman stated she was talking about an actual policy. Not about an actual action. Maybe they don't want to annexed.

Alderman Young says that's right.

Alderman Zurcher says Tim I've got a question. How dense do you think somebody in the county would develop out there?

Conklin it usually takes about an acre or an acre and a half for a septic system. We don't extend our sewer system outside our city limits without city council approval or annexation.

Alderman Zurcher states so like one unit per acre or acre and a half. As opposed to 4 units per acre. I'll tell you what my argument is. Is absolutely not is this anti-sprawl making a higher density out on the edge of town. That's more stress on the weak infrastructure that's out there.

Alderman Santos says but it is 4 to 6 times more dense then it would be developed

Alderman Zurcher says right, but why do you want the edge of town to be dense. You want the center of town to be dense.

Alderman Davis said you are also looking at the sewer situation. It don't work probably you could damage your underground water.

Alderman Thiel stated the League has been studying this issue of septic tanks all over the state. And there are way too many. And this is a real concern environmentally. The counties don't have the money to provide for inspections. I happen to have a very unique system. There's like one or two in the state. It was pretty expensive. I'm here to tell you it was supposed to be inspected every year and it has never been inspected.

The mayor says let me jump in here real quick. I don't mean to interrupt but I think we've run far a field in talking about annexation policies and growth procedures and septic tanks. It's an enormous issue but we're not going to tackle it tonight. Let's go ahead and stick to the issue in front of us and see right now I think that we would entertain a motion and second to approve this ordinance. Is that where we are.

Alderman Zurcher says before we do that can we agree this deserves some study.

The mayor responded oh sure.

Alderman Zurcher says I'm fine letting it drop right now if we can just talk about it in the big context maybe.

Alderman Santos states we have it the plan again this year. It just got started a couple of months .

Conklin also says something pertaining to annexation ... I can't understand it.

The mayor says we're bringing on Hugh Ernst that will be the urban development director is very well versed in some of these very issues. I think we will be able to draw on that expertise and maybe development some programs and policies we'll be able to bring back before the council pretty soon. John Maguire asks is the development of homes and the choice of homes isn't that market driven just like Kit decides to wear a yellow tie. The market drive is decides the house you'd want and where it is at.

Alderman Zurcher asks so why are we, if the market's driving it all, why do we vote on an annexation or rezoning. If it's market driven.

John Maguire then states that you keep the planning in some organized fashion.

Alderman Zurcher states right, you leave it with people that the voter's elected. So its not really market drive.

John Maguire well yes it is. The whole community is market driven.

The mayor stops the argument. Now we are talking democracy.

Maguire: A lot of that

Alderman Thiel that the next step.

Alderman Zurcher it's not market driven, John.

Alderman Davis says mayor I call to vote. (twice)

Alderman Young hollers may I say something.

Alderman Jordan says yes, say something.

Alderman Young you say it might be market driven but you have to realize that in a large sense we are creating the market.

John Maguire states you guide the market.

Alderman Young states that's right. That's the difference.

John Maguire states you can't tell me what size house to build, it don't make any difference what rule you pass.

City attorney then states that I would request—under our rules and procedure before you make a statement you are suppose to ask permission from the mayor to be recognized. And I

John Maguire says I apologize.

City attorney then says I'm not just advising you. I'm thinking it is good for all of us and so we need to try to get Mayor Coody's attention and his permission so we can act with a more decorum.

The mayor said thank you. Now. Is there anyone who would like to add to this discussion. If not, oh oh, I'm sorry. Please step forward, Yes.

Louise, 1614 Sawyer Lane, Fayetteville. It is my understanding that every new person that comes in here, the cost is more then what we have. We put out more money to put new people to come in. We have the sewer disposal plant, the town center, we have the library. We have all these things that we are having a hard time getting money for and so if we—at this very point allow a great deal, or many more people in, isn't that going to make the financial status much harder to deal with.

Alderman Santos, mayor may I. The mayor responds yes. Alderman Santos states that the Impact Fee Study, No. 4 item on new business. Mayor says yes. Santos states that would be a good time to discuss that.

The mayor answers her by saying that impact fees is one of the ways some cities have chosen to help

mitigate some the costs of growth. Make no mistake growth is a double edge sword. If you don't handle it properly it will handle us. So we need to grow well or we need to rethink our position because we don't need for growth to strangle our quality of life here. Growth can be very good for a community or it can be very detrimental just depending on how well you handle it.

Louise states she thought during the election time many people were against sprawl, against having so many people come in so rapidly before we take care of these others. I thought that was a big thing, a big opinion of a lot people that they did want this fast growth. That they wanted to take care of things in the city first before we have more things to take care of. Thank you.

The mayor asks for any other questions or comments. Shall the ordinance passed. The City Clerk calls the roll and the mayor says the ordinance passes 6-2. Jordan and Zurcher voting no.

RZ 01-6.00: An ordinance approving rezoning request RZ 01-6.00 submitted by Michelle Harrington on behalf of TMC and Associates for property located east of Sunshine Road and north of Highway 16. The property is zoned A-1, Agricultural, and contains approximately 40 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the April 17, 2001 meeting.

Alderman Young made a motion to suspend the rules and go to the second reading. Alderman Jordan seconded. The mayor stated we have a motion and seconded to suspend the rules and go to the second reading. The city clerk calling the roll the motion passed unanimously.

The city attorney read the ordinance for the second time.

The mayor asked for any questions or comments from the council. Any questions or comments from the public.

Mayor and council, I'm just here to answer questions. My name is Len Williamson. I represent TMC & Associates.

The mayor again asks is there anyone who has any questions.

Alderman Davis makes a motion to suspend the rules and go to third and final reading.

Alderman Santos seconded.

The mayor states we have a motion and second to suspend the rules and go to the third reading.

The city clerk calls the roll and the motion passes unanimously.

The city attorney then reads the ordinance for the third and final time.

The mayor asks Alderman Thiel if she had anything she would like to add.

Alderman Thiel, responds yes, Mayor Coody I'd just like to say that you know I think we passed the rezoning, excuse me, the annexation based upon fairly low density. I think that we definitely want this to be all in one so I would support this.

The mayor asks if there are any other questions or comments. Is there anyone in the audience that would like to speak to this issue. If not, shall the ordinance pass? Upon roll call the ordinance passes with Zurcher and Jordan voting no.

The mayor says thank you and we move on to new business.

NEW BUSINESS

AD 01-8.00: An ordinance amending Chapter 171 "Streets and Sidewalks", Section 171.12 "Property Owner to Construct Sidewalk Upon Receipt of Notice" of the Unified Development Ordinance to adopt a replacement Section 171.12 to include a change that would allow the City Sidewalk Administrator to accept money in lieu of construction and enlargement of properties affected (lot splits, renovations, conditional use).

The city attorney reads the ordinance for the first time.

The mayor asks for any questions or comments from the council.

Alderman Thiel responds, yes Mayor Coody I do. I know that in the park land ordinance we had to go back and go through quite a bit I think to enable us to make a every three year change or whatever to fit the increase in the money in lieu. I can't remember now how that's worded but it just occurred to me looking at this we really haven't made that provision in this ordinance that would allow us to look at the going price of a square foot of sidewalk and let's say three years or how do we want to set it up. I wondered if that would not be something we want to go ahead and put in this so that that provision was already in there. Because it was a problem that we had to work through on the Parks Board on the park land.

The city attorney then replies, of course this went through a committee and I think there is a further substantial difference here in that we are not really dealing with the number of sidewalks as opposed to the amount of park land which is...

Alderman Thiel interrupts to say we are talking about square foot price.

The city attorney says I understand that but I'm just saying that we have a sidewalk administrator, how often do you feel like that this is really going to come up and that we're going to have to take money in lieu of sidewalks.

Chuck Rutherford states that kind of economy driven. If we have a booming construction going on out there then has a tendency to raise prices. If we are in a slower economy it keeps it down. When it is light periodically we will have to probably adjust that. As far as saying what those time limits will be I can't make that...

Alderman Thiel interrupts to say there's not a provision in here to review that. You can look at the park land ordinance and possibly—I can't remember now how we fixed it.

The city attorney states he thought the park land requires review every three or four years. You re-evaluate the property. My comment is—how I meant to say that is that we deal a lot more money when you are dealing with the park land ordinance than we would in this particular ordinance because usually we require sidewalks. Its mainly going to be lot splits I understand is where this would come in about.

Alderman Thiel says that's true but let's say the price went up to \$4.00 a square foot and a good deal of sidewalk..you know.

Alderman Davis says he agrees with Brenda on this. I think we need to add that to it I know that Chuck and Tim and I put this together that was something I know I overlooked. I don't know if Chuck thought about it or not. I agree with what Brenda is saying. We probably need to add that clause on here where we look at it every 3 to 4 years so see what the price.

Alderman Zurcher says maybe just have the sidewalk administrator look at it every 3 years.

Alderman Davis says that's fine too. And come back before the council like you do the Parks Board and tell us what the going rate is at that time.

City attorney asks the council how many years they want it to be.

Alderman Jordan states why don't you say three.

The mayor says it could be just an ongoing evaluation. If nothing changes there's no need to re-evaluate it. If the sidewalk coordinator sees a boost all the sudden in prices then we can go ahead and follow suit and we don't have specify numbers constantly to update the ordinance.

Alderman Zurcher says fair enough.

Alderman Santos says so this is going take some more work. I've got a request from a lady that we push this through because of a development that's filled up. Would you like to tell us about this and see if there is anyway we can help her out while we are fine tuning the ordinance?

Lady from audience: I was just a little confused because this has been going around for so long. It's been through the city council, through the city planning, and I've networked with everybody in the city and everything's cool. So I was hoping that it would have been on old business by now. I know the verbage had to change so what I was coming for was to beg six of you to please say let's waive all of this and let's go to the third reading and pass it. We are installing hardwood floors and we've had our project on hold since last December waiting for this ordinance to continue. So I just hope that we can do it just as fast as we can now. Also we're going into the south side of town trying to fix it up a little bit and I'm glad to see that it's staying in the ward. That was one our first concerns.

Alderman Santos states I don't see this as a real controversial item. I think it's a good thing. If don't really understand what it is, it's some of these sidewalks that are required by developments that are just kind of out in the middle of no where and they don't connect up anywhere. Instead of requiring those new developments to put that sidewalk in at that time they would put money into a fund that would build sidewalks other places that are continuous and at some time these other sidewalks would be built. I'm I way off Chuck?

It's same as the park's department.

City attorney says let me suggest this amendment and see if it carries--has what you want. Under subsection (a) following where it says it will be \$3.00 a square foot -- that particular section. The cash contribution amount per square foot shall be reviewed every three years.

Alderman says by the city council.

Alderman Thiel says well,

Alderman Santos says if I was sidewalk administrator I'd have it as needed.

Alderman Santos and Thiel speak at the same time--can't understand either.

City attorney says let's not say where as needed because that is just too indefinite then.

Alderman Santos says okay Brenda

Alderman Thiel says how about sidewalks every three years and any adjustment to be approved by the city council. Any adjustment—we could start off with the \$3 and to be reviewed by the sidewalk administrator every three years and then you could add...

City attorney states that the sidewalk administrator cannot change this ordinance.

Alderman Thiel says okay that doesn't even have to be in there.

Alderman Santos says approved by the city council.

Alderman Reynolds addresses the mayor to speak. Then he ask Chuck how are we holding up this lady's project.

Rutherford refers that question to Tim. And states I don't think we are really holding up her project other than it is not a filed lot split. We haven't stopped anything from happening. Other than it's just not an assigned lot split.

Tim Conklin responds that's correct. In order for us to approve the deed for filing they either have to construct a sidewalk or pay us a fee. And so when we went to Planning Commission we brought this issue up—this ordinance-gave them the option of waiting until this ordinance was passed in order for them to pay the fee and if they did not want to then install a sidewalk. So that's where we are at.

Lady in audience: That's sort of a hook were on. We're on a hook and we've been there now since December and we're ready for you to reel us in. Everybody's ready to move.

City attorney says so let me give another stab at this.

Alderman Thiel states I have no objections to this ordinance. I just felt like this would just be something that we could look at now rather than having to deal with it down the road.

City attorney says you will still have to deal with it on down the road according this. The cash contribution amount per square foot shall be reviewed every 3 years and maybe amended by the city council.

Alderman Thiel says okay.

Alderman Zurcher asks are we sitting it at \$3 then?

Alderman Thiel says yes.

Alderman Reynolds asks does that mean if we approve this tonight we have to wait three years before it can be changed.

Alderman Thiel says no.

Alderman Reynolds replies okay.

Alderman Thiel and Santos talking at the same time--can't understand them.

Alderman Santos says if the price of concrete doubles like the price of gas did I'd think we'd want to review before three years.

Alderman Thiel says it's mandatory.

Alderman Trumbo says you've got to do it every three years otherwise it could be 10 or 20 years before they look at it.

Alderman Thiel makes a motion to revise the 2(a) as Kit read it.

The mayor states we have a motion and second to revise to revise as Kit read it. The mayor then asks the city attorney to read it again, just one more time to make sure.

The city attorney states this would add this sentence after the sentence that is currently in 2(a) the case contribution amount per square foot shall be reviewed every three years and may be amended by the city council.

The mayor asks shall this amendment pass. The city clerk calls the roll. Upon roll call the amendment passes unanimously.

Alderman Davis moves to suspend the rules and go to the second reading. Alderman Trumbo second.

The mayor states we have a motion and second to suspend the rules. The city clerk calls the roll. Upon roll call the motion passes unanimously.

The city attorney reads the ordinance for the second time.

The mayor asks for any other questions or comments from the city council,

Alderman Reynolds states I'd like to know where this project is at this lady has in mind.

Lady: It's at 2275 South School.

Alderman Reynolds asks so you are in Ward 1?

Lady responds, Aren't we in Ward 4?

Alderman Reynolds states South School is Brenda and I's ward.

Alderman Santos says that's alright you can call me.

Alderman Reynolds that's the reason I was wondering why if you were on South School why we weren't talked too.

Lady says the front of the building would be cut off. So the front is exact just sidewalk right now. So it doesn't really – it doesn't – I don't know what I want to say. I've lost words. It's not acceptable in this case and we really don't mind doing it because the south side of town needs some improvement. That's not.

Alderman Reynolds states I fully understand that.

Alderman Santos states I move to suspend the rules and go to third and final reading. Alderman Jordan second.

The mayor states we have a motion and second to suspend the rules. The city clerk calls the roll. Upon roll call the motion passes.

The city attorney reads the ordinance for the third and final time.

The mayor asks for any other comments from the public. Any questions or comments from city council? The mayor then asks shall the ordinance pass? The city clerk calls the roll. Upon roll call the ordinance then passes.

The mayor says, thank you and congratulations after this long wait.

The lady from the audience shouts out "Thank you".

The mayor states, a letter to the editor will be appreciated.

RZ 01-7.00: An ordinance approving rezoning request RZ 01-7.00 submitted by Stephen Mansfield of Mansfield Property Management, LLC for property located at 932 N. Garland Avenue and 1003

Hughes Street. The property is zoned R-3, High Density Residential and contains approximately 0.26 acres. The request is to rezone to R-O, Residential Office.

The city attorney reads the ordinance for the first time.

The mayor asks for any questions or comments from the city council.

Alderman Davis states, mayor the Planning Commission passed this 9-0. I feel like it's kinda of a lower down zone, and R-2 to R-O, for that reason I'm definitely for it. There was no opposition at the Planning Commission.

Alderman Zurcher says alright this property is locating in Ward 2, kind of barely. I haven't got any calls about it and as I understand, Mr. Mansfield did go to all the neighbors and talked to them and you can talk on that if you want.

I'm Steve Mansfield. I live at 2665 Deer Path Drive in Fayetteville. I have contacted all the adjacent property owners. Described our intentions for the property and have had no opposition whatsoever. I'm here to answer any questions that you may have.

The mayor stated one thing I might say is thanks for contacting the surrounding property owners, your neighbors because that's always good for relations. That makes it—usually makes the development go a little smoother to let them know what's going on up front. Thank you for that. The mayor then asks for any questions or comments from the council.

Alderman Zurcher then asks what kind of office are you going to put in.

Mansfield Property Management owns and manages rental properties around the university. And the property—the house that's on Garland we intend to turn it into a management office for those rental properties. The house that's on Hughes, at least currently we intend to renovate. Well we are renovating both structures and renovate that one and keep it as a rental property. Single family home.

The mayor asks for any questions from the public?

Alderman Zurcher states he would like to make a motion to suspend the rules and go to the second reading. Alderman Santos second.

The mayor states I have motion and second to suspend the rules and go to the second reading. The city clerk calls the roll. Upon roll call the motion passes.

The city attorney then reads the ordinance for the second time.

The mayor then asks for any questions or comments from the city council. Then asks for questions or comments from the public. The mayor states I would like to entertain a motion to put it on the third and final reading. Alderman Jordan so moves with Alderman Davis seconded. The mayor states we have motion and second to put the ordinance on third and final reading. The city clerk calls the roll. Upon roll call the motion passes unanimously.

The city attorney reads the ordinance for third and final time.

The mayor asks shall the ordinance pass? The city clerk then calls the roll. Upon roll call the ordinance passes. The mayor states the ordinance passes. Congratulations Mr. Mansfield and good luck with everything. Thanks for doing good work down there.

No.3 under new business-additional personnel.

ADDITIONAL PERSONNEL: A resolution authorizing additional personnel for the Mayor's Administration Division, the Parks and Recreation Division, the Inspections Division, the Urban Development Department. Also, approval of an attached budget adjustment is also requested to cover the City's 2001 cost of \$115,128.

The mayor states now then we are going to open up this discussion. This is basically two rounds of folks. Two tiers. One is to reorganize our office on the 3rd floor and then we need to and its really not going to change the budget much at all. A little bit but not much. The bulk of this \$115,000 is for someone to sit at the front desk at the front door. An informational officer for people to--when people come in the door of city hall they can be directed. Everyday we have people coming in here to go to the first available person they see. Which is usually the business office. They ask where they can get married or where the jail is or all kinds of questions. We also get lots of phone calls into city hall. I think the number is right--50% to 60% of the phone calls coming into the city clerk's office have nothing to do with her work. So we are losing a lot of our time in personnel efficiency by just having to answer a lot of questions on the telephone, the public walking in the door. If we have somebody at the front door they could help people come in or answer phone. I think we could be a lot more efficient with their time and personnel use. Also, Steve you want to come up and address some of this stuff for us please.

Steve Davis, responds, yes I can.

The mayor says I'm preforming a marriage here pretty soon.

Alderman Thiel I do have a question. The information that we go at the agenda meeting, you have

requested a grant writer. There is no mention of a Utilities Service director but you have hired a Utility Services Director. Is that kind of a – can you explain that.

The mayor responds sure. Basically what we did. I want to let Steve—he's done a lot more in juggling these positions around. We aren't really adding any new position up on 3rd floor but we just kind of moving people around and changing titles. Steve if you wouldn't mind explaining this in a way that even I can understand I'd appreciate it.

Steve Davis responds by saying okay. The first position that we're proposing to add with this adjustment is the Trails Administrator. Our Parks and Recreation master plan consultant, Lois & Associates recommended that we split our sidewalk and trail functions into have a trails person in charge—and have all our trails centered on person. That position will be paid out of the Parks Development Fund.

Alderman Thiel says the Gary Hampton Softball Complex project fund.

Davis states after talking to the parks staff, they would rather that come out of another project that's also funded in the parks development fund. But it would be a project funded expenditure this year.

Alderman Reynolds asks what's the costs. How much money?

Davis about this year's about \$24,000. Then the grant writer position listed here that the duties of the grant writer have actually been merged into the Utilities Service director so that the position itself is not need. But we do need the additional money. Because of the money difference between what the former assistant to the mayor made and the what the new position will make. You have an urban development secretary.

The mayor says, excuse me, I'd like to add that the utilities director that we are hiring- the reason we what to merge grant writing in with this position is because he has extensive experience in grant writing. He has prepared a lot of grants for Sioux City, Iowa. One was for over 2 million dollars, and he has pretty good contacts, and that's one of the reasons we wanted to bring him on board because he not only is certified city planner, but years of experience being a planning director for different towns. He is also public works director in Sioux City, Iowa, or was. He has seven or eight years of experience in public works directing. He's had a lot of experience in grant writing so this I think would be a way that he coordinate a lot of grant writing here at the city.

Alderman Thiel says kind of a two for one on that one.

The mayor says three for one yes. And these folks that are on the top tier that we are wanting to hire on the 3rd floor have a lot of experience in a lot of different worlds to where they can be essentially

cross trained to where if someone has to step away for two, three or four weeks then there will be somebody there that is knowledgeable of what's going on, take that department and still maintain the strong leadership there without having to shut things down as we are right now. I wish we have somebody in the public works director's spot three and half months ago. So I am anxious to bring these people in to where we can be a lot more efficiency. I am sorry Steve. I didn't mean to butt in so much but go ahead.

Steve Davis states that's quite all right. There is a secretary title for the Urban Development secretary. The way the city is setup on the third floor is that the mayor has a secretary and then the administrative services director and the public works director share a secretary. What we are doing is adding another secretary but you are going to have a public works director and adm services director, an urban development director and utility services director. They will all share two secretaries.

The mayor says and one of those secretaries is also the receptionist for the whole third floor essentially that's Pam.

Davis then says we are asking for a half time inspector, to go into the inspections division. It's primarily centered around doing property inspection, weeds, grass and trash.

The mayor says so we are taking a half time position that we have now and making it a full time. So that's the additional half.

Davis says that's correct. In addition we wanted to remove two staff assistants from economic development into the public affairs office. And we've eliminated in this—in reorganization we've actually eliminated the assistant to the mayor position, an economic development analysts position and economic development secretary, and a half time property and sign inspector position.

Alderman Thiel asks so none of this funding is coming from our reserves? You got—you basically taken 24,000 from the parks for the trails administrator and then 91,000 from the general fund balance account for the accounts in the economic development program. Is that correct.

Davis says correct, but I'd have to look at the budget adjustment.

Alderman Thiel states well I was looking at the budget adjustment, the back page here. I just wanted to make sure this was not coming from our reserves. But you basically are sifting things right?

The mayor says yes.

Davis states we are rearranging money within the general fund. We don't actually anticipate using

the fund balance.

Alderman Thiel says good.

Alderman Davis asks you do not anticipate or you will not use the fund balance?

Davis states do not anticipate.

Alderman Thiel says that's this year. Next year is going to be almost twice as all of that.

Davis says that's correct.

Alderman Thiel says then we'll have to deal with.

Davis says next year we haven't developed a budget for yet.

Alderman Thiel says and hopefully the grant writer will come up with the money.
The mayor states that's the plan.

Alderman Zurcher says this looks to me like a really good investment in some people. In some human resources that the city needs.

Alderman Santos says I think it's a good plan. I think we should give the mayor a chance, he's been here for four months and I think we should let him put his team together. So I move we pass this resolution.

Alderman Zurcher second.

The mayor says thanks. Any comments from the city council.

Alderman Thiel says I'd like to say one more thing. My only concern is that we are basically losing our economic development program. And of course, several years ago, gave \$100,000 to the Chamber of Commerce to do that then we pulled it back into the city. Are any of these position here going to basically be doing economic development?

The mayor states that basically a lot of economic development is going through our office now. Alett's doing some. I'm doing some. I'm going to Austin here pretty soon to talk to some folks down there that might have an interest in coming to town. We have a lot of—we have economic development going on as we speak. We need to—I think the Chamber of Commerce also have their economic development ongoing. So we have a lot of conflicting people trying to do economic

development and I think that one of these days soon we'll need to look at how we are doing that and see if we can't improve on that.

Alderman Thiel says yeah see if we need to add some programs or what at that time.

Alderman Reynolds asks do we still have a economic development coordinator at the airport?

The mayor says yes. Alett Little she's still there. The mayor asks for any other questions or comments from the public. We have a motion and second to approve a resolution. The city clerk calls the roll. Upon roll call the resolution passes.

IMPACT FEE STUDY: A resolution accepting two reports prepared by Duncan and Associates in association with Cooper Consulting Company titled Impact Fee Study: Policy Directions Memorandum and Development Fee Survey. City Council direction on Phase Two of the impact fee study project is also requested.

The mayor asks Tim Conklin to explain.

Thank you mayor, city council. This is a 2000 CIP Project. The actual study was broken into two phases. The purpose of the project was to assist the City of Fayetteville in developing a system of impact fees to insure that new development did pay it's fair share of cost of the infrastructure. So that was the purpose of the actual study. The first phases was a feasibility study. It reviewed the legal framework, local data, potential fees that could be developed in Fayetteville. Another part of the study in Phase I was a Development Fee Survey. The consultant looked at 11 jurisdictions, six in Arkansas, six outside of Arkansas. The cities outside of Arkansas that were looked at were _____, Montana; Chapel Hill, North Carolina; Fort Collins, Colorado; Lawrence, Kansas; Springfield, Missouri. So if you take a look at what those cities were doing outside of Arkansas, currently inside of Arkansas they looked at Bentonville, Conway, Ft. Smith, Jonesboro, Rogers and Springdale. Of the cities in Arkansas, Bentonville currently has a ongoing impact fee study under way. Conway is currently reviewing our fees for an impact fee study. So there are two other cities in the state of Arkansas that are looking at impact fees. Other cities outside of Arkansas, 4 out 5 do have some type of impact fee system that they've adopted. So that the Development Fee Survey.

The summary of their findings include that cities in Arkansas clearly have the authority to impose water and wastewater impact fees, to require dedication of land for community facilities and to require fees in lieu of land dedication. But the city of Fayetteville does not currently charge water and wastewater impact fees and those could be developed in Phases II of the study. The city has court jested park land dedication, a park land ordinance that we've been using for many years now. Their findings also state that any other type of impact fee is almost firm ground. Although road would be the next best bet in their study that's what they state. With regard to roads they also state

that it might be a step backwards because the city now does require half the street improvements to adjacent roadways in many cases. For all the facility types for road impact fees was adopted it would probably have the strongest chance of being upheld by the Arkansas courts. They state there is sufficient information and planning data to develop a road impact fee but whether to include a road impact fee is part of the Phases II policy of the actual impact fee study is a policy issue for the city council. The city did ask the consultant to take a look impact fees for other facilities including fire, police protection, solid waste, trails, fleet management, radio sites. The consultant did write in there report that due to questions regarding the authority of the municipalities in Arkansas to use such techniques we do not recommend proceeding with development of any of these type of fees at this time. The consultant is recommending that you do not look at impact fees for those type of facilities, fire, police, solid waste, trails. Their recommendation is that the city proceed with the development of water and wastewater impact fees and an update of the existing park land dedication and fee in lieu requirements in Phases II of the project. They further go on to state that a water impact fee covering the cost of distribution and storage facilities could generate up to 1 million annually. While an impact fee for the cost of a new wastewater plant could generate 2 million dollars annually. An update to the park land dedication ordinance would not necessarily generate additional revenue but could help to insure that the requirements for existing levels of service and the actual demand for residential development on the new park facilities. The study basically is analyzing how these type of facilities should be fund. Who should pay to fund these type of facilities. We currently fund our facilities by many different methods, sales tax, property tax for the senior center. Impact fees are designed to try to assign those costs for those facilities to directly to those who benefit. So when a new development does occur that the people that developers and people moving into those developments actually are paying the cost for that additional capacity of those facilities. Tonight I would like the city council to do two things. The first thing is would be to accept the actual reports for Phases I which includes the Development Fee Survey and this policy directions memorandum. Then the city council will need to direct staff on what direction to take if we are going to look at a study to look at impact fee for water, wastewater, roads and parks, or if you want to look at just wastewater and water. Once again staff will meet that recommendation once you give us that direction. I will work with our Budget coordinator, Steve Davis and we will bring forward to you a contract for those facilities you would the consultant to study. The consultant will be responsible to prepare the ordinances, to conduct the public participation process, and meet staff and the city bring those things forward. They will also be working the city council to look at what level of fee if you do decide to impose impact fees, should be assessed to new development. It does not have to be 100%. It can be something less than 100%. If you have any questions I'd be happy to answer them at this time. And once again the whole issue that I feel that you are looking at tonight is how should new development pay for itself. Should the entire city pay for the infrastructure costs on large capital facilities that are needed to serve new development? Or should those fees be assigned more specifically as development occurs in the city?

Alderman Young states when the consultants were here they went through all this. They had a chart

up there and I've gone back through here. It must have been on another piece that they gave us. They had a breakdown and there were three categories. At the top was the most secure legally and in middle most risky. What was the ones at the top.

Conklin says the three that they are recommending the city should proceed with that our of firm ground are water, wastewater and an update to the park land dedication ordinance.

Alderman Young asks the roads are in the second tier?

Conklin says the road were in the second tier, that's correct.

Alderman Young asks what else is in the second tier do you remember?

Alderman Thiel says you mentioned trails didn't you when you were reading that didn't you?

Conklin states I don't have it broken down that way but if the city proceeds they are very confident that water, wastewater and park land dedication since that's already been to the Arkansas Supreme Court.

Alderman Young says seems to me like one of the biggest problems we've had is roads. Its been quite a problem to get a developer to pay his share of an intersection or something like that. I think we ought to do water, wastewater and roads and parks.

Alderman Davis says right now we are doing a share, a cost share on a lot of intersections with developers. I do have one question. I've got lots of questions and I've got some concerns. Right now we do charge for water taps and sewer taps. Is that not an impact fee?

The mayor says basically we are just charging for the cost of hooking on to our system.

The city attorney says not even the full cost.

Conklin says that's a good example, the tapping fees for water and sewer taps. The actual property or owner of the house is paying for those. The taxpayers, citizens of Fayetteville aren't paying that cost to send our crews out there and the labor and materials. But the actual cost is being recovered by that actual person developing that house on that lot. I kind of look at impact fees similar situation. Do you spread that cost over the entire city or do you try to assign that cost to those who are causing the need for those type of facilities.

Alderman Santos says this is something I've championed for a long time. I've spent over ten years at, studying this subject extensively because it offers the potential for so much good. We were

talking earlier tonight about new residential development not paying for itself. That whenever somebody moves into our city all the rest of us are pitching to subsidize that person moving into our city. This is a way to end that and to have the new people when they move in pay their fair share for the demand for infrastructure that they create. We have to be very careful determining what their fair share is and that's why I'm glad that we have these consultants hired because they are very very good and they are the best in the field. Another thing aside from making a new development pay for itself, it's really important. This isn't just a revenue tool. It can be used as a regulatory tool. We were talking about hillside development ordinances. We can have sliding scales on these impact fees to help implement our policies if we want to discourage hillside development. We can have higher impact fees based on the slope of the property. If we want to encourage affordable housing we could have lower impact fees for more affordable housing, for smaller housing. I've been real patient over the years trying to get this adopted by the city and I don't want to jump to fast but I think that these four things list here, water, wastewater, community facilities, streets and roads are pretty safe ground constitutionally. One thing that I didn't find out until I read this consultant study was that as far back as 1910 impact fees have been held to be constitutional in Arkansas. That was back when North Little Rock was called Argenta, that's where that case happened.

Alderman Young says the consultant was amazed when he found that. He'd been studying all over the country and he said that was one of the earliest cases he had ever found.

The mayor states Arkansas has always been the cutting edge.

Alderman Jordan says yes very much so.

Alderman Santos says I'm glad were to this point. Let's proceed. Proceed carefully but proceed. I think these four infrastructure areas are what we should—we should accept the report. You need us to do that. You need a resolution to accept the report and to put implementation into these four areas.

Alderman Young asks what four areas? Are you making a motion?

Alderman Thiel says we need to make a motion—I will make a motion to accept the two reports. And then we can—or should we do it all together. I'm confused.

The mayor says we need to keep them separate.

Alderman Thiel says I need to make a motion to accept the two reports.

Alderman Zurcher second.

Alderman Davis says Kevin brought up a sliding scale. Is that legal? I mean is that—do you get into a discrimination situation possibly where one area of town has an advantage over another due whatever.

City attorney says I think you can probably use a sliding scale but you have stay under the actual top amount to be allowed for the impact fee. In other words you can't go over and charge something more than what their logical cost to the system would be just because they are building where you might not want them to build.

Alderman Davis says the same situation when you go out to another area of town and do it for substantially less than what it requires. When you are charging somebody in the north end of town—just do it on a nice walk for instance, say two or three times the rate.

City attorney says not only do you have some problems with equal protection of the laws but of course I think you have some political problems if you do treat the citizens of town differently depending on where they are living. You can possibly draft up an ordinance that might do that legally. I don't know if you can get pass some of the political problems where someone might say that I shouldn't have to pay more because I living in one part of town as opposed to another. I'd have to work pretty hard and be pretty careful on that ordinance though if we are going to try to make any changes that where it's based on where you are going to build.

Alderman Thiel says I think that's why we want to probably pay for this additional study. I think that this group is going to do those findings for us or help us.

The city attorney says they'll do what you want them to do but the more complex the problem you make it, and as Alderman Santos has outlined—that could be very complex if you are going to try to give pluses and minus for hillside development or infill or closer to the edge of town, or whatever other kind of categories you would have. And of course that makes it a much more complex problem and you will have to pay them for that.

Alderman Thiel says if we have some money budgeted for that—left out of this. And I feel like if we are going to do this that would be something certainly I would want to do.

Alderman Zurcher says it seems like the whole point of impact fees is to look at how much its going to cost the city in infrastructure. And if you can show that developing in one area or one type of area costs a lot less in infrastructure it doesn't seem like that would be hard to defend charging them less.

City attorney then states that anytime you start making differentiation about that its get very difficult to try to prove why it costs more to build here as opposed to build there. I think that it is a much more complex and more difficult to try to defend. I would also like to caution you about our current

park land ordinance. This ordinance has been to the Arkansas Supreme Court and been approved. It's a good ordinance. We get a lot of money and park land from it. I would not tinker with it. I would not ask outside consultants to come in and tell us how to rewrite this ordinance. This ordinance has already been approved. We change it, it might be back before the Supreme Court. So I would not recommend that you look at the park land ordinance and try to change it.

Alderman Thiel says well.

Alderman Santos says what's the harm in looking at it.

Alderman Young says we aren't changing the ordinance like you are thinking Kit. What we are wanting them to do is to study the methodology and the numbers of actually how you apply that. In other words the Supreme Court says yes you can apply it so long as you spend the money in that quota. We aren't proposing to change that what we are trying to figure out is fair and equitable amount. That's what these consultants will tell us.

Alderman Santos says there may be room for improvement. No harm in looking when we've talked already about having a differential in land prices between the quadrants. They could seem kind of unfair. Let's let the experts look at it and advise us and then we can make a decision rather than hide our head in the sand and not listen to what the experts might have to offer.

City attorney says I remember one comment that the experts gave when they gave the presentation to us up in room 326. They were talking about roads and he was saying that it looks like Fayetteville might be already collecting more in roads than an impact fee would generate.

Alderman Santos says well we need to correct that.

City attorney says when you do look at it you can cut in both directions and the city council needs to know that. And you are paying of course these experts to come back and tell us what they believe is correct. They're not necessarily the final authority if we get sued or something, hopefully they would be there and we can use their studies. But it still will be decided by a judge or jury if we get challenged on this somewhere down the line. So I would just ask you to be very careful as you proceed on this.

Alderman Santos says if we are charging people too much for road improvements we need to put an end to that. I mean the idea is to make things more fair not to gouge people for more money.

Alderman Thiel says I would like to add one thing about the park impact fees. I attended the Lois & Associates master park plan study meeting and I got a very thick copy of the study plan of the park plan. And one thing they noted was ways that we could help fund the future parks. They note that

even though we have obtained more than the national average of park lands through our ordinance we've not addressed the increased maintenance and management burdens created by the added park land. They recommended that in meeting the needs of park land for residences and developments the city should not limit the discussion on growth impact to park land only but should also include impact or development fees to cover park facilities development. Also they suggested that the city should explore impact fees on nonresidential development. So I would say that there is room for us for this group to do an additional study on the park land. The roads I'm not to sure of but the park land yes.

Alderman Santos says I'd sure like to have them look at it and tell us what they think.

[missing some from between side A and B of tape-the next thing is)
approve this resolution. The city clerk calls the roll. Upon the roll call the resolution passes with Reynolds voting no.

The city attorney states that was a motion to accept the two reports.
Alderman Santos says so now you want a motion for further study of the four areas, water, wastewater, community facilities, streets and roads.

Okay I'll make that motion.

The mayor asks so is it \$12,000 per study. Is that how it works out?

Conklin their estimate is \$12,800 for the roads; water is \$12,040; wastewater is \$12,040; parks and trails \$11,280, implementation and ordinances \$9,000; growth participation \$11,250; Phase II toll is \$68,410. However, Steve Davis and I will be working with them to negotiating a contract to bring back to you so I'm not sure that these are the final figures. It could be less.

Alderman Thiel says we still have \$69,700 in the balance of this particular project.

Alderman Santos says budgeted for this project.

Alderman Davis asks is there a way we can hold the funds out for the ordinance and implementation of this until we decide whether we want to do it or not? Which you mentioned was \$9,000. Can you a draft a contract--can you put the contract together to come up with just numbers.

The city attorney interrupts to say that we could certainly come up with a phased contract.

Alderman Davis says should be decide to pass that up here at that point and time we could go ahead a go with the implementation and ordinance portion.

City attorney says don't you think we can do that Tim. Phase contract where they do the initial study and come up with the figures first.

Alderman Young says that gets it started and we can go forward from there.

Conklin says I think the public participation part is going to be important to be able to determine what level of fee that they want.

Alderman Santos interrupts and don't skimp on that.

Conklin says the whole idea is to bring together individuals in this community, the stake holders this will impact and work with them and education the public to determine what is appropriate. I think you are going to have to that before you can make a decision. We're trying to make tonight we want to look at water, wastewater, roads and parks. That's the decision we want to make here tonight but we don't have any decisions of – any policy decisions is that a 100% or 80% or 40%. I think you have to work with the public so you don't end up at the very end with no public input into this whole process.

Alderman Young say what he is talking about, you're right. But what he is talking about is that other part, the actual-what do you call it? Ordinance information?
Conklin say implementation.

Alderman Santos says ordinance and implementation of the program.

Alderman Young says that part were questioning.

Alderman Davis says you are looking the part of the study that is having the public be involved and ask question and have them tell them what they are thinking. But why should they go ahead and write us ordinances if don't know if we want to accept it until once we see.

Alderman Santos says hold that part out until the final phase.

Conklin says I'm sure we can work that out.

Alderman Trumbo asks what part did you make a motion about.

Alderman Santos says I don't remember. water impact fee, wastewater impact fee, land dedication for community facilities or fee in lieu of land dedication, and No. 4 streets/roads land dedication or fee in lieu of.

Alderman Young says now that third one is the like parks-is that what you're talking about.

Alderman Santos say I think this might extend further than public/community facilities though. We'll find out.

Alderman Trumbo says I don't mind voting for this study. I mean I'm not for impact fees at all right now so I don't mind voting for the study just to better education me because right now I think impact fees drive development elsewhere and I think it also diminishes some of the poor parts of town if you have the impact fees implemented from developing in that area when they can go somewhere else for 20% less costs. But I don't mind the appropriation for more scientific study that might change my point of view from my history with impact fees and knowledge from developers. The impact that it has. I wouldn't be in favor of appropriating the \$9,000 for implementation and ordinances. I'd like to see it come back to the city council.

Alderman Santos says I would also like to point out though that every study that's ever been done showed that impact fees do encourage development and we're talking about fees on the order of 1% rather than 20%.

Alderman Jordan stated I did a study in Hawaii back in time when growth was getting out of hand. So they decided to put impact fees on the developers there and then they continued to grow even at a faster rate than they did before. Arizona experienced the same thing. I think there is cities in California.

Alderman Trumbo says but there's also, Lioneld, correct me if I'm wrong but developers that I've talked to that its just whether you are doing an impact fee for a multi-family housing complex and/or residential spec home that costs—impact fees are passed along to the consumer and the buyer.

Alderman Jordan says that's true.

Alderman Trumbo says the developer whatever you tack on to me I'm going to pass on to the consumer.

Alderman Jordan says that's true, you're right.

Alderman Trumbo says you're robbing Peter to pay Paul.

Alderman Santos says not if it's not passed on to the consumer or the owner of that house its passed on to all the rest of us.

Alderman Trumbo says yeah but the developer pays for the infrastructure they put in the subdivision and tenant who buys the house pays their water and sewer that we are supposed to collect the cost it costs us to do the infrastructure. So where is the costs?

Alderman Thiel says the developer shouldn't complain about that. Because just as you say they pass it on to the consumer

Alderman Santos says I'd rather with the impact fee pass it on to the person who deserves the burden. The person who is moving here granting the demand. Without the impact fee all the rest of us, the citizens of Fayetteville pitch in to pay for that.

Alderman Jordan says that's exactly right.

Alderman Thiel interrupts

The mayor says excuse me just a minute I think Tim would like to speak to us.

Tim Conklin states the whole idea of impact fees is not to stop growth. It's to make sure that we have adequate water treatment plant or wastewater treatment plant capacity, water distribution system, roads-to allow that to continue. Once again its how fund your capital improvements. We find it many different ways in Fayetteville. This is one way that when the consultant-we mailed it to them, we ask them to take look at five cities out of the state of Arkansas. They looked at five cities outside of the state of Arkansas and four of them have some type of development impact fee system to help pay for their capital facilities. Yes, when development occurs they do put their water lines in, their sewer lines in, garbage is a enterprise fund. Basically pays their rates to have the trash picked up. However the larger facilities, like the wastewater treatment plant, were not recovering those costs by new development. We, as a entire city, are paying that cost through either sales tax that's been proposed or some other mechanism. Cities that has had a fast growth rate have used this as a method to help. It isn't funded 100% either. But as a way to supplement building those facilities to make sure that growth can continue in Fayetteville.

Alderman Davis says one thing Tim, as people come in on the commercial side they are going to pass that cost onto the consumer so you'll be paying more for your groceries and clothing and things of that nature because they've got to look at their rate of return.

Alderman Thiel says that doesn't seem

Alderman Davis says they're going to pass that on.

Alderman Young asks is there a second to Kevin's motion?
City Clerk says no.

Alderman Young says second.

Alderman Zurcher says I want to say something real quick. Just briefly just from everything that I've seen and read about impact fees and just the whole concept, I think it's a fair, equitable for taking an approach to growth and I think it is long overdue. And so, I'm definitely for letting these people do the study and show us how the city can benefit.

The mayor says one thing I'd like to add. Go ahead Swifty.

Alderman Reynolds says I think we should of done this 40,000 people ago. We didn't charge anybody here to come here and all of the sudden we are going to charge people to come here and be happy like we are. I just don't think its fair. I think our water and sewer rates will take care of our plant. I don't think that we are going to have enough people come here in the next five years that's going to pay the impact fees to pay for that \$80 or \$90 million sewer plant. I think we are just going to have buckle down and pay the price.

The mayor says there is no doubt about that. In order to pay an impact fee just to pay for the plant we'd have to have 100,000 people a year moving into town. I don't think any of us want that. It is supplemental as Tim says. After long talks with Mr Bill Burkhart, who's the head of the Northwest Arkansas Homebuilders Association, he was the expert in dealing with the potential impact fee study and impact fee study implementation up in Bentonville where they were looking to – I don't know what extent it is now. I don't think they've approved it. But they were looking at implementing a \$3,500 per unit, single family residential impact fee of 3,500 bucks per each. And the concern-the primary concern of the Homebuilder's Association at that time was that the impact fee didn't need to focus on such a narrow block in the building community. If its was going to be implemented it needed to implemented across the board without a such a steep burden just on one narrow aspect of the construction industry. It needed to be a multi-family and commercial as well. The \$3,500 fee was painful for them. But in reality they admitted they knew impact fees were coming and it is the wave of the future not just in Arkansas but other cities and states around the different states and they see these as inevitability. It's just a matter of how we implement them, if they're fair, if they're reasonable, if they're across the board. I think if they are willing to discuss it. I don't think they are completely opposing the entire concept of impact fees that's just one point of conversation.

The mayor asks for any other comments on the city council. Anyone in the public who would like to say something. Yes, Mr. Ferrell.

Thank you mayor/alderman. My name is Bobby Ferrell. Registered voter, city resident, _____ with the Chamber of Commerce. I just thought I'd point that out. I just want to make a couple of comments about the impact fees. I think that they can be a dissuader for affordable housing. I know that you all visit a moment ago about the perhaps charging one rate for affordable housing. I don't think that will just travel down a perilous road when you do that. Especially in view of the fact that there is certain parts of town that we'd like to develop and perhaps see some housing that I think

there just needs to be thought about. I think you are going to get whatever you ask that consultant for Mr. Conklin. Whatever you ask him for that's what he's going to come back with, he's being paid to that.

John Maguire says you're right.

Mr. Ferrell says exactly right and continues. If you enumerate 47 impact fees, he's going to come back and recommend 47 impact fees.

Maguire interrupts again.

Mr. Ferrell says Alderman Maguire, I have one more point. If I built a home in one block let's just say, and I paid an impact fee and say a catastrophic event happened, my house burned, and I moved down at the end – the end of the block was just starting to be built on and I move down there. Theoretically I might have pay another impact fee and say I lived here for 53 years. So it's just some things I like for you to think about further. Thank you.

The mayor says thank you Mr. Farrell.

Alderman Zurcher says I don't think we necessarily want to punish anybody for not living here very long. I don't think of it as a means of punish but as a way to have development pay more of its fair share of the infrastructure that it needs to support. We're talking new development.

I'm Jeff Erf. 2706 _____ Road. A couple quick comments. I would encourage you all's support to pass this impact fee study. Just remind you there will be an election for I guess a means to pay for a sewage treatment system that's going to be around 140 - 145 million dollars. I'm including the debt service as taxpayer's dollars. And you need to do what you can I think it would be more difficult to get voter's support for this if you don't try to recoup some of these costs from the people who are creating the demand for the new sewage treatment plant rather just ask all citizens of Fayetteville for the total costs of improvements. That's it. Thank you very much.

The mayor says thank you.

Jim Crider, Director of Economic Development with the Fayetteville Chamber of Commerce. I certainly echo what Bobby Farrell said just a moment ago. Just kind of a caveat. I've been involved with any number of studies and assessments throughout my career both in economic development city and regional planning. And the inference whenever you go say to a consultant to go out and find six or eight or ten cities that have done impact fees. That's saying we want–go find the reasons to get them. I just like to recommend if you are going to do this then do it fairly. Get consideration from both sides. Having a half a dozen cities assess that have done this and a half a dozen of cities

that have flatly turned it down and find out why.

Alderman Trumbo says or Jim, to look at cities that have implemented it and then retracted it. After they implemented it, how it worked.

Jim Crider responds then retracted, yeah that's a good analogy. I think that would be really fair assessment of the situation. Let's get both sides of the story on the situation like that.

The mayor asked could we add to the discussion with the consultants?

Conklin responded yes, but with regard to how the cities were picked, staff was not aware whether or not they did have impact fees. Those cities were bases on similar size, population, growth and university towns. That's what I was trying to express earlier that when they did come back with those five cities outside of the state of Arkansas, four of them had some type of development impact fee. Staff did not go out and find cities that had impact fees. We sit up in a room and thought about other cities similar to Fayetteville and the situation. Those are the findings that come down.

The mayor says that is true. I was in the meeting where we decided to—we've always compared ourselves—Fayetteville's always compared itself with our surrounding cities, Springdale, Rogers, Bentonville, etc. And we never really compared ourselves to the outside world so much. So during this conversation we decided to go ahead and compare ourselves to our sister cities but also compare ourselves to other university cities our size to see what people with our profile had done. It come back that a lot of those had already initiated impact fees outside this area. And I don't know. It would be interesting to see where Bentonville stands on their's and what their status is.

Alderman Young states I think it would be very beneficial to see if there are some cities that implemented impact fees and withdrew them

Alderman Santos said I'll see if I can find any of those. I'll do some research on it. I don't really think such a thing exists but I'll do my best to find them.

The mayor said yes, see what you can find.

Alderman Trumbo says scientifically I'd like to see correlation because my degree is financial, you're a planner so I'm not with your background. My understanding is the correlation would be totally opposite and with your scientific knowledge and education show otherwise. I'd like in study to see a correlation of impact fees implemented and how the growth percentage of single family residential, multi-family how they correlated after impact fees were implement in other municipalities of our size.

Conklin says the Selection Committee did interview three consultants. The firm that we chose, Duncan Associates. They're top in their field. They've done a lot of research. They're aware of other studies. I'd be more than happy to ask them to provide me those type of studies that you're looking for. With regard to a comparative study of other studies, there's a new planning advisory report out looking at what other cities across the United States have done. I can almost make that available to you. If you are asking city staff to bring forward a contract to do more of a development survey, fee survey, I'm sure we are going to have to pay additional money to look at what other cities are doing as part of this document. I need more clarification. That's what I'm asking for. We had eleven cities evaluation, studied. The ones as the mayor indicated. We were up in a room trying to find other cities similar to Fayetteville. We didn't know whether or not they had impact fees. This is what the study came back in this development fee survey.

Alderman Zurcher says while we're making a laundry list here, I think it would be interesting to see if we do a study, or one factor is how the impact fees effect growth. It would be nice to see a study based on several indicators of quality of life. And how those stood up as these cities developed with their impact fees.

Alderman Thiel says mayor, I guess I want a little bit more explanation of what, and it's not that I'm opposed to any of this idea. I mean, I think that we do need to look our potential for impact fees. I would kind of like a little more explanation about what each one of these, what they are doing for the approximately \$12,000 per facility study. What are we getting for that amount of money.

Conklin says that is something that staff will have to bring forth back to the council. It's part of a contract that you'll have to approve.

Alderman Thiel says okay.

Conklin says at this time we don't have any detailed contract because staff was unsure whether or not we're going forward with Phase II this evening or what facilities we were looking at. As soon as that decision is made we'll contact a consultant and work with them on bring forward a contract.

Alderman Thiel says so we're not voting on the money yet. We're just voting on you finding out.

Conklin says you are not voting on the money this evening. You are not approving a contract. You're not approving an impact fee ordinance which I'm sure everybody is aware of that. I'm sure that everybody is aware of that. Just in case there is someone out there in the public watching that are not aware that City Council has not adopted or passed ordinance this evening assessing impact fees. You're giving direction for staff to bring a contract back to the City Council. That contract is going initiate Phase II. They are going to look at a developing study to look at these facilities. Once that is done we will bring another contract back with regard to the ordinances. Once the

ordinances are developed those will be brought forward to you. And then at that time you all have to decide whether or not you want to adopt that ordinance. So there is many different stages in the development of this and there'll be many opportunities for the public to participant throughout this process.

Alderman Young asks right now the motion, all the resolution is spelling out the four areas we want studied?

Conklin says that is correct.

Alderman Davis says it would also be interesting Tim to find out in these towns what happened to the areas that slow in development to begin with. What happened to those areas once you implemented impact fees?

Conklin stated just for clarification. Are you asking me to talk to the consultants, get on the internet provide you literature, studies that have already been done or are you asking these consultants to do additional work?

Alderman Davis says they probably already done a lot of this work. And they can probably tell you exactly where to go to find it.

Conklin stated that's my intent is to bring forward to you existing studies that have been done. We are not asking the consultant to do these studies.

Alderman Trumbo says he probably already know and can give you copies of them.

Conklin says yes. I have quite a bit information in my office also with regard to impact fees and studies. The information is there. I don't want to hire a consultant to perform this type of studies.

The mayor acknowledges Mr. Reynolds.

Alderman Reynolds says I don't know why we can't go to the University of Arkansas and get a class up there to do this study for us for far less then \$70,000. We got some brilliant people up there. Why are we going after these people to come and pay them. Why don't we use our local resources?

The mayor states I think in a lot of cases we should. I think in this particular case I think these guys might hold us up better. Hold up better in court if we were taken to court if we do implement impact fees.

Alderman Reynolds states I didn't know we were planning on getting sued.

The mayor says well—I know we're getting there.

Alderman Santos says I'd like to say one more thing about these arguments about the people intuitive feeling that impact fees discourage development or affordable housing. And these arguments were defeated decades ago but people still have this intuitive feeling and I'd just like to say that intuition is what makes you think the world is flat. So.

Alderman Trumbo says along those lines, I know this is my last comment. Along those same lines just recently a very large multi-family owner that contrary to those feelings and being in the business for a long time said that impact fees will be great because it will help me to solidify a monopoly with what I already built.

The mayor recognizes Mr. Garcia.

Mr. Garcia says recently we had a Ward 2 meeting that was called and hosted by Councilman Young and Councilman Zurcher. It was actually very good, a very productive meeting. I was very glad that they held it. One of the issues that came up there was the three minute time limit that had been imposed at the last city council meeting. Apparently it had been imposed by some confusion and misunderstanding. I'm not concerned about that or trying to raise that here. Just to mention a point that Councilman Young made at that meeting, at our Ward 2 meeting which was that if you actually look at who is doing most of the talking at these meetings, it is not the public that makes for long and endless council meetings. And that motion's to limit the public to three minutes are not going to resolve the problem. I only mention that because I think we just have a classic case right here. Perhaps I misunderstood it but I thought we were in the public comment session of the discussion here.

Alderman Santos says I second it.

Mr. Garcia says the reason that I stood up in the first place was because something happened here that I thought was fairly significant and that I wanted to ask you to take note of, you know, the discussion coming up a little bit later tonight. And that was that I thought I heard the Chamber of Commerce and the city's Administrative Services Director, Mr. Maguire say that a consultant will give you actually what you ask them for. Now if that is their public testimony, then I would ask you to keep that in mind when we get to the discussion a little bit later this evening about the Youth Center. You may recall that much of the argument in favor of the west side location for the Youth, excuse me I'd like to proceed, was based on consultants. Based on the work of consultants. Now if certain members of the Council ask you to accept the consultant's word in that case, then I don't see why they are questioning and challenging the consultants in this case? There is a simple contradiction there I don't understand. Let's either use consultants and rely their work or let's not. But let's not pick and chose the consultants that we want to listen to because as the Chamber of

Commerce tells us, they'll just say whatever we want them to say.

Alderman Trumbo says Mr. Garcia, with all due respects, whenever we discuss something, I only speak for myself on impact fees, I get a lot of calls at my office from a lot of constituents and call for a lot of data and input that I weigh and then I come here and then I talk with people that have called me at the office. That's why I talk a lot because I do a lot of homework. I'm a voracious reader when I get into items like this. I always appreciate the public input but I think it works both ways.

Mr. Garcia says understood.

Alderman Trumbo thanks Mr. Garcia.

The mayor thanks Mr. Garcia. Any other comments from the audience.

Alderman Jordan says yeah, sorry.

The mayor says seeing none I'll bring it back to City Council.

Alderman Jordan says I think this is getting to be like a piece of tough meat, the more we chew it the bigger it gets. I'm ready to vote.

The mayor says we have a motion and a second. Is there any other discussion? Shall the motion pass? The city clerk calls the roll and upon roll call the motion passes with Reynolds voting no.

The mayor thanks the council and states we are through with the impact fees study portion of the discussion is that right. Now we go to No. 5.

SPECIAL ELECTION: An ordinance calling and setting a date for a special election on the question of advising the City Council whether or not to raise two mills general property tax to be utilized to help finance the new Fayetteville Boys and Girls Club.

The city attorney says let me begin by saying that a little over a week ago Alderman Zurcher asked me to draft an ordinance calling for special election for the 2 mills that the City Council back in, last year, the end of last year had indicated they wanted to pass in favor of the Boys Club to help build that project. And I went back and realized that we had a special election in Fayetteville in 1988 over the incinerator and so I used that as my model and prepared an ordinance for Alderman Zurcher and presented that to you all at the agenda session but I began to research that issue and I could not actually find anything in the Arkansas statutes that would authorize a special election that was not binding. There was only a straw pole and I gave you all a memo on that last week. And so my advice would be that we really don't have that authority. Now I'm not saying that the earlier election

back in 1988 was illegal, I'm not passing judgment whatsoever on that. I'm just saying that now I would not recommend any kind of special election unless the election was actually to sustain or accept or reject an ordinance that you've passed. But this brought this subject of this millage up. And I had assumed, of course, that when last year a resolution saying that we would pay millage to the Boys Club and Girls Club, I assumed that was proper and legal and we could do that. But I'm a pretty scared lawyer. I like to really make sure that we have the legal authority to do whatever we are going to do. And so I started looking into this and I have prepared a memo for you and won't read that to you but I did want to call attention to the public Article 12, § 5 of the Arkansas Constitution which I paraphrased and say and it reads, "no county, city, town or other municipal corporation shall obtain or appropriate money for any corporation, association, institute or individual. This seems to prohibit us from giving money to giving money to any other group. Although initially when this was interpreted back in the '20s the Supreme Court did allow contributions to a charity in that case. However after I followed this line of case to the future, I found that original case had pretty much been discredited and rejected by the Arkansas Supreme Court. And the most recent cases said that in fact we could not as a city give money to charities and especially there was clear, fairly clear language I think in a case where a chancellor was reversed for giving city to several charities. The Supreme Court in 1990 said that the Arkansas Constitution forbids county or municipal funds to be given to any corporation, association, institution or individual. And so they reversed her decision to do that. Going further I checked other statutes but that was my opinion. I did not release that to you immediately. I was looking at that last week but obviously I realized this was a very important issue and I did not want to go off half cocked and give you just a partial opinion. As late as today we consulted the attorney general's opinion on this and they had in fact written one just last year actually concerning a Boys & Girls Club out of Jonesboro. A prosecuting attorney from that district had asked the attorney general his opinion and the attorney general says "that it is my opinion that the statutory provision to give charitable funds to the Girls Club and Boys Club or similar nonprofit charitable organizations providing recreational youth services is unconstitutional. In my opinion such organizations clearly fall within the contemplation of Article 12, § 5." which is what I earlier quoted. Particularly if they are, I assume, private nonprofit corporations. And so it is my opinion that even though the city certainly wants to support the new Boys & Girls Club as much as possible and there are things that we can do in building roads and things like that, we can not as a city give them money to help construct their project. They are private group, independent from the city. This project is going to be built on their land not our land and because of those factors we simply are without constitutional power to donate 2.3 million dollars to them. That's also the reason why I need to look back at this other lease agreement. Because we have had some other agreements with other charities that we need to be a little bit more careful on how we work our agreements out with them to make sure that they follow the law and the constitutional.

The mayor says now when you say look back at this other agreement, you're talking about the consent agenda , the Children's House.

The city attorney says yes, that's correct. And I'm sure that we can work that out. I don't see any problems with our working right now with the Council on Aging on building the Senior Citizen Center because in fact that is being built on our land so it is our building. We will enter into a lease agreement with them after it is constructed for their operation and we'll have to be careful when we do that to make sure that they're operating in a public interest. I did want to emphasize the mayor and I had a meeting with a representative of the Boys & Girls Club Board this afternoon and we expressed to him and to the Board that we are strongly in favor and behind this Boys & Girls Club and will do what we can constitutionally to support it. And I think there are several things we can do but we cannot pass the millage to help construct this project.

Alderman Trumbo says, Kit with all due respect, I think that we could obviously be creative in looking at some loop holes to go ahead and come up in October to vote for the millage for the Boys & Girls Club but for example, we could use that 2.2 million for Ruppel Road to do the parking lot that the city owns the land to the north and we could lease it back. And then we could do a lot of creative things to do a land lease either on parking or roads or whatever we need to do to allocate that money constitutionally. So still think there's very legal ways in maneuver and avenues which we could embark upon to make this come proposition.

Alderman Davis says and there are six acres of land that I believe are adjacent to this.

Alderman Trumbo says that's right.

The city attorney says that's true. And we can work with the Boys & Girls Club in developing that land and having some sort of agreement with them to use that corporatively with them. However, I'm not going to recommend that we get to fancy and devious in this. I would call your attention to the Supreme Court decision that I did quote to you in the case that basically--initially reversed the earlier decision that had allowed contributions to charities and that's the Halbert v. Helena and West Helena Industrial Development Corporation. In there the Supreme Court stated that they were going to reject what the city or county had done there because they said it would be doing indirectly what the constitution forbids to be done directly. And so we have to be very careful that we don't try to fall into that trap. I mean--I've talked to also Jack Butt this afternoon who is also representing the Board and we discussed this situation a little bit but there is 2.3 million dollars out there. We haven't had any kind of figures like that before. That's enough money to draw the attention of many lawyers that would like to get a third of that.

Alderman Trumbo says I think thought if need be in the course you'll obviously from now going forward spend a lot of time with Jack Butt and other attorneys on the issue but last ditch effort if we need in terms of a legal maneuver, we could always have the Youth Center, who's already bought that land, deed it to the city and have a lease back arrangement.

The city attorney even suggested that in my memo but unfortunately they cannot do that because a part of their grant is that they would own the land. Another thing that could have been done except for the grant, is that they could become city committee. They could become an arm of the city. We could then donate money but that's also part of their grant that they have to be independent so I don't think the way Reynolds grant is setup that we really have an option that we can donate money to building that facility. I don't think that and I know we have a representative here, I don't think that facility will not be built. I think that they can still build the facility and that the city is going to do everything we can to help them that we can within the constitution.

Alderman Trumbo says right. I obviously can't speak for the Reynolds Foundation or their trustees, I do know they have some very astute attorneys as trustees that under the constitutionality and legal maneuvers necessary to facilitate this 9.25 million and I'd be more than willing to bet you that if need be constitutionally if the Boys & Girls Club, because of your legal finding, to go back to the Reynolds Foundation to relay this then I'm sure that they would be more than willing to entertain whatever maneuvers they would have to entertain to allow for a deed back in the lease to allow for this project to go forward with full support of the mayor and city council.

The city attorney says that's up to the Board of the Boys & Girls Club and the Reynolds Foundation.

Alderman Trumbo says sure.

The city attorney says I can only tell you that at this point and time under the way the situation is right now, we cannot do it. Now if it changes then we might be able to do it.

Alderman Davis says Kit what happens to the non-profits that we are currently giving funds to. Do we go ahead and stop doing that immediately or...

The city attorney what we're planning on doing, and of course right now we're also providing operating funds to the Boys & Girls Club and we have some policy and procedure already in place there to justify that. But I'm going to go back and look at all of our agreements with various charitable groups and try to make sure that they have a performance guarantees and guarantees that they are doing really what they are doing. Right now they are doing public services but I would want to make that there is an agreement that requires that so that will protect us in the future from any challenges. Because we cannot contribute money or property to charities.

Alderman Davis said I think you will recall, I think two years ago, maybe more recent than that or a little longer, this came before the county and the county whittled some of their projects back but yet they kept others. They're still giving dollars. Have you talked to the county attorney and those individuals that were involved with that? Do they agree with what your conclusion is on this?

The city attorney said my understanding is that they have in fact gone more the contract way so that when they are providing funds or providing facilities that in fact there is a contract between the county and the charity, the non-profit group, who is providing services so that insures that in fact the county funds are not being donated. In fact they're being spent. That's what we've done with the Youth Center. For a long time the Youth Center was actually an arm of the government. The last couple years they've become independent but I think that we can continue to fund their operations with this kind of contract for services agreement we can work out.

Alderman Davis says it appears the state is able to give money to non-profits. Are you telling me basically counties cannot.

The city attorney states well I read you this state constitution and that restricts the counties and cities but does not say anything about the state.

Alderman Davis says the reason I ask that is because in this last legislation period, you got three bills through that passed where they gave money to a boys & girls club, a gymnastics repair, capital improvements and baseball.

The city attorney says unfortunately the states are at a higher level than we are and don't face the same restrictions that counties and cities face. I think it's clear there's another attorney general's opinion back in 1993 which states, the last sentence is "it must be concluded following the Arkansas Supreme Court's decision in Halbert and in the City of Jacksonville the grant of county funds to private non-profit corporations is unconstitutional. Now I'm not advising the state. Let the state do what they want. The attorney general says we can't do it.

Alderman Trumbo says so on a different note, Alderman Zurcher, are you wanting to go forward on this ordinance.

Alderman Zurcher says actually I'm glad you asked. I just been kind of waiting for the conversation to slow down a little bit. Upon hearing these revelations from our city attorney, I respectfully withdraw this item and ask that we just pull it off the table.

Alderman Davis says mayor I'd like to basically put forth a resolution while we're up here in that case that the city will work with the Boys and Girls Club and do whatever we can to help this project to become a reality. Whatever it may take. I think that's going to take the Boys and Girls Club getting with the attorney and with the city attorney and possibly you seeing what could be worked out. What possibilities are there such as Trent discussed. And go forward with it. We need to show total support by the Board and that we are in support of this and we may need letters from the alderpersons showing the public that we are in support of this so they can go out and raise their funds through their donors.

The mayor says first things first. The ordinance that is before us right now should we go ahead and bring this up and vote down, or

The city attorney interrupts by saying no. Alderman Zurcher proposed this ordinance so he can withdrew it.

The mayor says okay.

The city attorney says unless there is an objection with him withdrawing.

The mayor asks so shall we consider that done? Or is there conversation about this?

Alderman Zurcher says just consider that done. Bob just made a motion.

The city attorney says well Bob we just two weeks ago we did pass a resolution in full support of the Boys and Girls Club and this resolution has been signed by the mayor and already provided to the Boys and Girls Club. I know that—but there were some further agreements the mayor made. You might want to get with the mayor.

Alderman Davis says but Kit what I'm saying this resolution is going to work with the Boys and Girls Club and try to see if there is some way we can try to work out financial situation with them which we did not have in the last resolution. Basically it just stated that we were all in favor of the Boys and Girls Club.

Alderman Trumbo says I concur with Alderman Davis because I find it, and I'm not an attorney, and believe me I'm sure there will be some very astute minds building into this pro bono on behalf of the Boys and Girls Club. But I just have a hard time believing that the state of Arkansas can appropriate money to a boys and girls club and a municipality cannot.

Alderman Thiel says I'm not going to question the city attorney's opinion here. I think that he has provided us some very good information for us to take caution about this. But this talk about loop holes and maneuvering really is disturbing to me. I don't think that's appropriate. I think that—that our—the Boys and Girls Club have to earn, have to raise 1.8 million dollars from someone besides the city to qualify for this grant. I think that we, you know, as the city attorney explained, I think we can do infrastructure we've already committed to, some of the things that are outside of this development. That's probably going to cost in the neighborhood of a million dollars. I think that's a very good effort from the city. They may have to scale their project back some and I regret that for them. I know that a lot of planning went into this. Or possibly they can go out and earn more than 1.8 million. You know that if we as this council do support the project, I think we've done that. I think we did that at the last council meeting. And going beyond the law here or looking for loop

holes I don't think that's what they want us to do either.

Alderman Davis states Brenda I wasn't trying to go that way. Basically what I'm saying is that Kit just ran across this and for the last three or four days he's been in Washington, D.C.

The city attorney interrupts to say I've been working on this pretty much every since, for about a week. When I started researching the law I started getting nervous about whether or not we had the right to do that when I read the constitutional amendment. Ever since then I've been working on this to try to find a way and find what the answer is.

Alderman Davis says I would like for him to continue to talk to other attorneys and so forth that may have some ideas that he hasn't thought of and other things that may have occurred that he is not aware of.

Alderman Thiel says I'm sure he'll be doing that over the course of looking at what we need to do with our non-profit groups that we may need to look into.

Alderman Trumbo says Brenda my remarks on loop holes and legal maneuvers are just a very straight forward on the table way of saying that there is a way to do this constitutionally and legally. I do believe from talking to other people that there is a way to do this that is legal.

Alderman Thiel says well I think Kit's concern is that we'd be sued.

Alderman Davis says sure, yes.

Alderman Trumbo says and we'd have obviously respect his decision but you can also get a couple of other opinions, attorney general's opinion. There's a lot of due diligence that can be done on top of the city attorney's opinion.

Alderman Davis says and that's why I'd like to make that resolution the city is going to work the Boys and Girls Club to try to see if there is any possible way for us to supply them or pass a millage at some point in time, or however we want to phrase that. To show our support so that their donors are going to see that yes we do have a full fledge effort from the city trying to work with them versus the last resolution we had basically just said that you and I were in support of the Boys and Girls Club.

The mayor asks the city attorney, do you have any idea what kind of language you could use for something like that would fit within your framework of the law as you see it.

The city attorney states well I haven't prepared a resolution any resolution because that wasn't on

the agenda tonight. It was only this. I would like to point out to Alderman Davis that my last paragraph in my memo said that although my staff and I have carefully researched the law on this issue we would welcome any input that could constitutionally justify spending taxpayer's money for this project. I would like—I will listen to any person what's or any lawyer I should probably say or judge that wants to come and give me a good legal justification that we could spend it. The more I delve into it though with those two attorney general opinions that just seem to be very very clear that we cannot do this. But I'm certainly keeping an open mind and if any attorney wants to let me why I'm wrong I'll sure listen.

Alderman Trumbo says I personally think you'll find a way to make this work cause your son's been doing a good job working down there.

The city attorney says because what?

Alderman Trumbo says your son's doing a excellent job working at the Youth Center.

The city attorney says he's been there a long time.

Alderman Trumbo says been there a long time.

The mayor says Mr. Hill are you here somewhere? There you are. Could I ask you a question please. Thank you for coming tonight. Of course this was reading a memorandum this afternoon. You saw it about the same time I did. It was a surprise to me as well. Now you're—the biggest hurdle for the Boys and Girls Club right now is the way I see it is to raise the 1.85 million dollars to match the grant that the Reynolds Foundation has provided. Is that right?

Mr. Hill says that's correct.

The mayor asks how can we help you do that.

Mr. Hill continues obviously what we have to do is get out and get our campaign processes started. A concern we have or anybody has is that the support is behind it. We obviously have a lot of issues that have come up in the last five or six months. We're probably three or four months behind the eight ball of where we should be. Our consultants that we have hired to go through this process we should have already had that 1.8 in a normal fund raising environment in a march routine. We are—so how can you help. That's an interesting question. I guess, obviously, as Mr. Davis is trying to say in some form or fashion some support from the group. I know that there is some areas that we'll just have to research on our own. As I said the last time I was here, how much assistant or what we are going to need is still an open item based on what the results of our fund raising efforts are. So I can give you a bigger or better picture I guess sometime in July or August, some time in

that time frame. It's a support thing. Obviously as you read the newspaper and the headlines that are always there, it's never as positive as I would like it to be. It's always the negative headlines. Just picked up the paper this morning I think and the last meeting that we had last evening and we're on the defensive. We—not we, I'm sorry. The defensive questions. We had an open meeting last night and not very many people came. What does that mean. It goes that routine. So I think it's more a perception. I think—I understand, I've talked to several of you individually and I do believe that there is support for this project and I think somehow, I don't know we can overcome that public nature of it, that let's everyone know that the group, I guess. Whether that's city hall or whether or however that perception holds true it truly behind this process. I wish I had an easy answer for you to say sign your name on this x dotted line and that would tell everybody that we are all here and happy. You know its kind of like I had a birthday party but nobody's brought the cake. You know, in fact we forgot the invitations and the birthday hats. There is that concern and frustration that we have but I think if we can ever get to a point where we all think and that's our group and the board and the community as a whole are working towards an effort and we will get there. When we have a finality on these issue that some are important and some are not important. But whenever we come to that point in time that I think that we will be able to start the engines, start raising money and then only time tell if its enough to get the project done. Twenty percent of the project has to be raised which is 1.850 before we can even break ground. And there are some peripheral costs. I explained outside the ten foot circle of the building. So in Brenda's comment about scaling down the project. We can scale down the project to 9.60 because the 9.60 is inside the circle and I have to raise 20% which is the 1.8. I, the Boy and Girls Club. And the peripheral costs outside the 10 foot circle is our's also. Parking, fields, lights, trails, anything we do outside the 10 foot circle those costs are ours also so its not just the 1.8. I could scale the project down to 8 million dollars and it saves the Reynolds 1.2 million dollars. But I still have the same parking lots, I still have to raised the 8 million dollars which is the brings us to 1.6. Still a big circle I'm talking. Somehow we need to have a perception community wide. I wish I knew an answer for you.

Alderman Trumbo says Mr. Hill it's my understanding that Mr. Williams' is ironclad in his legal opinion that this is unconstitutional, we can do it. Would it be appropriate maybe to have you and some of your board and Mr. Williams and maybe Mr. Coody just have conference call with the legal staff of the Reynolds Foundation just to bring this to light about the legalities and the city is really wanting to find a way to constitutionally resolve this?

Mr. Hill says Personally, my opinion is I don't think the Reynolds Foundation has much of a concern. They've given the grant to us. And they have a history that this is never—the grants that they have given has always been successful in raising the 20%. It just never has happened. Its never been a problem. The consultants we've all talked to have said the same thing. They say my what a wonderful deal you have here. It's real easy. Let's get the audiences and then when we get it give me 20 cent and I'll give you 80 cents. It's an easy deal. And that's why the time frame. Unfortunately, we were right on track and we got derailed. We've been still in this process. So I

don't think the Reynolds Foundation through their staff—they're up to speed on where we are. We have report mechanisms and we meet them periodically. So they're up to speed on these issues. And they understand—similar things like these happen, I not sure that this has ever happened before. But similar type problems, building problems, codes, wetland issues, they're familiar with all those type issues.

Alderman Thiel says I have a suggestion. I thought about this—about this special election. I don't know if this is a—I mean—you know—even if you get a consensus from this council, I don't know if that's really enough to go out and seek additional funding that you're looking for. New donors. And you know I thought about the idea of a poll being down through the water bills. You know if what more of a consensus or support from the community. It might backfire. I don't know. You know I cannot really get a good feeling of the support out there. I mean I've had some many mixed calls. I mean it goes one way and then you know at the last minute I get a few more. It's pretty balanced and I'd say there's been more for you know for the Boys and Girls Club. You know I didn't take a tally before I left the house. But I definitely think there has been more that way. You know this city has a lot of activist. They're the ones that a lot times make the calls. And that's great I appreciate that. I mean we're lucky to have that in this city but this is a population of 58,000 and I certainly haven't heard from 58,000 people. You know so I don't know. I'm just wondering if you want to find a consensus a feeling for the support. This is just a suggestion.

Mr. Hill says obviously Ms. Thiel the thing that we have is unfortunately the votes that happen primarily I hope will come in if you support this project you'll write a check. Little checks, \$5.00, \$10.00, you know the routine and that's what it takes to have these kind of projects occur. There is some major dollars that we need for this and those parties whether they be foundations or individuals that give large sums of money, they kind of formulate their opinions obviously irrespective of whatever things we can do. So it may be just be smoke clearing issue that takes a little time which is always been our concern because you know the ship is fixing to sail and we do need a time process. There's a couple of times we've thought this issue was over so we can get on with it and that's all I can answer. And I appreciate that fact that we can try to come up with something but I don't believe it's the situation where the Reynolds Foundation—it's my understanding that they have confidence in this community and in us and in the city that this project will happen. So it's just an issue

Alderman Thiel interrupts to say I guess I just don't want our council or the perception of the city the administration and everything as being a deteriorate in your process in trying to get the 1.8 million.

Mr. Hill says sure.

Alderman Trumbo says you know I mean were talking 2.2 million you talk about voter apathy and

consensus for project and what was the library? Twenty-two million and only 20% of the eligible voters actually voted which was overwhelming in terms of 60% voted for it. That's hard to get the voter apathy always inherent in communities. Whether they are for it or not we only have 25% of the people per 22 million and were talking 2.2 million here.

The mayor says I think the underlying question though is how can we help you get that 1.8 million. I know that my wife and I would be glad to contribute some. We're not going to be real big hitters like you'd like go after. But.

Mr. Hill says to answer that question specifically. I do know that part of our plan and typically when you these you have a silent phase fund raising effort that occurs. Well I'm not sure any of this has been silent. So in any event we kind of jump started over that one and I can tell you that the larger public announcement of the fund raiser function I believe there is a plan some time in mid to late June and at that point and time we will have the information for everybody. It's my understanding that it would be like a come back to the Boys and Girls Club, the old facility. Giving information of what the new facility is like. Possibly giving bus transportation out to the new site. You know a fund raising starting point to allow the general public to understand what our processes are. We'd like obviously, from a professional standpoint, at the time you do this you obviously already raised some major contributions. We may be just a little backwards on this deal. Maybe they will be forthcoming quickly, or maybe there'll be a process that just kind of goes after what you typically expect to be your public announcement phase and occurs afterwards. Like I said last time, we all know how difficult it is to raise money. And we all know how many projects that have fallen short of their goals so the final verdict won't be out until we get to what we consider to be a deadline date or a concern for a deadline date. And our feeling is, we discussed that last time, that's somewhere in October. Discount May for example, we've got June, July and August, you have a four month time frame.

The mayor asks do you think, I know we passed a resolution a couple of weeks ago in support of the Boys and Girls Club, is there anything else we can do as a body to try to show support for your organization.

Mr. Hill says other than that I don't have any specific requests at this time. Obviously we had presented some things and have been graciously approved and the constitutionality be challenged those issues that we have to live with and plan around. There's nothing much more than that we can do.

Alderman Trumbo asks so in the interim will you use your resources and your membership to coordinate with Mr. Williams' office to address these concerns?

Mr. Hill says obviously as we talked this afternoon there's some issues we'd like to explore in some

areas like you mentioned. You've got adjoining properties and like Mr. Williams' is saying you don't want to circumvent rules. But there are some logical things that can be paid for and work some type of lease arrangement. I mean it's obvious that if it's city property and theirs a trail or whatever through there parking lots are needed for all parties. And as we discussed it's a situation where the infrastructure or the service is paid for through city funding allows anybody to use those properties. So there's a lot of things that we can explore. I don't want those to just to fall off the end of the table obviously. And we can be a lot more specific in the months to come and then if there is anything that they can assist us with or the council can, then we can bring those back and be specific in working with Mr. Williams and whoever the other parties might be. To bring something that is constitutional and I would like to think has the support of the council on the front end as well as the members of the community. So that's all I can recommend at this time.

Alderman Trumbo asks Mr. Williams will we as a city, to back up your legal opinion, will we ask for an attorney general's opinion to this topic.

The city attorney says I think we've got two attorney general opinions that are very clear right now. You can always ask for another attorney general's opinion. You're certainly free to do that of course, you have to do that through a legislature. I would say since you haven't had a lot of time to really look at this because I waited until I was sure as I could be to get it out. Why don't you take a look at it, read the attorney general's opinion that's in it. I also have all the supporting cases if you want to look at them. If you still are unsure about it you know talk to some lawyers friends of yours and certainly anyone has the right to ask for an attorney general's opinion. But we've got two that are pretty clear on this.

The mayor says that he just wanted to add that you know after our conversation today that whatever I can do, whatever my office can do to help you in your fund raising I want to contribute too.

Alderman Santos says that the first thing that I'm thinking of is you were talking about these peripheral costs, can't we do a partnership like we do with the Youth Center and we do with the schools and build those ball parks, and

Mr. Hill interrupts to say that we have field costs, lights, parking lots, trails

Alderman Santos interrupts to say that could be city park.

Mr. Hill says those issue that are on city property could be addressed and Mr. Williams spoke about those this afternoon. And we just obviously in a 2 o'clock this afternoon, those are issues I don't think we considered tonight to discuss but I think that in a course of couple of months of putting this whole process together we can be a lot more specific.

Alderman Santos says okay.

The mayor says alright. Thank you Mr. Hill. The mayor then acknowledges Mr. Garcia.

David Garcia, 120 N. Block. I am afraid that I will have to most respectfully or disrespectfully disagree with the mayor. But I do not think the basic question is what the city council or the community can do to support the Boys and Girls Club. Because I am afraid the questions and the problems just don't go away. This is simply another one of them. In this discussion it just indicates a continuing problem that I have with it. And I'll point to it very simply. When the question of the west side site came up proponents of the Boys and Girls Club and members of the city council repeatedly said that we could not even changing the site because it was tied to the Reynolds grant and we couldn't question the grant or we would lose the grant. NOW those same people are talking about having conference calls with Reynolds Foundation lawyers to discuss changing terms of the grant. There is a contradiction there that

Alderman Trumbo interrupts to say no that was my suggestion.

Alderman Davis says they said no.

Mr. Garcia proceeds to say I simply don't understand that. It's the same thing that happened with the consultants. That is why I wanted to make a point back then to bring it up now. We're told that consultants recommended this west side site. And when that's what people want to hear then those consultants are fine and they're experts and we should listen to them and all is well and good. As opposed to impact fees well they're just going to tell you what ever they want – whatever you want to hear. Those kinds of contradictions, those kinds of problems, just continue to raise questions about the Boys and Girls Club. And I think that councilwoman Thiel was speaking to something. There is not community support for the Boys and Girls Club. She thought it was even or perhaps a little bit in favor of it based on the calls she was getting. You can ask for a show of hands in this room tonight and see the kind of split you are going to get. Now you all voted 7 to 1 to a resolution in support of the Boys and Girls Club. I don't know why because the community does not support it. And one last point there were fundamental flaws with the site selection process. Some of the details are just starting to come to life. Now I did go to the public meeting that the Boys and Girls Club had yesterday and I commend them again for having these public meetings. I think that's an essential step if we are going to get anywhere with this. One of the question that I asked them was that given the recent census data that shows Hispanic kids make upwards of 14% of the student population in some of the south side schools, and the fact that would pretty clear indicate that the Hispanic community has a serious stake in where the site of the new Boys and Girls Club is built. How many Hispanics were involved in the site selection process as members of the Boys and Girls Club or as members of the board of the Boys and Girls Club or as members of the site selection committee. Now that is obviously blatantly, blairingly, blindly one miniature segment of the

community, one significant part of the community that was completely outside of the process. Similarly questions could have been asked about our black community. Similar questions could have been asked about the low income members of our community. I have no idea what the answers would be to that. But this site selection process that has been reported to you to be done by these expert consultants involving widespread discussion among the whole community is flawed at its core just based on that. These questions persists. They will persist until this whole thing is opened up in done again and done right. That's all I'd say. Thank you.

Mr. Garcia was thanked.

Alderman Davis said Mr. Garcia if I may make a couple comments to you, sir. Over in Ward 3 I've only had one phone call to my office, to my home, or mail or letter or whatever has indicated that they were not please with what might be going on. All the other correspondence I've received has been very positive and very supportive of this Boys and Girls Club. Also you may have forgotten I believe a lady representative from the Wedington Plaza Apartments.

Alderman Trumbo says Washington Plaza.

Alderman Davis says Washington Plaza and she indicated that the residences over there, which is close to Asbell School were exceptionally delighted at this location. You may have forgotten that sir.

Mr. Garcia says Councilmen Davis I'm not suggesting that the entire city of Fayetteville is opposed to the west side location. All I'm suggesting is that the city of Fayetteville is divided and that you can find segments of the community going both ways and that at least one significant segment was completely left out of the decision making process and that there is no argument about.

Alderman Davis says okay but I thought I heard you say that you didn't think the city of Fayetteville was supporting of this project.. And from what I've seen at all the civic organizations and my contacts out in the community I haven't seem anything that has told me that people are not supportive. People are very supportive in this project.

Mr. Garcia says let me clarify. I will say that the community is divided on it.

The mayor thanks Mr. Garcia. The mayor asks if anyone else would like to comment on this?

Louise, again. Fayetteville. I just want to ask the Boys and Girls Club if they get the 1.8 million dollars from private contributions is that enough to have a decent facility for the kids?

The mayor says that I suspect if they raise the 1.85 million dollars then that 9.2 million dollars grant

becomes whole and it gives them roughly 11 million dollars and I think you could build—everything they wanted with 15 million dollar price tag but I'm sure a 11 million dollar facility would be quite a nice facility.

Louise continues by saying so we're sitting and going back and forth about this money that we're suppose to be raising from the city and now we can't. But it seems to me that they can still have a very decent, from what I understand and from what you're telling me, if they raise the 1.85 million dollars, and he seems to quite sure that he can do that. I don't see what the problem. I still think they could still have a nice Boys and Girls Club.

Alderman Trumbo says they can Louise. It's kind of like the Senior Center. Without the millage for that project it never would have happened.

Alderman Thiel says you have to remember with the Senior Center was all we funded was the building. They don't have—having to go out and get the funding for the outside of it. Which is the same thing that the Boys Club is asking for is funding to build the things that are around the facility.

Alderman Trumbo says a lot of money come from the Area Agency Council of Aging and some other non-profit quasi-governmental funding mechanism they had available to them.

Alderman Davis says right.

Alderman Thiel says yeah but they still don't have all the funding they need.

Alderman Trumbo says oh sure.

Louise asks if the gentleman leave. The mayor responds no, would you like to ask him a question?

Louise says that's what I would like to ask him. Would the 1.8 million dollars that he

The mayor says okay. And asks Mike to step forward again, please.

Mr. Hill says as I explained to Ms. Thiel the 1.8 million only allows us to secure the 9.2 million. And the 9.2 million can only be spent inside a circle. Think about your house. Draw line of the perimeter of your home and I'm going to pay for all that but you don't have any more money. So I'm going to pay for your house but you won't have a parking lot or driveway or garage or fences or playground for children. So what happens is the 1.8 secures the house but it doesn't secure any costs outside the walls of the home. That's the easiest explanation I can give you. So outside the 10 ft circle that's what I am talking about. And those costs on any project are probably we guess they are going to be in the million and half to two million dollars. Because the playing fields are interim part

of our process as well as parking lots and so forth that are part of that same thing.

The mayor says thank you and asks for any other questions or comments on this issue from the public. If not I'll bring it back to the city council. Are there any other questions or comments on this issue? I know we've scratched the special election.

Alderman Santos says just to repeat what I said before that periphery outside the circle that Mr. Hill just mentioned again seems to me like that could be a city park and we wouldn't have any problem.

The mayor says we're going to find a resolution to this issue some how. We want to do everything we can to do to help the Boys and Girls Club within the framework of the law because we don't want to get sued and lose a bunch of money not be able to do it. And that's the one thing that bothers us is that I mean after talking with Kit today. We have, First Night, for example, I think we gave them \$15 - \$20 thousand dollars this last year and this very well may fall under this category as something we really shouldn't do legally. But that's not enough money for a lawyer to come after us for because they would only get a third of \$15,000. But a third of 2.odd number million dollars, 3/4 of a million dollars would be the legal fee. That's enough for lawyers to line up and go after us on. And that's the thing I think we need to be concerned about.

Alderman Reynolds asks the mayor to speak. The mayor acknowledges and Alderman Reynolds continues to say will you ask for a show of hands from the council, the ones that support the Boys and Girls Club so they know where we stand as far as support.

The mayor says I'll be glad to. I'll suspect that it will be unanimous tonight. Could I see a show of hands from the people on the city council here to support the Boys and Girls Club.

Alderman Young says we did that last time.

Alderman Reynolds says they need a little extra support. They need to know that we are behind them. And I think the public needs to know that we are.

Alderman Trumbo says one quick item before we move on. Kit just something to think about with malpractice insurance on a law firm to have just a legal opinion on the constitutionality from a Friday Firm or Rose Firm would that be something to consider or would that be out of line or would that be too cost prohibitive.

The city attorney says you know years ago the city wanted to pass a sales tax and help the schools out and the first lawyer they talked to said you can't do it. The second lawyer, they didn't like that so they hired another lawyer. And that lawyer said you can't do it. And then they hired a third lawyer and that lawyer said you can do it. It's going to be tough but you can do it. And then when

I was on the city council we had paid John Lisle from Springdale 2.7 million dollars because we couldn't do it. And we lost that particular case and so my recommendation is if you really are unsure then go ahead and request an attorney general opinion but I think it would be throwing good money after bad to ask Friday Firm to tell us what their opinion is on this. I mean there's only so many supreme court cases and besides that I have a lot of confidence in lawyers like Jack Butt who I already talked to and said he's going to be helping with the board. Jack has great skills and I'm sure that if there is any cases out there that somehow David Whitaker and myself omitted, we also of course spoke to the municipal league attorneys and they agreed with us. But if there is any case we messed up and omitted I sure Jack can find it and rather do that and not spend city money with the Little Rock firms looking for a needle in the haystack. Because I think we've got just as good lawyers up here in Fayetteville as they do in Little Rock.

Alderman Trumbo asks do you think all the municipalities up here they allocating money, appropriating money for all these non-profits just as we are. Are we going to have look at their own and change everything that they are doing just like you are saying that we are going to have to start doing.

The city attorney then says well I only represent the City of Fayetteville and so my recommendations go to this city. Certainly I think that we are all bound by the same constitution and so I think that they would be wise to be very careful in looking at this. They would wise to look at the attorney general's opinions but I'm not going to tell them how to run their cities.

Alderman Trumbo says that's not what I was asking but thanks.

The city attorney said I would think that they should be careful.

Alderman Thiel interrupts to say I think that our city attorney has done a great job in investigating this and know it was not an easy thing for him to come forward with this. But I appreciate it. And I agree with idea that Jack Butt will work probably at no fee to the city and with the Boys Club and if there is some something that Mr. Williams has not seen I'm sure that will be found.

The mayor asks for any other questions or comments.

Alderman Santos says yes, just one more question here I don't understand Mr. Williams. I mean I've tried to read this quickly while I was paying attention to everything else. Is there a difference between funding operations and services and funding a capital facilities? We can fund the-okay I guess what you said earlier was if they're providing a service its like a contract.

The city attorney says that's correct. The problem we have with funding the actual construction is that its their building. It's not our building. It's built on their land. And not an arm of the city and

so they would have met one of those two tests. They'd have to be an arm of the city, an agency of the city, or else it would have to be built on our land. We can negotiate what we and what we've done for years, we are paying at this point and time to operate a recreational program for the city. We certainly can do that. If you couldn't do that then we'd have to hire a for profit corporation. And the government's not going to require us to do that. But we have to make sure that in our agreements with them and any other charitable groups that it is laid out and it's clear that we're not donating money instead we are contracting with this particular charity and getting something in return.

Alderman Santos asks so we can still fund charitable organizations for their services.

The city attorney interrupts to say that's correct for their services.

Alderman Santos continues we just can't provide capital services for them

The city attorney says that would be services that the city could itself.

Alderman Santos says okay and thanks.

The mayor asks anything else?

Alderman Jordan states I would just like to say that I've had 72 contact over the last two weeks on this Boys and Girls Club. At first it looked like everybody wanted a vote of the people but it was like running about 40 to 12 at one time. As it ended up in the last day or two its been like about 42 to 30. So its running about even Brenda. You're about right and when you get 72 responses out of 15,000 people that's hard to make a decision isn't it. I also ask them if they support the Youth Center and it was like about 52 to 20 they did support the Youth Center. So I just wanted everybody to know that. That's what I had found.

The mayor says thank you and ask for any other comments. So I think we are through with this issue with this item so we can take a five minute break if people would like and come back in just a second at 9:30.

The tree preservation ordinance that we have in front of us.

TREE PROTECTION AND PRESERVATION: An ordinance amending the Tree Protection and Preservation Ordinance to allow for a waiver, reduction or alteration in the requirements of the Tree Preservation Ordinance.

The city attorney says before I read this I just wanted to say now that I've alienated half of Fayetteville I'm trying to alienate the other half.

The mayor says you know that Kit is elected he doesn't work for me, he works for you. Remember that.

The city attorney then reads the ordinance. The reason I drafted this and this came from me as city attorney and not from the alderman or the mayor was because I saw that the city had kind of gotten itself into a box. Because of a change interpretation of the current tree ordinance by our landscape administrator. One particular provision of that tree preservation plan which is the successors and interest clause. For many years the previous landscape administrator, the previous administration and for awhile also our current landscape administrator interpreted the successor's and interest clause to mean that if a tree preservation plan had been prepared and accepted that then the developer sold his development to a second individual that individual would be bound by that tree preservation plan. There is another way you can interpret that and the other interpretation which is now what our tree administrator or landscape administrator does-she now interprets the tree preservation plan. Is that if there has been an accepted tree preservation plan in a large development, such as CMN Business Park, and they sell an individual lot within that large plan instead of that lot being able to develop and just submit their own tree preservation plan without regard for the initial one, they now have to abide by the initial tree preservation plan and all the trees that were preserved under the large, tree preservation plan for the whole unit now would have to be saved. The problem with changing this interpretation at this point and time when comes to the CMN Business Park is that they invested 10 or so million dollars in infrastructure costs and laying out their lots. Without much regard to where the trees would be on these lots because they assumed that when individual would buy one of these lots that they would then add the right to create their own tree preservation plan and now every tree that was in the lots would have to be saved. I personally think that the current interpretation by the landscape administrator makes a lot more sense. But that was not what Fayetteville had done for years and years. And so now we have a possibility that there are some lots that were developed under the old plan in which the developer has invested many millions of dollars that might not be able to be successfully developed if we hold every tree that was in the original tree preservation plan sanctity so that you cannot touch one of those trees. So I found that we were in a problem where I was afraid that the city council might not be able to make a decision that would allow us not to be sued one way or the other. And that is why I prepared this the particular way-the provision and I think there are a lot of protections in it. First it can only be done by the city council not city staff. Secondly, one of you would have to agree to sponsor a proposal up here to the rest of the city council. The city council would have to vote on that proposal just to hear to see whether or some sort of alteration would be necessary for a particular parcel of land and then the entire city council would have to vote to decide whether or not or grant the waiver in that case. Basically this is just to give you the power in the future to look at a particular parcel and to make a decision if you feel like it is necessary. That's why I drafted this.

Alderman Young says I fail to see the necessity of it in any shape or form or fashion. Kim Hesse supposedly changing her interpretation around but I read in the newspaper and called her up

specifically. She says she is not doing that for CMN Business Park. It is still her old original interpretation when that development came through. So I fail to see the necessity for this revision.

The city attorney then says I spoke to Kim Hesse, the Landscape Administrator today in my office and we spoke about that. The problem is she cannot have two contrary interpretations at the same time. She can't interpret this ordinance one way for one developer and any other way for another developer. Neither can you unless there is a waiver provision in the ordinance. Only by having such a waiver provision as this do I believe that the city council has the right to look at the specific facts to see that it would be unfair. In a city like this it is quite possibly if it your determination so that you would grant a waiver. Without this provision in the ordinance, there is nothing in the ordinance that gives her the right to make that decision. There is nothing the ordinance that gives you the right to grant that decision and that was what bothered me. Because you would come between a rock and a hard place if the city agreed to pay \$450,000 because of allegations that we did not follow the ordinance. That there was nothing in the ordinance that would allow the city to grant the kind of variance or make the decision that was made last year. \$450,000 that's going to buy trees. That's great but how many times can we pay \$450,000. If we don't do that and we go the other way and say okay we are just going to enforce the ordinance and if you can't build on that lot tough luck. Then I'm afraid we're faced with a suit from the developer who has invested millions of dollars under our old interpretation. Reasonably relying upon how we always administered this ordinance and I would say that we would probably be beaten in that case. And so when I saw those two force about to collide, I decided that we needed to find some way out if possible. The only way I could find out of that scenario where we were going to lose one way or the other is by having a waiver and then leaving it up to you to make the case by case determination whether or not it should be granted. I think if you do that you will be able to avoid this arbitrary and capricious type allegations. That both sides will be able lodge against you if we don't have this waiver in there.

The mayor and Thiel try talk as same time.

The mayor says I'm sorry and go ahead Brenda.

Alderman Thiel says I just wanted to ask a quick question about-at the agenda meeting you did mention that really this development-the CMN development is really the only development that falls within the criteria that you are discussing here.

The city attorney responses by saying I would think that is true. Now when I talked to the landscape administrator today she said there might be something else. Some other developer. I don't know. However, as Alderman Zurcher pointed out at the agenda session, back in December or at least January we sent notice to all developers of the new interpretation. So anybody that has not done their development has not done their large scale preliminary plat. They can't say there's any confusion. It would only be people that have already gone through the process especially if they

have invested in infrastructure and have millions of dollars in the ground. Those are ones who I think might meet this standard before you. Other people could not. However I don't want to try to limit this particular waiver to one development because that could cause an unequal protection of the laws argument against us from any other developers. So I think it needs to be a general waiver that has the tests and reasons you can use to apply it or not apply it as you see fit but we should not try to at this point and time limit it to one developer because if there is another developer out there that has had his plat all approved in the past sometime, hasn't fully developed all of his lots and if he's similarly situated and convince you that he needs this and this is applicable to him then that particular developer should also be able to at least apply (end of tape)

Tape restart with Alderman saying that I'm for saying impracticable application of the tree preservation plan. So basically narrows this—in other words whenever we get the new tree preservation plan this will be known by that.

The city attorney states I would say that yes and no. Plans—when we get the new tree preservation plan it will probably have a variance part of it. It should because if you create an ordinance that has no possible variances in it—so you all can use your common sense when there is something that is just really stupid the way the plan would be setup. Then—you get a lot closer to being arbitrary and capricious with developing the ordinance. It makes more sense to have some variance procedures in there. Secondly, it's very possible and I talked with David Whitaker, my assistant today and he thinks that the committee is getting very close to getting the new tree ordinance in final form so they can start presenting it to you. And that's very good news I'm sure for all of us. However, this problem won't go away with the advent of the new ordinance because CMN Business Park is still there and is still trying to develop. So for facilities—for places that have already filed their preliminary plat and their final plat has been approved by the Planning Commission this variance needs to stay in effect for them until all that land is gone. In other words, they would be grand fathered in. Just like we can't change the interpretation fairly for the developers in the CMN Business Park after they've already spent their money for developing. Previous developers that have already begun their development under the old tree plan are probably going to be bound by the old tree plan. It will be the new developers that will be bound by any new tree preservation plan.

Alderman Young says unless they come here for a waiver.

The city attorney then says they can only come if an alderman brings them, sponsors them, and then its up to you all to vote.

Alderman Jordan asks want keeps the—let's just say the environmentalist from suing us like they did in December. I mean can they not bring a suit like they did before?

The city attorney responds without this waiver I think they cannot only bring a suit that they may

very well be successful if we attempted to not follow the ordinance without a provision in the ordinance that allows such an alteration or a change in the tree preservation plan. That's what this is designed to do. To give the right to make a small change hopefully, some sort of alteration that would allow a lot to be developed and still hopefully save most of the trees. Now I looked at the old tree preservation plan with Kim Hesse today in my office. And frankly there are--there aren't very many lots I think that this would have to apply to. I think creative development and with the reduction with very few trees in a lot or two would probably-would be all that you would have to look at. I think that most of the lots there are going to be able to be developed regardless. But we still don't want to end and buy two lots for the city at CMN Business Park.

The mayor asks if there is a chance that we might be able to put some kind of provision on here and say something like for developments that were platted before a certain date since that letter went, let's just say two months ago, for developments that were approved previous to that letter going out that this might apply.

The city attorney says if you look in here it talks about unforeseen application. You can certainly try to put something in there as much as you want to, but basically I'm just relying upon you all's common sense.

The mayor says that's true but the public though doesn't think we have any common sense.

The city attorney says I would disagree with that. I think that the public elected half this council and the mayor at the last election. And the other half of the council at the previous election of that. And I think that they do have confidence in you, although there will be some obviously that no matter what you do will not have any confidence in you. But I think the vast majority of the citizens do think that you all are public service servants trying to do your best and I think that, you know, believe it or not you have to rely upon yourselves and each other on this. Because any change you make here can be changed back by another ordinance. No ordinance is ever written in stone. You can always go back and change it one way or the other. So I guess my argument would be is that I tried to put a lot of safeguards in here but let's not so overload it and put other things in there. I've got confidence that this council will do the right thing and I've spoken to our landscape administrator with this. It is not designed to emasculate the tree preservation plan. If a developer-one reason I put it where the developer or the owner had to consent to come up here is that I want them to sign off with the tree administrator and with the alderman of what's going to be acceptable. They're not just coming up here and say I want all the trees off. That ain't going to be acceptable. There are a couple lots that might need to be a tree or two removed that under the current interpretation really could not be touched. They are sitting right in the middle of the lot and there might be two or three other trees so that if you keep all three trees you just can't develop the lot but maybe you can keep two. I think that there are a lot of safeguards in here already and the biggest safeguard is that you all are the representatives of the people. And you are going to be held accountable from any decision you

make. So I'm sure you're going to be very careful in how you make those decisions.

Alderman Jordan says so in your expert opinion, Kit, you're saying that there's probably how many lots could be in question here.

The city attorney responds I would say probably Kim has a better expert opinion on that than me. In looking at, I'm not a developer. I just looked and I saw where the trees were. Some trees that were one the tree preservation plan were taken off in the previous administration. Just graded away. So-but now in this point in time I would say not more than two or three lots and were not talking about a lot of trees on this lot. The only lot that still has a tremendous number of trees is Lot 7 which is the lot that Target is wanting which is a part of this original settlement. But apart from that the other lots that have substantial trees, a lot of the trees are along the drainage way and things like that where they can't develop that any way. So they can't touch those. I would think not more than two or three lots but I do want to give you a caveat that I'm not the expert on that.

Alderman Davis says it could be residential subdivisions that have been prior developed that might have some problems.

The city attorney says that's possible.

Alderman Young says based on that, anyone who's listening I would venture to say that the purpose for this ordinance is Target wants to take some trees out. They want to have the mechanism to do it.

The mayor says Target's plan has already been approved.

The alderman all talk as the same time.

The mayor says that was approved a year ago.

Alderman Young says the tree preservation plan for Lot 7 was already approved by the Planning Commission. But I'm guessing that Target wants to take some more out and this would be the mechanism to do it.

The mayor says no.

The city attorney says I don't think that you all would allow that Cyrus. And that's not the reason for this. That and, you are aware that back in January you approved a settlement that pretty much took away the Kohl's property and the Target's property. That's a tree preservation plan. That was the one that was challenged because it did not save all the trees that were on the big plan and so

that's not the problem for many of the parties that were a party to that lawsuit.

Alderman Zurcher says no, I don't think so. I think what you're saying is that it was—they were sued because it didn't comply with the successor's and interest clause and that didn't even come into effect. That was 15% on that particular lot. Okay, which is a bigger deal. I mean they only saved 10 point whatever percent on that lot. It didn't even—the successors and interest didn't even come into the argument.

The city attorney says then why did you send notice out that the interpretation was going to be different then as a part of that lawsuit if that didn't become a part of that lawsuit?

The mayor says that was part of the lawsuit.

The city attorney says I thought it was a part of the lawsuit and that's the biggest problem you're facing now, not the 15%.

Alderman Zurcher says I don't think the successors and interest clause was the biggest part of the lawsuit. It was just upholding the tree ordinance for any particular lot.

The city attorney says it's the danger now.

Alderman Zurcher interrupts to say I agree with that.

Alderman Santos says in those lots they were in violation of both. The overall tree preservation plan and the individual lot tree preservation plan.

Alderman Zurcher says I agree with that.

Alderman Santos says I just want to ask that we do leave this on the first reading let people digest this and we might even need to do a little bit more public education on it. I don't know if we should have a special meeting or any kind of informational sessions or something like that. But I think a lot of people are really worried that we're trying to gut the tree ordinance. And I don't think so. I think our city attorney is stirring us right to keep us out of lawsuits and we may ended up losing a few more trees than we want to on these two or three lots but that will be the end of it. We can wait and listen to the public.

Alderman Jordan says may I ask a question before we go on. The mayor acknowledges him and Alderman Jordan continues. I want to just get something clear hear. Now if I understand this right, and you people correct me if I'm wrong which I'm sure you will. There was this large scale development tree preservation plan. Correct. So now we've busted it up into several lots. Now the

developers come in and they say were going to give you-leave 15% or 10% or whatever they decided on and other words they were taking basically 15% of the 15%? Is that correct. Is that where we all got in trouble?

The mayor said yes.

Alderman Jordan says alright, that's all I wanted to know.

The mayor said no actually they took 10% of 12%.

Alderman Jordan says yes sir you're right. I stand corrected.

The mayor asked for any questions or comments from the public. Seeing none I bring it back to the council.

The city attorney says come on Fran start off.

Alderman Thiel says well we've got what 4 minutes until 10.

The mayor says yeah I don't think we're going to make it.

Barbara Moorman says I just want to ask a very picky question to start out with. The proposal says refers to presenting a proposed waiver. At what point in the planning process? Are you-does this suggest that should be done. It that a waiver of the entire ordinance? Or is that a waiver of a specific tree preservation plan?

The city attorney says okay if you look at that it says a proposed waiver, reduction or alteration in the requirements of the tree protection and preservation ordinance. It would be a waiver of the ordinance and how the tree preservation plan is in fact administered.

Ms. Moorman says I'm trying to visualize that.

The city attorney says let me answer you. Okay.

Ms. Moorman says sorry and the city attorney continues to say the way I anticipate this would work is that obviously the tree preservation plan is done during the planning process before the Planning Commission. My advice to our landscape administrator is that she has to have the same interpretation of the ordinance at one time for all developers. So even if she thinks its not fair which she has expressed to the city council and to the Planning Commission to hold CMN to the new interpretation my advise to her is that she has to. That she can't have two different interpretations

unless she can show me in the statute and the ordinance where it is. And so therefore she would have to look at this and say those particular trees can't be cut because they were in the original plan. And the original plan didn't show them being cut. They show them being preserved. And at that point in time when it is apparent that the tree preservation part of the large scale development cannot work that is when it would be appealed to the city council.

Ms. Moorman states it seems a little unprecise to me because what I can see is somebody just not even going that far. But just walking up to some one here and saying hey, you know, I really-I know what's going to happen and see all those trees out there and what I want to do is get a waiver to this ordinance. In other words, it's not like a variance which is very precise. It allows potentially for a changing, an alteration, of the whole or any aspect of the whole tree protection and preservation ordinance. It seems to me much too broad in scope.

The city attorney says the new variance that will be in the tree preservation plan, the new tree preservation ordinance I mean. Will probably be a variance to that ordinance and not specific parts of that ordinance because if you are asking for a variance a lot of times what that is-why that is put in there we cannot foresee everything. We cannot pretend that all land is the same, all lots are the same, and therefore, there has to still be part of the human equation when you're trying to decide what is fair and what is right. The city council can create an ordinance that works 95% of the time. Or 95% of the circumstances but there is always going to be exceptional circumstances the way easements go across whether it be a drainage ways, or steepness of hills. There is always going to be something that we can't anticipate for. And that's why variances should be there and I think the new ordinance, I hope will have a variance that will be carefully crafted but will effort the entire ordinance.

Ms. Moorman says I glad that you're forcing the limits of human intelligence but it worries me that this is so vague. Because it doesn't, to me it is extremely vague. It doesn't say where at what point in the process the waiver can be requested. It doesn't state what is an owner or developer. Is it someone who's already become one by a certain date. This question was already raised. I mean at what point does a person have to have been an owner or developer in order to do this. Or can anybody do it in the future. What margin would the city council have to grant this by. When would it be

The city attorney interrupts to the city council, do what now? Margin? Ms. Moorman continues to say granted by the city council just by any ordinary margin, no special margin.

The city attorney answer with by a majority vote.

Ms. Moorman says but by just simple majority. Oh okay. And when you say granted by the city council it isn't clear to me to whom will the waiver, the reduction or alteration apply. Will apply to

everybody thereafter? I mean because you are talking about precedence that were set. Well here's one you're setting.

The city attorney says if you'll at the my suggestion when I talk about the particular parcel. It's obviously will be applied to that particular parcel.

Ms. Moorman says just to take particular parcel. Oh okay. Well again it just doesn't seem that clear to me. And then when you say unfair, unforeseen or impractical it can be any one of those three.

The city attorney says that's correct.

Ms. Moorman says because a little while ago you were talking about something just not being able to be unforeseen but it could also be impractical the way this reads.

The city attorney says that's correct.

Ms. Moorman says okay. What I'm seeing is in the Target lot, there's an outlot. Outlot 3. And what's going to happen there if this is adopted, is that the 1998 tree preservation plan is going to be disregarded as it has been in the new Target tree preservation plan. You can look at it. You can see the old plan is not there. This is what was agreed upon last year and agreed upon in the settlement. Now there is this outlot 3, that's the current plan. That's the plan that was agreed upon in 2000. Now when that outlot gets developed, if this goes through, that's going to be cut back to not just 15% of 15% but 15% of 15%. There are two layers of preservation that are going to go down the tube there. The 1998 one and the 2000 one. The one that the settlement was made on. I just-that concerns me. I mean that's what I foresee happening with this. I feel that its too much of a blanket waiver for the whole ordinance because that's what it is. Any old time somebody can get somebody to help them to get the council to just waive any aspect of the ordinance at any time. And I really think that sets a precedent. So that you might as well just put a waiver at the start, at the introduction to your city code. And the waiver would say "the application of any of the ordinances herein laid out maybe unfair, unforeseen or impractical and the requirements of any ordinance may therefore be waived, reduced or altered by a majority vote of the city council upon agreement by a simple majority of the city council to consider a request for such action by an owner or developer of any land within the city limits. Such waiver, reduction, alteration shall subsequently become the rule for all development within the city limits. You see I don't see why if you can set this precedent for one ordinance you shouldn't do it for them all. Thanks.

I'm Al Vick and I have a concern about this as well. Mr. Williams a few minutes ago made a statement that this city council would do the right thing. And generally I believe that. That a variance would come before you and you would probably use a lot of scrutiny in terms of making your decision. But what happens x number of years down the line when we have a different city

council over here, what is it that would stop these developers from taking a parcel of land saying we're going to buy this anyway. We're going to try to-we'll get a variance and then we're going to come to the city council that could care less about what the people want, who could care less about a tree ordinance. What would be there to stop them from just every variance that comes up say okay we'll do it. We'll give you the developers what you want, what you want and so on and so forth. So I'd wonder what answer you might have for that.

The city attorney says if you have a city council like that they'll probably repeal the tree ordinance. You got a have-I have a lot more confidence in democracy then you do. I haven't always agreed with everything that's happened up here when I was either on the city council, when I wasn't on the city council. But I think by and large this has been a very progressive city council for many many years going way back to when we had the sign ordinances and things like and green space years and years ago. I have a lot more confidence in the future of the city council. But if you get people up here that are going to do that, they can write any ordinance they want to anyway. This city council can't bind future city councils by their ordinances. Because the next city council can come up and repeal them all. So this is put in for a specific reason because we changed our interpretation of the successors and interest clause and that's put us in a box. And I was concerned that an issue could come before the city council and somebody might ask me now what do we do not to get sued and pay a lot of money to either people saying were not enforcing the ordinance right or the developers saying you changed your interpretation. I would have had an answer for them. I'm saying no matter what decision you make were going to get sued and we're going to lose big. So chose who you want to pay. I didn't want to put the city council in that position and that's why I wrote this variance.

Mr. Vick says I understand your-basically I understand your reasoning with it. I just looking and seeing potential for abuse some where further down the line. But thanks for answering that.

The mayor state there's always the potential for abuse and that's your job to keep that from happening. That's the public's job to keep an eye on it.

Mr. Vick then says that there has been times in not too distance future or past where we did that and it happened anyway. So you know I think that's a big concern for a lot of people in this community right now. Trying to project into the future.

The mayor thanks Mr. Vick and ask if there was anyone else.

Steve Balise. I reside at Watson Street, Fayetteville.

The mayor says I'm going to get duct tape and tape that microphone to that holder there.

I appreciate you all allowing me to indulge in a little bit of history here. When I stepped up to the

microphone I'm expected to say where I live that gives me the right to speak here. Last year I took it upon myself to call the Secretary of State to see if the developers at CMN Argus was registered as a foreign corporation. I found that they were not. In fact they didn't bother to register until they intervened in the League of Women Voter's lawsuit and their standing was questioned. And they did register at that point. Standing was a big issue in the lawsuit. It was also a big issue in the appeal to the Planning Commission. The phrases used were Jerry Rose referred to the plaintiffs as aggrieved parties. Potentially his argument was that the plaintiffs were not aggrieved parties because they did not have the financial interest in the lawsuit. It was similarly the League of Women's Voters lawsuit where Argus argued that the Sierra Club and League of Women Voters did not have a financial interest in the development of CMN therefore they shouldn't have the right to be involved in the lawsuit. That was not upheld by the way. But the picture of this that only those with financial interest have the right to go to court is not the picture of democracy. It's a system that we have which victimizes equality under the law. To me it's not a stretch to say that standing, the right to bring an action in court is subject to purchase. Now I understand that the city has a valid reason to be concerned about being sued by large corporations and their legal departments. I also think that it is very healthy that this city is admitting that it has a liability issue. I don't know that the city is going so far as to admit wrong doing but it sort of heads in that direction. I think that's a healthy thing. But I feel very strongly that there's with all due respect to Mr. Williams, there's a difference between doing the expedient thing and doing the right thing. I can really only recommend that this city fall on its sword. I really think at some point you can't have it every which way. That the city just allow itself to be sued if it comes to that. I really think that if you look at Target's behavior in the last year they have really been named in the media until very recently. They've been referred to as major retailer. I think they're very sensitive to publicity. I think it's a little absurd to think that they might want to sue their way into this community. If they decide to do that I say bring it on.

The mayor says maybe I'm speaking out of turn but I don't believe Target is the target of this ordinance here.

Mr. Balise say well potentially. You mean if

The mayor says Target's tree preservation plan was approved a year ago and since then my discussions with the engineering firm they were excited to do what they could to move the building around in order to save a few more trees. In the last engineering drawing I saw they had move it and so we had given them-they moved a little closer to their setbacks and they've cut off a corner here and there. They had fudge it enough to where they tried to save three or four more post oaks and so they did not have to do that because they were already approved. And they had been told early on that if they made any changes they were going to have to go completely back through the process again. So it was only with our assurances that if they did make changes in order to preserve trees, we wouldn't send them back through the steps again.

Mr. Balise says I think their thinking runs that citizens could potentially sue and somehow force the city to enforce the ordinance and then the developer would come in and sue the city. I think that's how.

The city attorney states the problem would be-I don't think Target is the problem but on down the line it probably wouldn't be these individuals, a developer instead would be the large developer who has already spent 10 or 11 million dollars in their infrastructure. And we might very well as a city have to buy very expensive land that we basically would have no use for. A most expensive park land that you could ever imagine. That would not be-I think a wise investment for the city and my advice to the council is that we should not fall on our sword. That we should do what we can to preserve the tax payer's money.

The mayor says use that money to buy green space that's not 5 bucks a square foot.

Mr. Balise says I'm not really sure what would prevent somebody else from coming along and saying you guys seem to cut a special deal with CMN and all of the sudden you're gonna say you're going to interpret the ordinance differently when it applies to me. It's a slippery slope and I don't see where it stops.

The city attorney interrupts to say they don't have the detrimental alliance that CMN does. See that's the difference. If we had never interpreted this ordinance a different way then CMN would be out in the dark. That's too bad you know. But it's because we have interpreted it one way and after they did their development and invested all the money we say oh guess what, we're interpreting it differently. Nobody else would have that reliance. We've notified the other developers they can't do that.

Mr. Balise says I appreciate it.

The mayor thanks Mr. Balise.

Alderman Young says a point of clarification. If this ordinance is passed, can Target request an alderman to get a variance from the tree preservation ordinance.

The city attorney responds by saying if this is passed I think that any developer can ask. If their tree preservation plan is not accepted, any developer can ask some alderman to come before you and say hey I want a waiver.

Alderman Young asks again, including Target? Lot 7.

The city attorney answers any developer can say that. That's right. However their plan is already

been approved so I don't know if they could do it.

Alderman Young says their plan-Tim's not here. Actually in the subdivision on Thursday. It's not gone to the Planning Commission yet. Not only that but this ordinance also doesn't require that their plan be turned down before they receive the waiver. That's what Barbara Moorman was talking about.

The city attorney says I guess I have to rely upon your good judgment Cyrus. And the judgment of the other alderman up here that you're not going to – we have to do that because you all can pass any ordinance you want to. Any ordinance. It takes 5 of you to pass an ordinance and nobody can stop you from whatever you're doing. So right now the citizens have to rely upon your judgment all the time. And that's what this waiver does. It allows you the judgment in extreme causes to go ahead and do an alteration tree preservation plan if its really called for. Like it or not in our representative democracy we're relying on your judgment all the time. And I have great confidence. I'm not concerned about it.

Alderman Young says in my judgment this would be much better if it was brought forward in the total scheme of revision of the tree preservation ordinance rather than this one little deal, spur of the moment. These spur of the moment deals always go bad.

The mayor says what do you think about that Kit? How long is going to be before this ordinance is ready?

The city attorney states regardless of what the new tree preservation plan says this problem has to be addressed under the old plan because that's how CMN Business Park developed. If we don't give our-if you don't give yourselves the discretion in this case then we are going to come to a point somewhere down the line that I'm very much afraid that were going to get sued no matter what decision you make.

The mayor says yes, Debra, how are you.

Hi Dan. I'm Debra Byran. It sounds like what we got is government by litigation. That we can't even have an ordinance that protects from a threat of a lawsuit and so we will just say let's make a possibility of waiving our ordinances to anyone that threatens a lawsuit. That seems to be and the city seems to be willing to cave. That seems to be a very sad state of affairs to me. Because we know that there are big legal departments behind a lot of the corporations and developers. They know that all they have to do is threaten a lawsuit and we will waive our ordinances. What is the purpose of having any ordinances at all?

The city attorney says I'm not concerned about being sued. I'm concerned about losing. I'm not

concerned about the big corporations coming down and trying to sue us if we have a defensible decision. In this particular case, there has been years of reliance upon our previous interpretation and then we changed it after they invested more than 10 million dollars in their project. We changed the interpretation which might have rendered some of their lots basically unbuildable. That's detrimental rights they can win. I'm not worried about being sued. I'm worried about paying money. If we don't enforce the ordinance and we haven't give ourselves any kind of waiver I guess we caved in January when we decided to spend \$450,000 of taxpayer money to buy trees when we were sued in the case involving Kohl's.

Ms. Byran says somebody caved. I'm not sure it was the city.

The city attorney says well the city is paying the money. So I guess the city caved. I don't know. But anyway.

Ms. Byran interrupts the city attorney to say its kind of hard to figure out.

The city attorney says we don't want to get ourselves in a position where if we decide not to enforce the ordinance like we did before, without any kind of variance that we are going to have to spend another \$450,000 to buy more trees or if we enforce the ordinance we have to spend two million dollars to buy a lot. We shouldn't be in that position if we can avoid it. I don't mind being sued. I like to fight for the city but I don't want to be dealt a hand I cannot win.

Ms. Byran says well the trees keep being cut. Tree preservation ordinance-are there any trees being preserved? What about CMN 3. Are we going to let CMN demand the waivers for CMN 3 that they going to get for CMN 2?

The city attorney answers I would think if they haven't done the kind of infrastructure that they've already done in Phases I and II, that they would have real hard case convincing this council that they have any detrimental alliance or any reason that they should get any kind of waiver at all. Okay we're talking about I and II primarily here. Those are the ones that they have done the development already and invested the money.

Ms. Byran says you can't specify CMN I and II in this waiver right? You can't say that only applies to CMN 1 and II.

The city attorney says I would strongly recommend against that because that--any developer that could qualify under this should have the access to it otherwise it is not equal protection of the law. I don't know if there is any other developer out there that could qualify. But if we try to make an ordinance that only is for one developer, I don't think that would be proper.

Ms Byran says right. I like to ask one more question about the outlot 3 situation. Do you know what I'm talking about.

The city attorney says unfortunately I don't know much about it.

Ms. Byran ask if anybody knows about outlot 3? Well, my understanding is, it would be nice if some of you could look into this because I think it's a problem. It looks to me like outlot 3 has been regarded as a part of Lot 7.

The mayor says that would be the west corner of that lot.

Ms. Byran says uh huh.

Alderman Young says the north part?

Ms. Byran says right behind Target. I believe that's been considered a part of Lot 7 under the tree preservation plan.

Alderman Young says right.

Ms Byran says it can be sold. If I understand it correctly. Its designated outlot which means that Fayetteville Exchange, its not really Target's lot I don't think. I think its owned by Fayetteville Exchange, can sell outlot 3 and then we get one tree on that outlot preserve. When as a matter of fact until now its been considered part of the tree preservation plan of Lot 7. That's what this is going to allow.

Alderman Young asks which is combined with Kohls?

Ms. Byran says so it seems to me that it would behoove the council to figure out which lot you're talking about. Check out how many trees were talking about losing. Figure out how many other developments this might apply to. Maybe we can talk about that on the next reading. Thank you.

My names is John Duval. I'm 1131 East Wood. And I'm also a member of the Tree and Landscape Committee and the Subcommittee. I have special concerns about this. There are a couple of comments I'd like to make in the general conversation. That I think I'd like to correct certain biases. I'd like to defend my fellow citizen, Al Vic., and say that I believe a healthy skepticism does not indicate a lack of confidence in democracy. I think coming up here and talking to you all indicates a confidence. I think you probably agree with me Mr. Williams.

The city attorney responds by says sure.

Mr. Dual says secondly I think a desire for strong law does not indicate a lack of confidence in the city council. I think we should support strong laws in order to support you because it's easier. Its easier to support what you think is right if you have strong lawsuits that you are supporting. Now particularly as a member of this committee to revise the ordinance and please Mr. Mayor do not me a hard time because its taking us so long. But it's taking so long because we are trying to fashion one that is fair to the developers but is also strong and firm. And I'm horrified to think that we have the precedent, the phrase, we want to avoid anything which is unfair, unforeseen or impractical. That translates to me as inconvenient. And I'm sure the developers will be trying find city council members to come up every time they find something that is unfair to them. Unforeseen by them. Or impractical. And I do believe you will have your regular Tuesday night brawl from here on in until we do have this-a new ordinance. And in relationship to that I should say that it may not be long until we finish but then its going to take you guys a long time to go over it. So I don't think its like next month that we are going to have a new ordinance. I would , Mr. Williams, I would urge you to at least try to narrow that by the next council meeting. I believe you could come with a better precedent for us for a more astringent kind of waiver. Something that wouldn't just open the doors for developers to feel that they are being treated inconveniently. Thank you.

The mayor thanked Mr. Dual. You know Kit one thing, if you can find a way, I think John's comments are good. If there is a way to make this more narrowly defined. I don't know if its possible but if you can. I know that a lot of the folks in Fayetteville feel very burned by past practices and they are just very gun shy that we might get ourselves back into burning them again somehow. And I think that's probably the core of the problem is that they are just afraid this can be left just a little bit too open. I would assure them from my perspective certainly wish we did a better job of preserving trees then we do right now. I'm not going to be up here willing to just say oh yeah its unfair, its – you don't want them, I'm certainly not going to be an advocate for that perspective.

The city attorney then says certainly you can restrict this as much as you want. You don't even have to passed it if you don't want to do it. I use those three terms and I use them with or so that any one of them would qualify. I used it fairly broadly to give you all enough discretion so that-to prevent us from being sued. If you believed a variance needed to be granted. And that's why I chose broader language and probably will show up in the new tree ordinance. But we're facing things with the currently tree ordinance that was not very artfully drafted in the first place. And that's why I put it in fairly broadly still believing that this city council that just went through an election that was very much influenced by the trees and preserving trees would not go off half chocked. Would not start trying to grant developers waivers all the time. I just can't – I think that's actually a boogie man argument that we are hearing. That's not going to happen. This council is not going to do it.

The mayor says hello Fran.

She says my turn? Fran Alexander. I would like to discuss with you Mr. Williams, your use of the

your title. You title 167.109 as waiver. And yet it seems to be the use of the term variance interchangeably with that. And within the body of your waiver you say waiver reduction or alteration. Those three things are extremely different. Therefore titling this waiver is a problem for me. We have been working for almost a year on the re-write of the ordinance. We've been doing this because we are trying to define every word in it. We're trying to know that the words that we use are exactly what we mean. And I feel as though the term waiver versus the term variance needs to be determined which one really belongs here. I would ask you right now to define what those two mean.

The city attorney states as you see in my ordinance, and as you pointed out, I did talk about waiver reduction or alteration. And waiver obviously means a waiver of some of the provisions that would be required under the tree ordinance. A variance would be alteration of those conditions. I put three things in there. Waiver reduction or alteration in order to try to cover all the bases that might be presented to city council. Because I did not want to just—if I just put waiver and nothing else in there then it would seem like it was a all or nothing proposition. And obviously I don't think that's probably what the city council would ever approve. I think if a lot came up and because of a tree or two it could not be developed but all the rest of the trees should be saved then I think that's what the city council would do. They would say we're not waiving the tree ordinance in its entirety from you. And that's why in the last sentence I have that it's still going to be administered by the tree and landscape administrator. They're not going to waive everything. They're reduce it or they're going to alter it. It might be that the agreement that would be presented to the city council they are going to have to cut down this tree but they're going have to plant five more trees over here in order to do that.

Alexander says yes.

The city attorney then continues that's why I left it intentionally broad so that our landscape administrator and this city council can insure that the spirit of the tree ordinance is still going to be enforcement even if they have to because of the successor/interest problem allow a tree to be cut down that would not be cut down in the future. Now that everybody has notice.

Alexander states my point is, once again, that the term waiver has been used as the title of this paragraph. And yet if you want to stay consistent with what is generally used in this city, the term variance—someone goes for a variance is generally what you hear. We very rarely hear that someone is going to the Planning Commission or to the Board of Adjustments or wherever for a waiver. So what I am suggesting is that you use the terminology consistently and that waiver actually be underneath the broader term of variance. To me a waiver, I don't have Webster's here with me, is a complete doing away with wiping out and variance is a change or adjustment. I really don't think that those are interchangeable. I do believe that they can—you need to pick one or all of them and stick with that in the title. This is extremely important because this is what the successor and interest

clause has gotten into. Is a use of language which was not understood and not applied correctly. I also do not recommend because of a year of discussion about the terminology in the ordinance that you use the words unfair, unforeseen, or impractical. This says impractical and I've seen impracticable in other places. If there was ever a piece of meat that's going to get tougher and bigger when you chew on it, it's using the term unfair. And if you can see the trees and its unforeseen you're in bigger problems. This is going to open it up so broadly that we will always be defending this ordinance. The citizens are always going to have to be coming up here and talking about whether something is fair or not. Whether they saw it coming. I mean a mack truck or a locomotive is about as obviously as the trees. So the unforeseen part is not a very good word there either. Not to criticize your writing skills but you're using terms here that are going to really causes us head and heart ache. I strongly agree with John. You really need to understand that these terms can be more specifically honed to not cause us this heartburn and heartache. Because I can see it coming. I know that this is an interim effort between now and when we do get the ordinance finished but I think listening to us talk to you about the words you will understand how many words there are in this ordinance and how we are very desperately trying to get this thing as sanctity as we can and workable for everybody. And your statement that using unfair, unforeseen and impractical does not weaken the ordinance, I disagree with you completely on that because once again it seems to give the sense that this ordinance is to have trees as an amenity in our community. And that if the circumstances come down that we'll have a waiver possibility or it's impractical and we'll just do away with it. We don't do that for water and sewer and electricity. Those are part of the infrastructure. We've got to start thinking of tree cover and canopy in this city as infrastructure. And so I think using this terminology is a very weakening device. Also your history of the ordinance at the past said you have said this a new interpretation and that it wasn't done this way in the past. I submit that the interpretation in the past was not interpretation. It was lack of enforcement. If this ordinance had ever been enforced as it was written we wouldn't have this interpretation issue right now. So in Lot 7, my knowledge of Lot 7 is that there are over 30 trees over 28 inches in diameter. I know its already come through. I know its approved. But that's a tremendous chunk of the overall canopy cover that was left on that property after the roads and the bridges were put in. And so this is a terrible loss that this 15% of 15% has done to us. We're going to try to correct that. I also suggest that had you spoken to the ad hoc committee or to Kim Hesse, or to maybe David long enough ahead of time and brainstormed about this a little that you might know that we are proposing off-site preservation. If a site can not be developed maintaining the 15%, off-site preservation would probably be an avenue which would be better utilized in this than a blanket waiver or reduction. So there are techniques that could be done here that I think would be better address this problem. Are there any questions.

Alderman Young says I disagree with you.

Alexander says well that's not new.

Alderman Young says this is not an interim ordinance until the new one come through.

Alexander says well we've got to get the new one approved. That's another problem.

Alderman Young says well that wouldn't do away with this one unless the council specifically does it. And also I kind of heard—Kit was saying I suspect that they'll say well we can't do away with this one until every last obscure little lot somewhere is developed. If so I predict that this will be on the book for a very long time.

Alexander says if it's written differently in whole body of the entire new ordinance it wouldn't necessarily be written this way.

Alderman Young says that was my point of bring it all together at once.

Alexander says well that's fine. He's trying to do something in a interim. So.

The mayor says what is the chance of maybe using the words waiver reduction or alteration, just change that to variance would that suffice?

The city attorney says the reason I used those three terms and the reason I used the terms unfair, unforeseen or impractical is to give this more power. Is to give you all more power make it—to take anyone that might want to sue us because we're not applying the ordinance the way they want to give them less shots at us. The tighter we want to make it that's fine. But the tighter you make it the more ammunition you give someone who wants to file suit against you. And that's why I did it broadly. They say its weak language but it's not it's strong language for the council. It's weak language for those that would attack us. And so that's why I drafted it the way I did. Now this is my recommendation to you. You certainly are the ones that set the policy for the city. But I drafted it in a way to give you the most power, the most right, the most protection against suit. You can limit it as much as you want to. Now as you know this kind of responds to Alderman Young's concern. This modifies the old tree preservation plan. And it will be on the books as long as the old tree preservation plan is applicable to any parcel of land. It will have nothing to do with any lot that comes in under the new plan.

Alderman Young says it doesn't say that.

Alderman Thiel says we need that clarified somewhere.

The city attorney says it is under the old tree preservation plan.

Alderman Young says but this applies to anything.

Alderman Thiel says I asked that question at the first of this. You said it did not.

The city attorney says did not what?

Alderman Thiel says you said that this did not end at that time.

The city attorney then says I does not end for the plots that have been developed under the old tree preservation plan. I don't think

Alderman Thiel said well maybe I didn't clarify my question then. That's what I was asking.

The city attorney then says for all lots that have been developed under the tree preservation plan that we currently have, I don't think that any of those lots, I don't think with the new ordinance you're going to say you know we approved your tree preservation plan in the past but guess what that doesn't count now you've got to come back and do a new tree preservation plan under our new ordinance. You're not going to do that are you. Because if you are we are going to get sued by a lots of people. So this will be in effect under the—for the lots that have been-have trees plan under the old trees preservation plan and act until there are no more.

Alderman Young says but it doesn't say that in the ordinance.

Alderman Thiel interrupts and says it doesn't make it clear enough. If there was a date or a something in here, I would feel more comfortable with it. If there was some way to clarify you know that this just pertains to developments that fall under the old ordinance and the particularly the

The city attorney interrupts to say it's talking about amending Ordinance No. 16

Alderman Thiel interrupts to say why don't just put in successor and interest section or something? I mean some kind of wording. There's got to be some way that we could make that just pretty clear. That it just pertains to those developments. That way if the future council doesn't—if someone doesn't get around to ending this thing that it doesn't stay on our books. Does not apply or could not be applied.

The mayor says give us some kind of a sunset?

Alderman Thiel responds yeah.

The city attorney says when you change any kind of development ordinance the thought and the action has always been, when we did the Overlay District Ordinance, we grand fathered in all of the platted lots that were already there because our attorney at that point, Jerry Rose, told us if we didn't

we likely were going to get sued. Because they had already begun development under the current ordinances. Normally what the city council does, what any government entity does, if you've already worked under this particular ordinance and you have gotten a reliance on it and you've done it, that's the ordinance you work under. It's the new development that has to go on the new plan. And that's exactly what is going to happen to the tree preservation plan. It will only be the new developments. I don't think we can retroactively apply it safely to developments that have already got through the planning process under the old plan. Now I can if you want try to stick some language in here saying this applies to the successor and interest clause only. That's the main concern I have. Any limitation I do will make it more likely that we could possibly get sued but I'm not too concerned because that was my goal the successor and interest clause. And if that's what you want me to do I can draft language to that effect.

Alderman Thiel says I would certainly be more supportive of it. I think a lot of the public would too maybe.

Alderman Zurcher says I like the sound of that.

Alderman Jordan says yeah, sounds good to me.

The mayor says yes sir how are you tonight. You've been here a long time.

The citizens begins Mr. Williams I have a question. The three words, the sentence that the three words were in will you read that again?

The city attorney then reads the sentence: If the city council votes consider such a proposed waiver, reduction or alteration. If the city council determines such waiver, reduction or alteration is necessary to avoid unfair, unforeseen or impractical application of the tree protection plan. Is that one you mean.

The citizen says I was thinking that you had a comment on this land.

The city attorney responds yes, upon this particular parcel of land. That ended that, I'm sorry I quit reading that. Unfair, unforeseen or impractical application of the tree protection and preservation ordinance upon this particular parcel of land.

Citizen says it sounds like you're saying its unfair or unforeseen or impractical to the land not to the owner or the developer. And you don't have them identified.

The city attorney says no, I think it would be the application of our ordinance to this particular parcel as to how it could be developed. If the application would be if that parcel could not be developed.

Then—I wanted to limit it to a particular piece of land because we don't want to—I was trying not to make it too general.

The citizen says okay.

The city attorney says I don't know if I answered your question very well. I'm sorry. Its getting kind of late.

Alderman Thiel says I've got an extra copy of this if he'd like to see it.

The mayor says Thank you sir. Tell me your name again please? I didn't get your name.

Citizen responds Wayne Whitmarsh.

The mayor says its good to meet you sir. And acknowledge citizen with yes, sir.

My name is Troy Wilson. I live at 20 N. Garland. You know I think what we have here is paralysis through analysis. I think his proposal makes good sense and you know I think it something the city needs to do to protect itself from lawsuits. And I don't see that there's any hidden agendas here. I think that all he is doing is trying to give the city a way protect our money and I think that makes good sense. I don't see the point in dragging this out and dragging this out and trying to figure out different ways to look at it. I think we need to proceed with it and go on and get on to something else.

The mayor says thank you sir and asks for any other comments.

The citizens says my turn to loosen this thing up. George Reece, 1614 Sawyer Lane. My concern is that if you do pass this ordinance you may end up with more lawsuits then you would have if you don't pass it. I can see, foresee that some many people would want to come up here and say that their land is-that its impractical to develop it the way it is and they want a waiver, a variance whatever you want to call it. And you're either going to have to grant them or you're going to have a lawsuit, after lawsuit, after lawsuit saying that you have treated them unfairly because it was impractical for them to build on this particular piece of property that they own. So you've either, what I foresee is that you are really going to grant waivers to everybody that asks or you are going to open yourself up to lawsuit, after lawsuit. If you do grant to everybody who asks for a waiver then have nullified the tree ordinance. Anyway that's my concern is that you may end up with more lawsuits if you pass this then if you don't 'cause you only have two possibilities if you don't. Is that right?

The city attorney states I hope that we only have two or three lots. As I said, I'm not the specialist.

I'm not the landscape administrator. I talked to her but even so she can't even make decision like that until she sees what kind of development will be going in on this particular parcel.

Mr. Reece says I know your talking about CMN but that's not what the ordinance itself says. It doesn't specify that he could be for anybody that wants to come up here and get a waiver. I'm afraid you're going to get

The city attorney interrupts to say legally it has to be.

Mr. Reece says I'm afraid you're going to get a revolving door with lots of people coming through asking for waivers and either get them or they don't. And therefore opening up to lots of possible lawsuits. That's my concern.

Mary Lightheart. You mentioned that you hoped that the CMN people would be willing to use creative development. I guarantee you they haven't been in the past. They could have been very creative with Kohl's. Free architects the whole bit. So we certainly can't count on them having creative development skills, desires. When it comes to unbuildable, you know Kohls said oh it was unbuildable you had to do it their way. And that's another phrase that goes with unfair, unforeseen impractical. It seems to me if you have a lot that's for sale and you haven't sold it yet, a potential buyer comes and says oh this will fit my needs. I want a building this big. There's trees there. They need to chose. If it doesn't fit their needs they buy another lot. I'm surprised that you would bring an ordinance before the council to vote on that you talked about so vaguely. Well I'm not sure what trees it counts in. I'm not sure which lots it is. I'm sure which developers qualify. I mean I wouldn't want to vote on something I didn't know what I was voting on. How many are you talking about. How many developers. Which ones? I feel like we need some facts here. Where's the map of the trees and the lots and how many and what are we talking about. It's just too vague. If I were to vote its too vague to be informed about. So I think that some more information would be very helpful.

The mayor says if we get Kim Hesse to come to next meeting so she could explain this from her perspective. Oh I'm sure she would be happy to come and especially since this will be old business and early in the evening.

The mayor says yes and be in the front of the agenda.

Sorry Mr. Williams, I saw you look at your watch and give a shrug. I'm sure that when you were working on this you probably weren't aware of the feeling that it would stir up. But this one

The city attorney interrupts saying I was quite aware of the strong feelings that the citizens in Fayetteville have on the tree ordinance but I was also very concerned that the city council should

have a chance to avoid litigation that would be probably be successful for one side or the other.

Citizen says well I understand you're concern. I can under that in your role that's exactly the concern that you need to have. What confuses me a little bit is a sense of dejavu all over again. Because you strip away all the legal stuff and all the talk about this phrase and that phrase and that word and this word and that precedent and this precedent. When you strip all that away what it looks like to me what you're really doing is talking a way for the city council to do legal what it did illegally last year. Now last year city council illegally allowed CMN evade the tree ordinance. This year you're talking about a way to legally allow CMN to evade the tree ordinance. What changed? I thought there was a change in the election. I thought there was a change in administration. But if we're still allowing CMN to evade the tree ordinance what changed? And that I think is the basic fact that upsets people about this. That simple. That basic. Are we going to continue to let these people evade the tree ordinance. And one gentlemen here, Mr. Balise I believe it was made a very simple point, there's a difference between want is right and what is expedient. It's the attorney's role to give you want is expedient. You don't necessarily look to the attorney for what's right. You look at your own conscious about that. Let's actually enforce the ordinances for awhile and if we have to face a lawsuit then face a lawsuit. But let's do what's right. Thank you.

Ron Parsley. Ellis Street here in Fayetteville. I suppose one of the only comments I had on this whole thing was just a point of sort of correction I guess. You all, the only reason that the city has paid out any money due to a lawsuit over this project was because you all have chosen to do that. The previous administration felt it would be better to take this whole issue to court and settle this point at law. And the successors of interest clause would have probably been a big part of what they talked about in that lawsuit. I think agree with what Mr. Garcia has just said that really we have under enforced, ill enforced, not enforced this ordinance pretty much from its inception. I'm not sure if it was ever meant to protect any trees. I think it was perhaps almost more meant to give the appearance that implicates the citizenry that was concerned with the trees. And it really did was provide that appearance and no real actual enforce or preservation of any trees. And this is a chance and now we have an official way to just bypass the ordinance all together. It just doesn't seem right to me at all. Thank you.

The mayor ask anyone else? If not I'll bring it back to the city council and what is the word? Leave it on the first reading?

Alderman Trumbo says sounds good.

Alderman Thiel says yes.

In that case we leave it on its first reading and discuss this again under old business and we will call this meeting adjourned.

Alderman Thiel says I have one quick question.

Alderman Zurcher says you go first.

Alderman Thiel says Ward 1 is having a public meeting at the Yvonne Richardson Center at 6 o'clock after the agenda meeting next Tuesday and we'd like everyone to come.

The mayor says Brenda if you'd remind of that I'd like to go to that. So if you would I'd appreciate it.

Alderman Reynolds says you'll have bring the goodies.

Alderman Zurcher says I've also kind of taken Lioneld's lead on ward meetings and Cyrus and I are going to have a ward meeting for Ward 2 every 4th Tuesday at 7p.m. in this room live and on Channel 3. So you want to come and spout off or whatever come and do it. What I would like to do is get with all four wards hopefully get a regular time or regular day each month or each two or three months whatever you guys wanted to do and kind of coordinate get something out in the water bills that really tell people about all the wards meetings. Something to think about between now and then.

The mayor say yes, Swifty.

Alderman Reynolds says hopefully we don't have that many problems that we would have to have meetings that often. I seems like

Alderman Zurcher says we can take suggestions whether there's problems or not.

Alderman Reynolds says outside the trees everything is pretty calm right now. I want to call a Equip Committee meeting tomorrow evening at 4:00. Aldermen Jordan, Trumbo, Young and myself need to be present tomorrow afternoon at 4:00.

Alderman Jordan says I've got a union meeting.

Alderman Reynolds says you were absent at the last meeting. No excuse this time.

Alderman Jordan says I'll see what I can do.

Alderman Reynolds says thank you.

The mayor says one thing I want to say is thanks to everyone who helped in the clean up for the

southeast clean up and the stream clean this last weekend. We were very successful. We're adding up the number of tons of trash and garbage we brought in. I want to remind people this Saturday the 5th we're having a litter clean up in town and we'd like to get as many folks as we can to meet us at 9:00 in the morning at Wilson Park at the old castle their and we're going to have a big party afterwards with barbeque chicken and some community celebration to pick up a bunch of litter. So we would appreciate everyone turning out for that. We need all the help we can get. I certainly expect to see either Swifty, no excuses, members of the city council. Well I'd appreciate everybody that could come out on Saturday the 5th to help us. I'd appreciate it. Oh yeah, Arbor Day, you guys gave us a thousand trees and very proud that it was, nice trees too. They were grown out very nicely. Anything else? Adjourned.

ORDINANCE NO. _____

AN ORDINANCE APPROVING AD 01-1.00 TO AMEND CHAPTER 171, STREETS AND SIDEWALKS, §171.13(B)(6), WIDTH OF DRIVEWAY APPROACHES, AND CHAPTER 172, PARKING AND LOADING, §172.01(C)(5)(b)(1) & (2), PARKING LOT ENTRANCES, OF THE UNIFIED DEVELOPMENT ORDINANCE TO CHANGE THE WIDTH OF A CURB CUT ALLOWED FOR COMMERCIAL DRIVEWAYS AND TO PROVIDE FOR MINIMUM CURB RADIUS FOR COMMERCIAL DRIVEWAYS.

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

Section 1. That Chapter 171, Streets And Sidewalks, §171.13(B)(6), Width Of Driveway Approaches, of the Unified Development Ordinance, Code of Fayetteville is hereby repealed and the following shall be inserted in its stead:

§171.13 SIDEWALK AND DRIVEWAY SPECIFICATIONS.

B. Driveway Approaches. (See: Illustration, Standard Driveway Approach Residential).

2. Width of Driveway Approaches.

a. Commercial.

(1). The width of commercial driveway approaches shall not exceed 39 feet measured at right angles to the centerline of the driveway approach for driveways that are one-way-in, two way-out.

(2). The width of commercial driveway approaches shall not exceed 27 feet measured at right angles to the centerline of the driveway approach for driveways that are one-way-in, one-way-out.

(3). The width of commercial driveway approaches shall not exceed 15 feet measured at right angles to the centerline of the driveway approach for driveways that are one-way-in or out.

(4). The minimum width of commercial driveway approaches shall be 12 feet for one-way-in or out and 24 feet for one-way-in and one-way-out.

b. Residential. The width of residential driveway approaches shall not exceed 24 feet measured at right angles to the center-line of the driveway approach and the minimum width shall not be less than 10 feet.

Section 2. That Chapter 172, Parking And Loading, §172.01(C)(5)(b)(1) & (2), Parking Lot Entrances, of the Unified Development Ordinance Code of Fayetteville is hereby repealed and the following shall be inserted in its stead:

§172.01 OFF-STREET PARKING LOT DESIGN REQUIREMENTS.

C. Parking lot design standards.

5. Parking Lot Entrances.

b. **Entrances and internal aisle design.** The driveway width into parking lots shall meet the following guidelines:

(1). Entrances.

(a). If the driveway is a one-way-in or one-way-out drive, then the aisle widths shall be a minimum of 12 feet wide up to a maximum of 15 feet wide.

(b). For two-way access, each entrance lane shall be a minimum of 12 feet wide and up to a maximum of 15 feet wide and each exit lane shall be 12 feet wide.

(c). Drive-ways that enter the major thoroughfare at traffic signals must have at least two outbound lanes (one for each turning direction), and one inbound lane.

(d). All commercial driveways should have a minimum curb radius of 25 feet.

(2). Internal Circulation Drives.

(a). Aisles shall be designed so that they intersect at 90 degrees with internal drives where practicable.

(b). Aisles shall be designed to discourage cut-through traffic by use of landscape islands.

(c). Aisles shall conform to §172.01(C)(3) with the exception of aisles that connect to Commercial Driveways. Aisles connecting to Commercial Driveways may be permitted to be 27 feet in width when the driveway is in conformance with §171.13(B)(6).

PASSED AND APPROVED this _____ day of June, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

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: Sara Edwards, Associate Planner
THRU: Tim Conklin, City Planner
DATE: February 12, 2001

AD 01-1.00: Administrative Amendment to Chapter 171 "Streets and Sidewalks", Section 171.13(B)(6) "Width of Driveway Approaches" and Chapter 172 "Parking and Loading" Section 172.01(C)(5)(b)(1)(a-c) "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways and provide for a minimum curb radius.

FINDINGS: The result of the proposed ordinance revisions will be to increase the entrance lane for commercial driveways from 12 feet wide to 15 feet wide, to eliminate the landscaped island requirement, to allow for wider aisles connecting to commercial driveways, and to add a minimum curb radius for commercial driveways.

RECOMMENDED MOTIONS

To approve an amendment to Chapter 171 "Streets and Sidewalks", Section 171.13(B)(6) "Width of Driveway Approaches" of the Unified Development Ordinance to change the width of a commercial driveway approach from 40 feet maximum to 39 feet maximum with a standard one-way-in/ two-way out driveway and from 24 feet maximum to 27 feet maximum for a one-way-in/one-way-out driveway.

To approve an amendment to Chapter 172 "Parking and Loading" Section 172.01(C)(5)(b) (1) (a-c) "Parking Lot Entrances" of the Unified Development Ordinance to change the maximum width of a curb cut allowed for commercial driveways from 24 feet wide for a one-way-in/ one-way-out driveway and 46 feet wide for a one-way-in/ two-way out driveway with a landscaped median to a standard 27 foot wide driveway for one-way-in/ one-way-out and a standard 39 foot wide driveway for a one-way-in/two-way-out driveway without a landscaped median.

BACKGROUND

The Planning Division has been receiving complaints from businesses with regard to the requirement for commercial driveways. Delivery trucks are having difficulty pulling into commercial drives. Planning Staff met with Engineering, Sidewalk & Trails, Traffic Superintendent and the Assistant Public Works Director in order to reach a solution. The following conclusions were reached:

Wider entrance lanes would alleviate the problems delivery trucks are having entering commercial driveways.

Wider entrances and minimum curb radii would increase the carrying capacity of our public streets by allowing for quicker exit from these streets.

The landscaped island should be eliminated due to the numerous complaints of both car drivers and delivery truck drivers that these islands were causing damage to their vehicles.

SUGGESTED ORDINANCE REVISIONS

§171.13 SIDEWALK AND DRIVEWAY SPECIFICATIONS.

B. Driveway Approaches. (See: Illustration, Standard Driveway Approach Residential).

6. Width of Driveway Approaches.

a. Commercial.

(1). The width of commercial driveway approaches shall not exceed 39 feet measured at right angles to the centerline of the driveway approach for driveways that are one-way-in, two way-out.

(2). The width of commercial driveway approaches shall not exceed 27 feet measured at right angles to the centerline of the driveway approach for driveways that are one-way-in, one-way-out.

(3). The width of commercial driveway approaches shall not exceed 15 feet measured at right angles to the centerline of the driveway approach for driveways that are one-way-in or out.

(4). The minimum width of commercial driveway approaches shall be 12 feet for one-way-in or out and 24 feet for one-way-in and one-way-out.

b. Residential. The width of residential driveway approaches shall not exceed 24 feet measured at right angles to the center-line of the driveway approach and the minimum width shall not be less than 10 feet.

§172.01 OFF-STREET PARKING LOT DESIGN REQUIREMENTS.

C. Parking lot design standards.

5. Parking Lot Entrances.

b. Entrances and internal aisle design. The driveway width into parking lots shall meet the following guidelines:

(1). Entrances.

(a). If the driveway is a one-way-in or one-way-out drive, then the aisle widths shall be a minimum of 12 feet wide up to a maximum of 15 feet wide.

(b). For two-way access, each entrance lane shall be a minimum of 12 feet wide and up to a maximum of 15 feet wide and each exit lane shall be 12 feet wide.

(c). Drive-ways that enter the major thoroughfare at traffic signals must have at least two outbound lanes (one for each turning direction), and one inbound lane

(d). All commercial driveways should have a minimum curb radius of 25 feet.

(2). Internal Circulation Drives.

(a). Aisles shall be designed so that they intersect at 90 degrees with internal drives where practicable.

(b). Aisles shall be designed to discourage cut-through traffic by use of landscape islands.

(c). Aisles shall conform to §172.01(C)(3) with the exception of aisles that connect to Commercial Driveways. Aisles connecting to Commercial Driveways may be permitted to be 27 feet in width when the driveway is in conformance with §171.13(B)(6).

ORIGINAL ORDINANCE SECTIONS

§171.13 SIDEWALK AND DRIVEWAY SPECIFICATIONS.

B. Driveway Approaches. (See: Illustration, Standard Driveway Approach Residential).

6. Width of Driveway Approaches. The width of commercial driveway approaches shall not exceed 40 feet measured at right angles to the center-line of the driveway approach. The width of residential driveway approaches shall not exceed 24 feet measured at right angles to the center-line of the driveway approach. The minimum width shall not be less than 10 feet.

§172.01 OFF-STREET PARKING LOT DESIGN REQUIREMENTS.

C. Parking lot design standards.

5. Parking Lot Entrances.

b. Entrances and internal aisle design. The driveway width into parking lots shall meet the following guidelines:

(1). Entrances.

(a). If the driveway is a one-way-in or one-way-out drive, then the aisle widths shall be 12 feet wide.

(b). For two-way access, each lane shall be 12 feet wide and a maximum of four lanes shall be allowed. Whenever more than two lanes are proposed, entrance and exit lanes shall be divided by a curbed, raised, landscaped median. The median shall be ten feet wide if three lanes are being proposed or 15 feet wide if four lanes are proposed.

(c). Drive-ways that enter the major thoroughfare at traffic signals must have at least two outbound lanes (one for each turning direction) and shall be 12 feet wide, and one inbound lane 12 feet wide.

(2). Internal Circulation Drives.

(a). Aisles shall be designed so that they intersect at 90 degrees with internal drives where practicable.

(b). Aisles shall be designed to discourage cut-through traffic by use of landscape islands.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of June 5, 2001.

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve a contract with Duncan and Associates to conduct phase 2 of the Development Impact Fee Study for water, wastewater treatment and collection, roads, and parks.

COST TO CITY:

\$45,725.00	\$99,721	Development Impact Fee Study
Cost of this Request	Category/Project Budget	Category/Project Name
5400-1820-5314-00	\$30,020	
4470-9470-5314-00		
Account Number	Funds Used To Date	Program Name
00008	\$69,701	ST/W&S
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

[Signature]
Budget Manager

[Signature]
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

[Signature]
Accounting Manager

5/31/01
Date

[Signature]
Internal Auditor

5/31/01
Date

[Signature]
City Attorney

5/31/01
Date

[Signature]
ADA Coordinator

5/31/01
Date

[Signature]
Purchasing Officer

5/31/01
Date

STAFF RECOMMENDATION: Staff recommends approval of the contract for phase 2 of the Impact Fee Study.

[Signature]
Division Head

5-31-01
Date

Cross Reference

[Signature]
Department Director

6-1-01
Date

New Item: **Yes**

Administrative Services Director

Date

Prev Ord/Res #: _____

[Signature]
Mayor

6/1/01
Date

Orig Contract Date: _____

Orig Contract Number: _____

SECRET
NOFORN

1. The purpose of this document is to provide information regarding the activities of the [redacted] in the [redacted] area.

2. The [redacted] has been observed in the [redacted] area, and it is believed that it is engaged in [redacted] activities.

3. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

4. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

5. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

6. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

7. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

8. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

9. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

RESOLUTION NO. _____

A RESOLUTION AWARDING A CONTRACT TO DUNCAN AND ASSOCIATES IN THE AMOUNT OF FORTY-FIVE THOUSAND SEVEN HUNDRED TWENTY-FIVE DOLLARS (\$45,725.00) TO CONDUCT PHASE II OF THE DEVELOPMENT IMPACT FEE STUDY FOR WATER, WASTEWATER TREATMENT, ROADS AND PARKS.

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

Section 1. That the City Council hereby Awards a contract to Duncan and Associates in the amount of Forty-Five Thousand Seven Hundred Twenty-Five Dollars (\$45,725.00) to conduct Phase II of the Development Impact Fee Study for water, wastewater treatment, roads and parks.

Section 2. That the City Council authorizes the Mayor to sign such a contract with Duncan and Associates.

PASSED AND APPROVED this _____ day of June, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

May 29, 2001

**AGENDA SESSION
CITY COUNCIL
JUNE 5, 2001**

NEW ITEMS:

Consent
Consent 1. **SAGE HOUSE:** A resolution approving a long term lease with Economic Opportunity Agency of Washington Co. Inc. for Children's House and Sage House.

2. **GRANT:** Application for grant assistance. */ Research & Tech.*

ADDITIONAL INFORMATION:

1. Impact Fees
2. Tree Protection and Preservation amendment
3. HMR Tax Amendment
4. Parks HMR Tax Amendment

May 29, 2001

**AGENDA SESSION
CITY COUNCIL
JUNE 5, 2001**

NEW ITEMS:

1. **SAGE HOUSE:** A resolution approving a long term lease with Economic Opportunity Agency of Washington Co. Inc. for Children's House and Sage House.
2. **GRANT:** Application for grant assistance.

ADDITIONAL INFORMATION:

1. Impact Fees
2. Tree Protection and Preservation amendment
3. HMR Tax Amendment
4. Parks HMR Tax Amendment

**City of Fayetteville,
Arkansas**

**APPLICATION FOR GRANT
ASSISTANCE**

**From The
Economic Development of
Arkansas Fund**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

November 30, 2000

Ms. Joy Pennington
DFA Coordinator for the Commission
Economic Development of Arkansas Fund Commission
c/o DFA – Director's Office
P.O. Box 3278
Little Rock, AR 72203

SUBJECT: Grant Application for Infrastructure Improvements

Dear Ms. Pennington:

It is a pleasure to forward the attached "Application for Grant Assistance" from the Economic Development of Arkansas Fund. The Fayetteville City Council authorized participation in your grant program on April 21, 1998 (see Resolution No. 48-98 attached). Essentially, the City of Fayetteville seeks \$1,341,100 to aid in Phase I construction of the water and sewer lines and streets at the new Arkansas Research and Technology Park.

The approximate time necessary to complete Phase I will be about 12 months from the time funds are made available. In addition to Phase I, there remain Phases II thru V to be completed in subsequent years. Total estimated costs of infrastructure development for all phases are \$16,000,000.

Naturally, we hope to return to the Economic Development of Arkansas Fund Commission to meet the needs of Phases II thru V as park development advances. Thank you for your consideration of this most worthwhile project – the first of its kind in Arkansas. Should you have questions, or if I can be of any further assistance to you, please do not hesitate to call.

Sincerely,



Fred Hanna
Mayor

Enclosures

RESOLUTION NO. 48-98

A RESOLUTION AUTHORIZING THE CITY OF FAYETTEVILLE TO APPLY TO THE STATE OF ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION FOR A GRANT FROM THE ECONOMIC DEVELOPMENT OF ARKANSAS FUND FOR CONSTRUCTION OF WATER AND SEWER LINES AND STREETS NECESSARY TO DEVELOP THE RESEARCH AND TECHNOLOGY PARK.

WHEREAS, the City of Fayetteville, in conjunction with the University of Arkansas and the Fayetteville Chamber of Commerce, employed the firm of Hammer, Siler, George Associates to develop market potentials, site planning, and costs associated with the Research and Technology Park Development; and

WHEREAS, the study has been completed, and it is now time to improve the Research and Technology Park by constructing the required streets and water and sewer lines necessary for the development of the Park; and

WHEREAS, the cost of these developments are estimated at \$9,214,300; and

WHEREAS, the Arkansas Department of Finance and Administration has funds available through the Economic Development of Arkansas Fund Commission, to which we may apply for either a grant or loan; and

WHEREAS, Paragraph 7(a)3 of the Economic Development of Arkansas Fund Commission Regulations requires an ordinance, resolution, or other specific authorizing instrument or action reflecting the applicant's authority for making application to the Commission.

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

Section 1. Mayor Fred Hanna or his authorized representative is designated as the authority for making application on behalf of the City of Fayetteville, Arkansas, for a grant to aid in the construction of the water and sewer lines and streets at the Research and Technology Park.

PASSED AND APPROVED this 21st day of April, 1998.

APPROVED:

By: Fred Hanna

Fred Hanna, Mayor

ATTEST:

By: Heather Woodruff

Heather Woodruff, City Clerk



July 14, 1998

Economic Development of Arkansas Fund Commission
C/O DFA - Directors Office
P.O. Box 3278
Little Rock, AR 72203

RE: City of Fayetteville's Application for Assistance in the Ark. Research and
Technology Park

To The Commission:

As Mayor of the City of Bentonville, I wish to support this grant application. I believe it is imperative that a Research and Technology park be established in Arkansas. Since this type of facility is usually dependent on being close to a university, Fayetteville is the logical choice. The development of a Research and Technology park will ensure that most of the graduates in this area will remain in Arkansas and not go out of state. The location of the park site is ideal, since it is centrally located adjacent to Highway 71 and will be easy to reach by air or ground transportation.

I ask that you look favorably on the city's request for aid so that Phase I of the project can be undertaken.

Sincerely,

Terry Black Coberly,
Mayor

TBC/sg

cc: Mayor Fred Hanna, City of Fayetteville

RECEIVED

JUL 16 1998

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

CITY OF SILOAM SPRINGS

P.O. Box 80
Siloam Springs, Arkansas 72761
501-524-5136

November 16, 2000

Economic Development of Arkansas Fund Commission
c/o DFA - Directors Office
PO Box 3278
Little Rock, Arkansas 72203

RE: City of Fayetteville's Application for Assistance in the Arkansas Research
and Technology Park

To the Commission:

As Mayor of the City of Siloam Springs, I wish to support this grant application.

I believe it is imperative that a Research and Technology Park be established in Arkansas. Since this type of facility is usually dependent on being close to a university, Fayetteville is the logical choice.

The development of a Research and Technology Park will ensure that most of the graduates in this area will remain in Arkansas and not go out of state. The location of the park site is ideal, since it is centrally located adjacent to Highway 540 and will be easy to reach by air or ground transportation.

I ask that you look favorably on the city's request for aid so that Phase II of the project can be undertaken.

Yours truly,



M. L. Van Poucke, Jr., Mayor

cc: Mayor Hanna, City of Fayetteville

NORTHWEST ARKANSAS COUNCIL



July 28, 1998

Partners in Progress

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Steve Ward
Robert Weaver
Perry Webb
George Westmoreland
John A. White
Doyle Z. Williams

Uvalde Lindsey, Director

The Honorable Fred Hanna
Mayor
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Dear Mayor Hanna:

Since its inception, the Northwest Arkansas Council has advocated the establishment of public and private partnerships which enhance the region's economic well-being through the development of improved infrastructure, the creation of new job opportunities, and the implementation of programs which provide our people with the skills required to secure the higher paying jobs of the future.

The City of Fayetteville, in partnership with Southwestern Bell and the Fayetteville Chamber of Commerce, has taken the first major steps to create the Arkansas Research and Technology Park, thereby charting the course for development of what can be a premier research and technology center of mid-America. In a continuing and ever-expanding partnership with the University of Arkansas, the project can become a major research institution which creates new job opportunity for all Arkansas citizens.

The Council applauds the farsightedness of the City of Fayetteville, Southwestern Bell and the Chamber in moving this project toward fruition, and we strongly support the expansion of this public and private partnership to include the State of Arkansas. As Governor Huckabee recently said at the opening of his Summit on Economic Development, "Arkansas must find a way to replace manufacturing jobs that pay minimum wage - many of which are leaving for developing countries - with technology or knowledge-based jobs. We need to raise the standard of living instead of maintaining an inadequate one. We have not had the focus on technology that we intend to have".

We could not agree more, and we support the City's application for state grant funding for the Arkansas Research and Technology Park.

Sincerely,

John Paul Hammerschmidt
Chairman

3. Project Cost and Funding (Attach itemized budget.)

Amount requested from Commission \$ 1,147,640

Amount of loans or grants from other sources \$ 793,460

List other sources:

• Economic Development of Ar Fund (\$193,460)

• Southwestern Bell Telephone (\$600,000)

Amount of local funds contributed \$ 1,900,000

Other \$ _____

PROJECT TOTAL (Phase I) \$ 3,841,100

4. Type of participation requested from Commission

Economic Development Project: Grant ☒ Loan _____

Other Loan (i.e. natural gas pipeline construction) _____

5. Proposed time schedule for completion of project. (List each phase, if applicable.)

Phase I – Approximately 1 year from the time funds are made available.

Applicant Statement:

To the best of my knowledge, all statements of fact contained herein are true and correct as of the date hereof.

Signature of Applicant  Date 7/20/99

Name (please type or print) Fred B. Hanna

Title Mayor

Please return application form to:
Economic Development of Arkansas Fund Commission
c/o DFA - Director's Office
P.O. Box 3278
Little Rock, AR 72203

Date of Submission to Reviewing Agency: _____

Reviewing Agency: _____

Reviewing Agency Recommendation Approve Deny
by: _____

Date of Commission Review _____

Approved _____ Denied _____

by _____

name _____

title _____

NARRATIVE

ARKANSAS RESEARCH AND TECHNOLOGY PARK

This grant application seeks to fund development of Arkansas' first research and technology park. The need for the park is based on its close proximity to the University of Arkansas-Fayetteville. At the present time, there exists no site for high-technology and university-related industries in Arkansas. As the only such park in the state, the project will stimulate business, industrial and economic growth in all areas of Arkansas by creating employment opportunities not heretofore available.

Arkansas' first research and technology park is located on a 290-acre site that was purchased for \$1,300,000 by the City of Fayetteville in 1988. Essentially, the University of Arkansas' status as a major research institution is the critical linchpin to developing a new Arkansas Research and Technology Park. Engineering, agriculture and the sciences are particular strengths of the University's research program.

At the present time, job opportunities within Arkansas for many University of Arkansas graduates do not exist. The High Density Electronics Center (HiDEC) at the University of Arkansas-Fayetteville has lost over 50 graduates (approximately 95 percent of all graduates) to employment opportunities outside the state. The Arkansas Research and Technology Park will serve to further diversify the state's employment base. This phenomenon will level the playing field in the game of high-tech job retention in Arkansas.

In addition, it is also anticipated that the Arkansas Research and Technology Park will generate "spin-off" activity. Studies indicate that research parks attract other university, governmental and compatible private business uses. It is assumed that such additional floor space demand will be roughly equal to the research-based absorption.

In 1996, the City of Fayetteville hired the firm of Hammer, Siler, George, and Associates as the multidisciplinary team to verify the need for a research and technology park. The firm determined that the park's establishment in the vicinity of the University of Arkansas was essential. The team, then, devised a master plan for park development. The Executive Summary from this report is as follows:

- * 1. The purpose of the consultant work is to test the feasibility of research park development.**
- * 2. This requires research resource assessment, market analysis, site planning, site development costing and cash flow analysis.**

- * 14. Phase I site improvement costs will total \$4,500,000 in construction costs. A total of \$3,900,000 had previously been spent on the purchase of the land, water line main installation, master plan, economic development program endeavors, and fiber optics hub installation.
- * 15. The estimated total site improvement construction costs for the five phase will be \$16 million.
- * 16. The University, the City, the Chamber of Commerce and the State will make a strong partnership to make this project a success.

A copy of the report entitled "Market Potentials, Site Planning, Costing and Cash Flow For Arkansas Research and Technology Park Development" is enclosed.

Listed below are highlights from the master plan process:

Phase I – Market potentials & Development Program (completed);

A. Of the recommended alternative development programs, Fayetteville chose a research related park with total quality business focus, which offers –

1. Broader, traditional research park use mix
2. Critical University and private anchor facilities
3. Essential quality environment
4. Greater total and early project success
5. 160 acre project size (when fully developed)
 - 50 Acres of Research-Related
 - 70 Acres of Business Park Uses
 - 20 Acres of University, State and Federal
 - 20 Acres of Supporting Services

Phase II – Master Plan & Financial Analysis (completed – see enclosure);

A. The park's master plan calls for the following utilization scheme –

<u>Land Use</u>	<u>Acres</u>	<u>Square Feet</u>
Office	56	485,000
Retail	6	60,000
Light Industrial	<u>63</u>	<u>455,000</u>
Sub-Total	125	1,000,000
Future Expansion	<u>35</u>	
Grand Total	160 Acres	

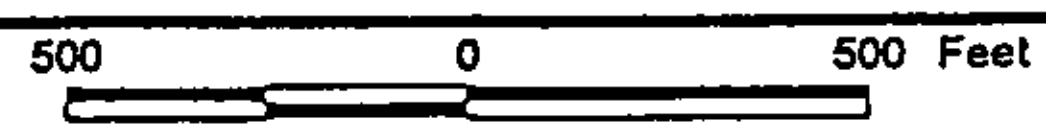
PROPOSED
UTILITY BASEMENT

300'

25-17-34

Research Blvd.
200' WIDE

PROPOSED
AMPHITHEATER



Arkansas Research & Technology Park
Fayetteville, Arkansas

ARKANSAS RESEARCH AND TECHNOLOGY PARK
Expenditures and Projected Costs

I. Expenditures through December, 2000:

Land Acquisition	\$1,300,000
Economic Development	200,000
Water and Sewer Construction	300,000
Master Plan	100,000
Environmental	<u>150,000</u>

Total Expended by City of Fayetteville	<u>\$2,050,000</u>
--	--------------------

Fiber Optics Hub Installation	\$ 600,000
-------------------------------	------------

Total Expended by Southwestern Bell	<u>\$ 600,000</u>
-------------------------------------	-------------------

Total Expenses through December, 2000	<u>\$2,650,000</u>
---------------------------------------	--------------------

Projected Funds:

Capital Improvements	\$1,250,000
----------------------	-------------

Total Funds Committed	<u>\$3,900,000</u>
-----------------------	--------------------

ARKANSAS RESEARCH AND TECHNOLOGY PARK
Expenditures and Project Costs

Phase II:

Complete street network within southern area of park and add water and sewer infrastructure.	\$2,500,000
---	-------------

Phase III:

Construct Trucker's Drive and acquire property around the Hwy 112 entrance. Complete street network for northern area of park and add water and sewer infrastructure.	\$4,500,000
--	-------------

Phase IV:

Improve Deane Solomon Road along park boundary. Acquire any necessary right of way.	\$1,500,000
--	-------------

Phase V

Improve I-540 access. Relocate and widen Frontage Road. Acquire property along Shiloh Drive	\$3,000,000
---	-------------

Total Estimated Costs for Future Construction	<u>\$16,000,000</u>
--	----------------------------

PARENT TRACT

LEGAL DESCRIPTION

part of Section 33, Township 17 North, Range 30 West, being more particularly described as beginning at the NW Corner of said Section 33, Thence South 87°19'24" East - 2637.40 Feet to the NE Corner of the NE 1/4 of the NW 1/4 of said Section 33; Thence South 87°14'56" East - 247.50 Feet; Thence South 02°26'17" West - 630.76 Feet; Thence South 87°17'26" East - 1100.15 Feet to the West Right of Way of U.S. 1-540; Thence along said West Right of Way the following Bearings and Distances:
 South 26°01'04" West - 74.14 Feet; Thence South 74°59'16" West - 100.11 Feet; Thence South 75°15'02" West - 117.54 Feet; Thence South 66°53'26" West - 127.62 Feet; Thence South 50°13'36" West - 191.34 Feet; Thence South 31°34'48" West - 190.36 Feet; Thence South 31°34'48" West - 126.58 Feet; Thence South 04°16'45" West - 185.26 Feet; Thence South 16°36'56" East - 57.67 Feet; Thence South 12°48'23" East - 100.11 Feet; Thence South 06°19'10" East - 280.77 Feet; Thence South 07°15'05" West - 170.41 Feet; Thence South 27°10'09" West - 171.37 Feet; Thence South 34°22'26" West - 449.12 Feet; Thence South 38°27'59" West - 150.76 Feet; Thence South 34°22'18" West - 922.60 Feet; Thence Leaving the West Right of Way of I-540, North 87°11'53" West - 631.86 Feet; Thence South 02°26'44" West - 329.87 Feet; Thence North 87°21'18" West - 660.00 Feet; Thence North 2°26'44" East - 330 Feet; Thence North 87°21'18" West - 660.23 Feet; Thence North 02°28'11" East - 2480.65 Feet; Thence North 87°19'24" West - 330.00 Feet; Thence North 02°28'11" East - 1816.06 Feet to the Point of Beginning, Containing 269.28 Acres, more or less, Located in Washington County in the State of Arkansas, being subject to any and all rights of way and easements of record or intent.

PHASE I LEGAL DESCRIPTION

Commencing at the Northwest Corner of Section 33, thence S. 87°19'24"E 330.00 feet; thence S02°28'10"W 1816.06 feet; thence S02°28'11"W 2480.65 feet; thence S87°21'18"E 660.23 feet; thence S87°26'47"E 351.75 feet, to the True Point of Beginning, thence S87°28'47"E 308.25 feet, thence S87°11'53"E 631.86 feet to the West Right of Way of I-540, thence following said Right of Way, N34°22'18"E 422.60 feet; thence N38°27'59"E 50.76 feet; thence N34°22'25"E 161.92 feet; thence leaving said Right of Way, N55°37'26"W 1102.70 feet; thence S34°22'34"W 356.65 feet; thence S55°37'26"W 132.15 feet; thence along an Arc to the Left having a Length of 434.37 feet and a Radius of 775.00 feet and a Chord Length of 426.71 feet, bearing N71°40'49"W; thence N87°44'13"W 135.64 feet; thence S02°15'46"W 335.20 feet; thence along an Arc to the Left having a Length of 240.88 feet and a Radius of 550.00 feet and a Chord Length of 238.96 feet, bearing N10°17'02"E; thence S22°49'50"E 21.15 feet; thence along an Arc to the Right having a Length of 127.37 feet and a Radius of 700.00 feet and a Chord Length of 127.20 bearing S17°37'04"E; thence S12°24'18"E 95.57 feet; thence S12°13'27"E 228.67 feet; thence S 02°50'58"W 484.85 feet, containing 45.67 acres, more or less, and being subject to all Rights of Way and Easements of Record or Intent.

LEGEND

- EXISTING EASEMENT
- EXISTING ROAD
- EXISTING FENCE
- EXISTING SUBT EASEMENT
- EXISTING POWER POLE
- EXISTING WATER LINE
- EXISTING RIGHT OF WAY
- EXISTING OVERHEAD ELECTRIC
- EXISTING GAS LINE
- EXISTING SUBT FIBER OPTIC
- EXISTING STORM SEWER
- EXISTING SEWER
- PROPOSED STORM SEWER
- PROPOSED LOT LINES
- PROPOSED BUILDING SETBACK
- PROPOSED RIGHT-OF-WAY
- PROPOSED STREET LIGHT
- PROPOSED CONDUIT 1-6" (4-4" PVC)
- PROPOSED EASEMENT - SETBACK (UNLESS OTHERWISE DESIGNATED)
- PROPOSED WATER LINE
- PROPOSED SEWER
- PROPOSED SIDEWALK
- PROPOSED BULKING TRAIL
- PROPOSED PORCELAN
- FUTURE ROAD
- BOUNDARY OF EXISTING WETLANDS IMPACTED
- FLOODWAY
- PROPOSED MITIGATION AREAS CREATED/ENHANCED
- EXISTING WETLANDS - IMPACTED
- EXISTING WETLANDS PRESERVED
- SANITARY SEWER MANHOLE
- FIRE HYDRANT

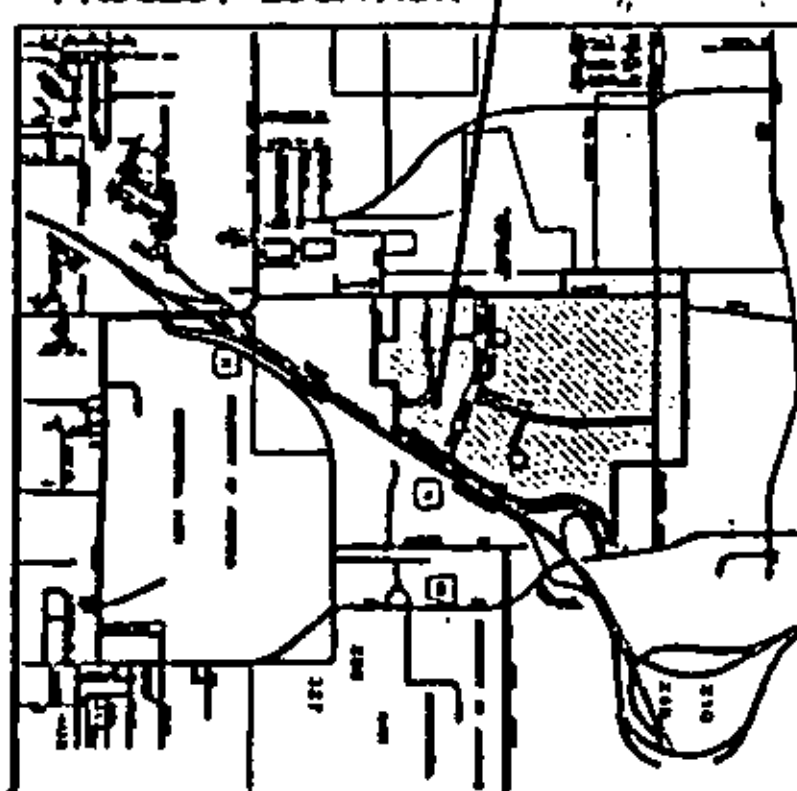
GRAPHIC SCALE



NOTES

1. SOME OF THIS PROPERTY IS LOCATED WITHIN THE DESIGN OVERLAY DISTRICT.
2. ALL NEW UTILITIES SHALL BE UNDERGROUND.

PROJECT LOCATION



VICINITY MAP

SCALE: 1" = 1/2 MILE

STREET NAME | ROW | STREET WIDTH | GREEN SPACE | SIDEWALK

SETBACKS

- 10' TYPICAL LOT/LOT
- 5' TYPICAL FROM PROPOSED R/W
- 5' TYPICAL FROM RESERVED PUBLIC LAND
- 10' TYPICAL FROM EXISTING R/W, R-1 ZONING AND A-1 ZONING

DTE: FIRM MAP, NO.

05143C0083D &

05142C0084D

JULY 21, 1999

PLAT CODE 17N-30W-0-33-000-72-1357

GENERAL INFORMATION

RAZORBACK PARK GOLF COURSE

PHASE I

DATA CROSSING

INTERNET DRIVE

INTERNET DRIVE

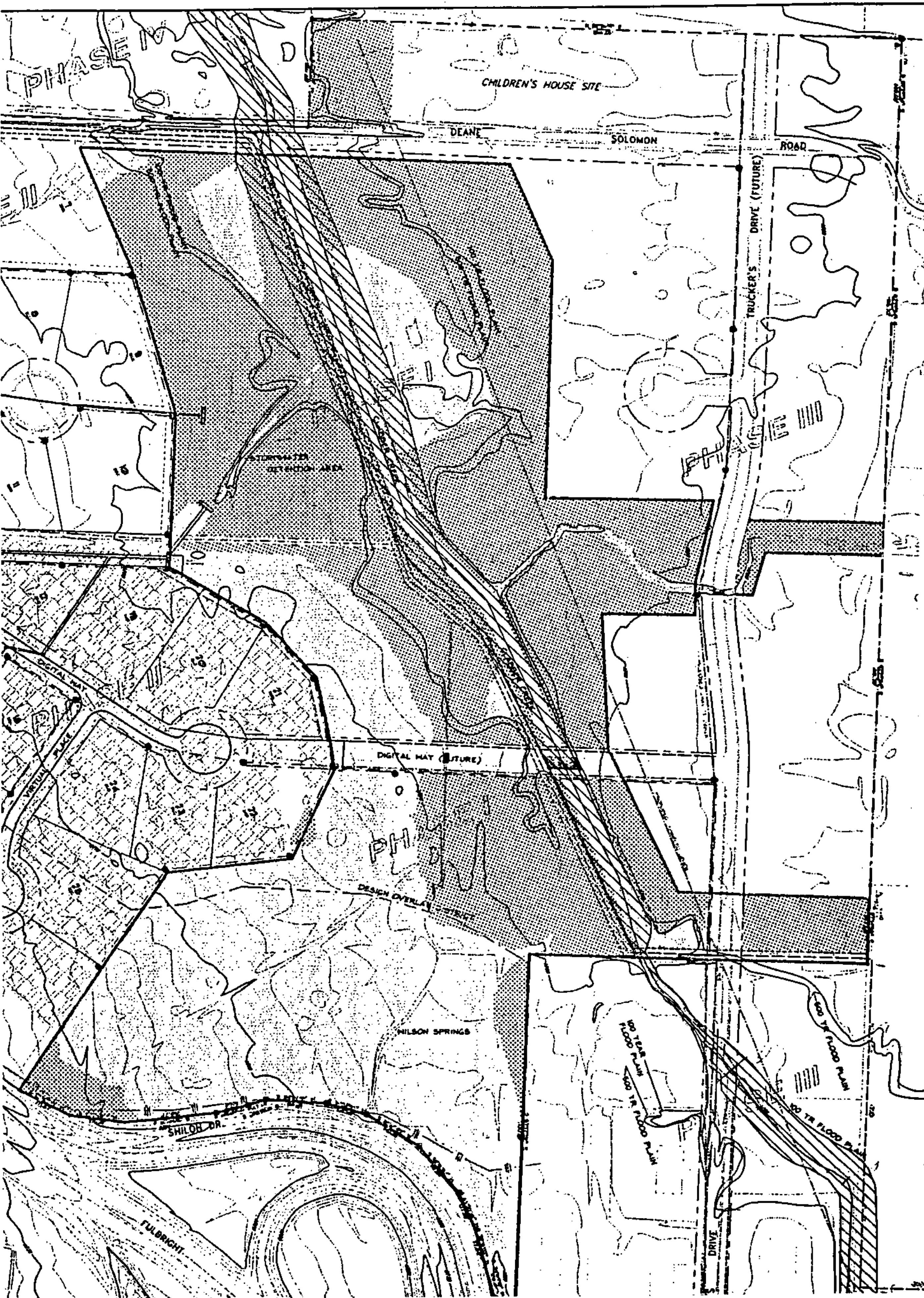
SHILOH DRIVE

HWY 1-540

HWY 1-540

HWY 1-540

FAIRBANK APARTMENTS



CITY ENGINEERING DEPARTMENT RESEARCH & TECHNOLOGY PARK SITE PLAN		DATE: 11/2000	SCALE: AS SHOWN
		DRAWN BY: GCP	CHECKED BY:
		FIELD CHECKED:	SURVEYED BY:
		FILE NAME: PKRPLJG	DRAWING NO:
		SIGNED: _____ P. E. NO. _____	

113 W. MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS
PHONE NO: (501) 575-5206
FAX NO: (501) 575-5257

ADDEDNUM

This grant application request is being resubmitted for consideration by the Economic Development of Arkansas Fund Commission. The Commission was apprised about the new Arkansas Research and Technology Park at the December 12, 1999 meeting and declined to consider infrastructure funding of \$1,147,640 for development of Phase I. The project did not make the funding "short list" at that time.

Prior to December 1999, the project received an award of \$193,360 in June 1999 for infrastructure improvements in Phase I of park infrastructure development. That sum remains untouched in a state escrow account pending the outcome of litigation challenging two other projects in the batch of 10 successful applicants. In the meantime, Interface Computers purchased land in the park, but cannot begin development of their site until a road can be built to their site.

A letter of commitment is enclosed from Interface Computers is again included with this application. This company appeared before the Commission in June 1999. This fine firm is an information-based computer oriented company seeking to be the first firm in the new Arkansas Research & Technology Park.

The company is involved in developing and producing products and services oriented to internet and e-commerce. Their employment currently stands at 13 employees with an annual payroll of \$260,000. Within the next two years of operation the young firm expects growth to eclipse 20 employees with an annual payroll of \$500,000. The Arkansas Economic Development Commission (AEDC) has been made aware of this client because of the quality of jobs that would be created by its expanded investment in Arkansas.

In addition, Fayetteville is pursuing the investment of yet another company, which also has appeared before the Commission in December 1999. Computer Management Information Systems (CMIS) was incorporated in 1992 with three employees and has grown during the ensuing eight years from revenues of one-half million dollars to revenues of over five million dollars with twenty employees.

The company estimates they will add ten employees per year and during the first six months of 2000, they had created 8 new jobs. Their current location does not offer them enough space to access to the fiber optic lines they require for their business. The company is a prime example of the type of company which will be lost from our state, if appropriate locations are not available to enable their growth.

Funding from the Economic Development of Arkansas Fund Commission would literally pave the way toward introducing the first park of its kind in Arkansas and one of only about 75 in the world.

I N T E R F A C E
COMPUTER CENTER, L.L.C.

Leaders of Tomorrow's Technology

530 North College Avenue, Building C
Fayetteville, AR 72701
Telephone: 501-582-5100
Facsimile: 501-582-5599

April 23, 1999

Mr. James V. Crider, Director
Economic Development
FAYETTEVILLE CHAMBER OF COMMERCE
P.O. Box 4216
Fayetteville, AR 72702-4216

SUBJECT: Letter of Commitment

Dear Jim:

It is a pleasure to confirm the commitment of Interface Computer Center L.L.C. to locate in the new Arkansas Research and Technology Park. The SBA has chosen us for the 1999 Young Entrepreneur of the Year award for the State of Arkansas and for the five-state region. We are very excited about locating in the new Technology Park to help our business to continue to grow. Our company prides itself as a "leader in tomorrow's technology." In 1998, we had 13 employees (approx. annual payroll of \$260,000) and generated \$1.1 million in revenues. It is anticipated employment will eclipse 16 (annual payroll of \$350,000) by the end of 1999 with a revenue stream of \$1.7 million. Our projections over the next two years show a possibility of 20 employees (annual payroll of \$500,000) and revenues of \$3-4 million.

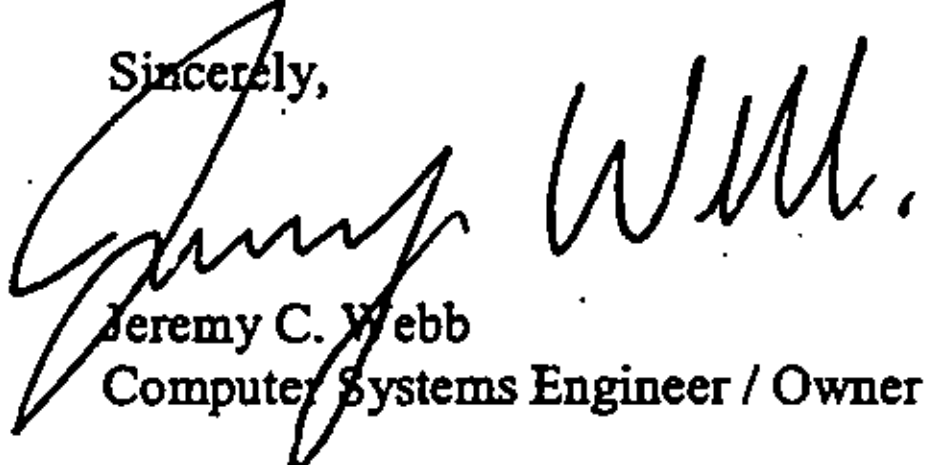
At the present time, our growing enterprise has four dynamic divisions. These entities include:

1. Interface Interactive Division- involved with internet web development and e-commerce (30 percent of revenues).
2. Interface Internet Division- sells "pipes" to internet companies (30 percent of revenues).
3. Interface Computers Division - network service contracts and MIS services for companies (30 percent of revenues).
4. Interface Research Division- new software package development. This department is a long-term goal for the three owners of Interface to develop internet-related software packages that we can sell to many. Right now, our Interface Interactive division is developing internet related software package that are sold once instead of packaging the product for many. Hopefully, the previous three departments will hopefully finance this department (currently 10 percent of revenues).

As you might expect, along with success come various challenges. The single most important obstacle facing Interface Computers Center today is available space. In short, we have long-since outgrown our present facility. We propose building a 7,500 square-foot facility (expandable to 15,000 square feet) on an excellent two-acre site in the Arkansas Research & Technology Park. At this point, no purchase price has been established. Our commitment is, therefore, contingent upon arriving at mutually acceptable purchase price for the site.

We look forward to moving our information-based company into a new building as the first occupants of the new Arkansas Research and Technology Park.

Sincerely,


Jeremy C. Webb
Computer Systems Engineer / Owner

LEGAL DESCRIPTION

commencing at the Northwest corner
of the East: there 50°37'N 10°W 1816

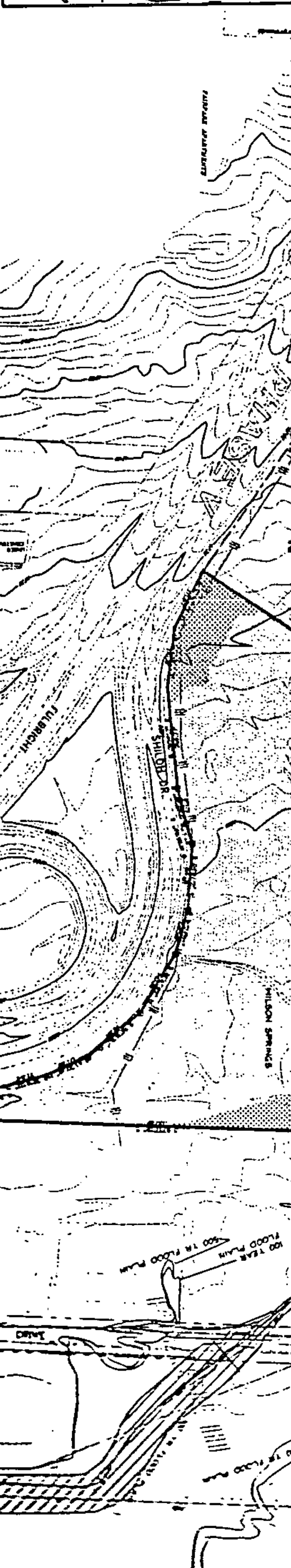
This is a detailed topographic map of a region in the United States. The map shows a river, a road, and a bridge. The river is labeled "RIVER" and the road is labeled "ROAD". The bridge is labeled "BRIDGE". The map includes contour lines, a scale bar, and a north arrow. The river is labeled "RIVER" and the road is labeled "ROAD". The bridge is labeled "BRIDGE".

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A topographic map showing a road, a river, and a building labeled "LOCATION 7". The map includes contour lines and a scale bar. The road is labeled "Hwy. 1-2-3-4" and the river is labeled "Wilson Springs". The building is labeled "LOCATION 7".

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PROJECT NAME	R/W	STREET	WIDTH	GREEN SPACE	SPACE	SIDEWALK

DRIVER'S NAME	(FT.)	(FT.)	(FT.)	(FT.)
TECHNOLOGY BLVD	150	78 x 2	10	6
DIGITAL WAY	100	36	10	6
INTERNET DRIVE	100	36	10	6
DATA CROSSING	100	36	10	6
DIGITAL PLACE	100	36	10	6
	2000	14	10	6

This topographic map shows the area around the intersection of Highway 100 and Highway 101. The 'SALT' site is marked with a small circle and labeled. The 'CROSSMAN' road is shown as a dashed line. The map includes contour lines and a scale bar.

113 W. MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS

SECRET

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

RECEIVED

04-12-01 08 RCVD

APR 10 2001

the Fayetteville City Council meeting of May 1, 2001. APR 12 2001

ACCTG. DE.

FROM:

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICEJohn MaguireAdministrativeAdministrative Services

Name

Division

Department

ACTION REQUIRED: Approval of long term leases with the Economic Opportunity Agency of Washington Co., Inc. for Children's House & Sage House.

COST TO CITY:

\$ N/A
 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: _____

Marsha Farthing
 Accounting Manager

4/10/01
 Date

____ ADA Coordinator

____ Date

W. J. White
 City Attorney

4/10/01
 Date

J. Smith
 Internal Auditor

4/10/01
 Date

U. Vice
 Purchasing Officer

4/12/01
 Date

STAFF RECOMMENDATION: Approval of the Resolution and Budget Adjustment

____ Division Head

____ Date

____ Cross Reference

____ Department Director

____ Date

New Item: Yes No

John Maguire
 Administrative Services Director

4/6/01
 Date

Prev Ord/Res #: _____

M

4/11/01
 Date

Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor & City Council
From: John Maguire, Administrative Services Director
Date: April 9, 2001
Subject: Leases for Children's House & Sage House

The leases with the Economic Opportunity Agency of Washington County, Inc. for the benefit of Children's House and Sage House containing 4.132 acres and 2.715 acres respectively are recommended by Staff. The Council expressed their intent by resolution, dated March 21, 2000.

RESOLUTION NO. 40-00 MICROFILMED

A RESOLUTION EXPRESSING THE CITY'S INTENT AND COMMITMENT TO A LONG TERM LEASE AGREEMENT WITH THE ECONOMIC OPPORTUNITY AGENCY OF WASHINGTON COUNTY, INC., FOR THE BENEFIT OF CHILDREN'S HOUSE AND SAGE HOUSE.

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

Section 1. That the City Council hereby expresses its intent and commitment to a long term lease agreement with the Economic Opportunity Agency of Washington County, Inc., for the benefit of Children's House and Sage House. The subject real property located in Washington County is described more particularly as follows:

See Exhibit "A" attached hereto and made a part hereof.

PASSED AND APPROVED this 21st day of March, 2000.

APPROVED:

By:

Fred Hanna
Fred Hanna, Mayor

ATTEST:

By:

Heather Woodruff
Heather Woodruff, City Clerk



LEASE AGREEMENT

This Agreement, made and entered into this _____ day of _____, 2001, by and between the City of Fayetteville, Arkansas, hereinafter called "Lessor," and Sage House, hereinafter called "Lessee," Witnesseth:

WHEREAS, Sage House is a nonprofit agency established and dedicated to serve as a rent subsidized transitional housing facility; and,

WHEREAS, providing transitional housing is a valid public purpose; and,

WHEREAS, Sage House will provide such services within the City of Fayetteville.

NOW, THEREFORE, the parties hereto agree as follows:

1. Leased Premises. for and in consideration of the rents, covenants and agreements herein entered into and agreed upon by the Lessee as obligations to the Lessor, the Lessor lets, leases and demises unto Lessee, subject to the terms and conditions contained herein, the following described property situated in Washington County, Arkansas.

A part of the Northwest Quarter (NW1/4) of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of said Section 33; thence along the west line of said Section 33, South 02°28'11" West 1072.67 feet, to the Point of Beginning; thence leaving said West line of Section 33, South 87°22'27" East 329.47 feet, to a point on the existing centerline of Deane Solomon Road; thence with said centerline, South 02°29'56" West 395.06 feet to a PK nail; thence leaving said centerline, North 87°22'27" West 329.27 feet along the proposed north right of way of Crystal Springs Drive, to a set iron pin on the west line of said Section 33; thence along said West line, North 02°28'11" East 395.06 feet, to the Point of Beginning, containing 2.987 acres, more or less. LESS AND EXCEPT thirty (30) feet of equal and uniform width off the East side of the above described property, containing 0.272 acre, more or less, being within the existing west right of way of Deane Solomon Road. Containing a net acreage of 2.715 acres, more or less.

To have and to hold said premises unto the said Lessee for and during the term herein stated, subject to the covenants, terms and conditions herein contained.

2. Term. This lease shall commence on _____, _____, and shall extend for a term of ninety-nine (99) years, ending at midnight on _____.

3. Rent. In addition to other good and valuable consideration as set forth herein, Lessee agrees to pay to Lessor as rental the sum of One Dollar (\$1.00) to be paid annually, with the first payment due upon execution of this agreement and subsequent payments due on the first day of _____.

each and every year thereafter during the term of this lease.

4. Use. Lessee agrees to use the lease premises for the purpose of constructing, operating and maintaining a rent subsidized transitional housing facility. If at any time the property ceases to be used for this purpose, the lease shall terminate. Lessee agrees to furnish rent subsidized transitional housing for Fayetteville Citizens and residents throughout this lease period. Lessee shall deliver quarterly reports to Mayor's office concerning the number of Fayetteville citizens/residents housed or otherwise assisted by Sage House.

5. Improvements. Lessee may make any such improvements as are necessary to carry out the service of providing rent subsidized transitional housing facilities. Design for any such improvements shall be approved by the City of Fayetteville. Upon termination of this lease, all improvements shall become the property of Lessor.

6. Taxes. Lessee shall pay any and all ad valorem taxes and special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

7. Notices. All notices, requests, demands and other communications required by or permitted hereunder shall be in writing and shall be directed to the following:

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Sage House
614 E. Emma, Suite M401
Springdale, AR 72764

8. Assignment. Lessee shall not assign this lease or sublet the lease premises without prior written consent of the Lessor. Any such assignment or subletting shall in no way relieve Lessee from liability for the obligation imposed by this lease. Lessee may only be released from liability for the obligation imposed by this lease by a specific written release executed by Lessor.

9. Insurance.

A. Lessee shall be solely responsible for maintaining insurance on its property, including movables, trade fixtures, furniture, furnishings and inventory, as well as improvements to the property.

B. Lessee shall, during the term of this lease, maintain public liability insurance. The limits of such public liability insurance shall not be less than \$500,000.00 per person and \$500,000.00 per accident. The policy shall contain a clause that the insurer will not cancel or change the insurance without giving Lessor, ten days prior written notice. A certificate of such insurance shall be delivered to Lessor.

10. Maintenance. Lessee shall be responsible for all maintenance, routine preventative or corrective, on any and all improvements made to the leased property.

11. Compliance with Laws. Lessee agrees not to violate any law, ordinance, rule or regulation of any governmental authority having jurisdiction of the leased premises. This agreement shall be governed by the laws of the State of Arkansas.

12. Waste/Nuisance. Lessee agrees not to commit waste, nor permit waste to result or to be done to or upon the aforesaid premises. Further, Lessee agrees not to operate, nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

13. Title and Quiet Enjoyment. Lessor covenants and warrants that it is the owner in fee simple absolute of the leased premises and may lease said premises as herein provided. Upon payment by Lessee of the rents herein provided and upon the observance and performance of all the covenants, terms and conditions upon Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under Lessor, subject to the terms and conditions of this lease.

14. Severability. Each paragraph of this lease agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

15. Entire Agreement. This lease agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. This lease agreement supersedes all prior agreements, contracts and understandings of any kind between the parties relating to the subject matter hereof.

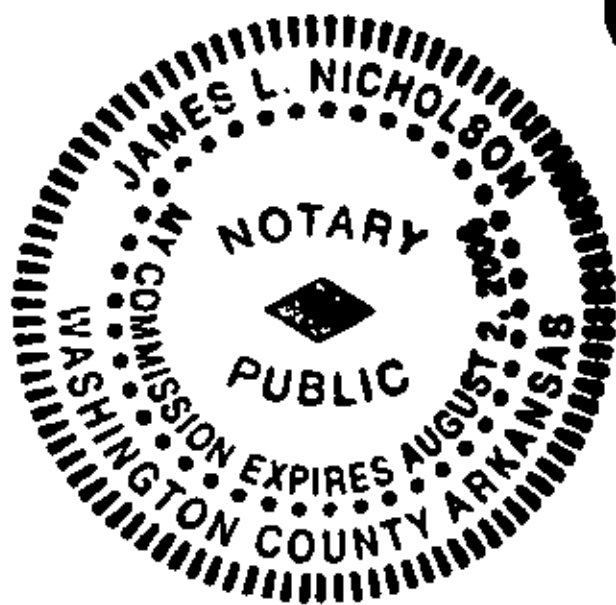
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on this ____ day of _____, 2001.

CITY OF FAYETTEVILLE
Lessor

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk



SAGE HOUSE

Lessee

By: Abpe Bradley
Title: Board President

ATTEST:

By: J. Nicholson

Title: Commission expires Aug 2, 2006

LEASE AGREEMENT

This Agreement, made and entered into this _____ day of _____, 2001, by and between the City of Fayetteville, Arkansas, hereinafter called "Lessor," and Economic Opportunity Agency of Washington County, hereinafter called "Lessee," Witnesseth:

WHEREAS, Economic Opportunity Agency of Washington County (EOA) is a nonprofit agency established to serve as a day care/treatment center for neglected and abused children; and,

WHEREAS, the care and treatment of neglected and abused children is a valid public purpose; and

WHEREAS, EOA will provide such services to neglected and abused children within the City of Fayetteville.

NOW, THEREFORE, the parties hereto agree as follows:

1. Leased Premises. For and in consideration of the rents, covenants and agreements herein entered into and agreed upon by the Lessee as obligations to the Lessor, the Lessor lets, leases and demises unto Lessee, subject to the terms and conditions contained herein, the following described property situated in Washington County, Arkansas.

A part of the Northwest Quarter (NW1/4) of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of said Section 33; thence along the west line of said Section 33, South 02°28'11" West 472.67 feet, to a set iron pin, said pin also being the Point of Beginning; thence South 87°04'43" East 332.64 feet along the proposed south right of way line of Trucker's Drive, to a PK nail on the existing centerline of Dean Solomon Road; thence with said centerline, South 03°00'40" West 319.88 feet; thence continuing with said centerline, South 02°29'56" West 278.41 feet, to a point; thence leaving said centerline, North 87°22'27" West 329.47 feet, to a point on the West line of said Section 33; thence along said West line, North 02°28'11" East 600.0 feet, to the Point of Beginning, containing 4.544 acres, more or less. LESS AND EXCEPT thirty (30) feet of equal and uniform width off the East side of the above described property, containing ~~4.544~~ acre, more or less, being within the existing west right of way of Deane Solomon Road. Containing a net acreage of 4.132 acres, more or less.

To have and to hold said premises unto the said Lessee for and during the term herein stated, subject to the covenants, terms and conditions herein contained.

2. Term. This lease shall commence on _____, _____, and shall extend for a term of ninety-nine (99) years, ending at midnight on _____.

3. Rent. In addition to other good and valuable consideration as set forth herein, Lessee agrees to pay to Lessor as rental the sum of One Dollar (\$1.00) to be paid annually, with the first payment due upon execution of this agreement and subsequent payments due on the first day of each and every year thereafter during the term of this lease.

4. Use. Lessee agrees to use the lease premises for the purpose of constructing, operating and maintaining a daycare/treatment center for neglected and abused children. If at any time the property ceases to be used for this purpose, the lease shall terminate. The Lessee agrees to provide day care facilities and treatment for neglected and abused Fayetteville children on the leased premises. The Lessee shall present quarterly written reports to the Mayor's office detailing the number of neglected or abused children, who are citizens or residents of Fayetteville, who were cared for or treated at this facility.

5. Improvements. Lessee may make any such improvements as are necessary to carry out the service of providing a daycare and treatment center for neglected and abused children. Design for any such improvements shall be approved by the City of Fayetteville. Upon termination of this lease, all improvements shall become the property of Lessor.

6. Taxes. Lessee shall pay any and all ad valorem taxes and special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

7. Notices. All notices, requests, demands and other communications required by or permitted hereunder shall be in writing and shall be directed to the following:

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Economic Opportunity Agency
614 E. Emma, Suite M401
Springdale, AR 72764

8. Assignment. Lessee shall not assign this lease or sublet the leased premises without prior written consent of the Lessor. Any such assignment or subletting shall in no way relieve Lessee from liability for the obligation imposed by this lease. Lessee may only be released from liability for the obligation imposed by this lease by a specific written release executed by Lessor.

9. Insurance.

A. Lessee shall be solely responsible for maintaining insurance on its property, including movables, trade fixtures, furniture, furnishings and inventory, as well as improvements to the property.

B. Lessee shall, during the term of this lease, maintain public liability insurance. The limits of such public liability insurance shall not be less than \$500,000.00 per person and \$500,000.00 per accident. the policy shall contain a clause that the insurer will not cancel or change the insurance without giving Lessor, ten days prior written notice. A certificate of such insurance shall be delivered to Lessor.

10. Maintenance. Lessee shall be responsible for all maintenance, routine preventative and corrective, on any and all improvements made to the leased property.

11. Compliance with Laws. Lessee agrees not to violate any law, ordinance, rule or regulation of any governmental authority having jurisdiction of the leased premises. This agreement shall be governed by the laws of the State of Arkansas.

12. Waste/Nuisance. Lessee agrees not to commit waste, nor permit waste to result or to be done to or upon the aforesaid premises. Further, Lessee agrees not to operate, nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

13. Title and Quiet Enjoyment. Lessor covenants and warrants that it is the owner in fee simple absolute of the leased premises and may lease said premises as herein provided. Upon payment by Lessee of the rents herein provided and upon the observance and performance of all the covenants, terms and conditions upon Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under Lessor, subject to the terms and conditions of this lease.

14. Severability. Each paragraph of this lease agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

15. Entire Agreement. This lease agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. This lease agreement supersedes all prior agreements, contracts and understandings of any kind between the parties relating to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on this ____ day of _____, 2001.

CITY OF FAYETTEVILLE

Lessor

By: _____

Dan Coody, Mayor

ATTEST:

By: _____

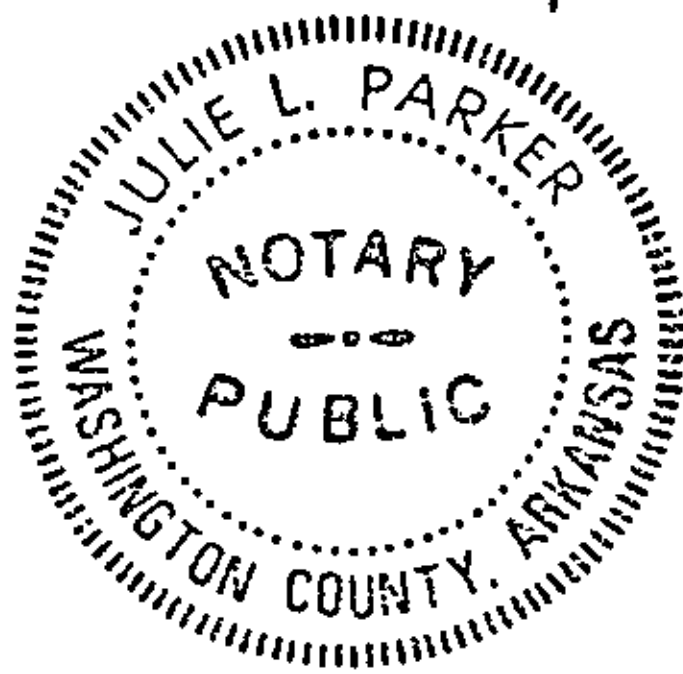
Heather Woodruff, City Clerk

Economic Opportunity Agency of
Washington County
Lessee

By: Kathleen Randall
Title: Executive Director

ATTEST:

By: Julie L. Parker
Title: Bookkeeper, Notary Public



January 30, 2001

Exhibit C
CONSULTANT COMPENSATION

The total cost of the professional services described in the accompanying proposal for Phase Two is \$45,725. This lump-sum budget includes all direct and indirect expenses incurred by the consultant team in performing the services. The breakdown of project cost by task is presented below. The City will be billed monthly based on percent completion of individual tasks.

<u>Task</u>	<u>Amount</u>
Task 2.1: Draft Impact Fee Study	
Task 2.1a: Roads	\$9,785
Task 2.1b: Water	\$9,025
Task 2.1c: Wastewater	\$9,025
Task 2.1d: Park Land Dedication	\$3,655
Task 2.1 Subtotal	\$31,490
Task 2.2: Local Review Meeting	\$1,260
Task 2.3: Final Impact Fee Study	\$9,975
Task 2.4: Public Participation	\$3,000
Total, Phase Two	\$45,725

Additional services beyond those specified in the accompanying Scope of Services may be negotiated or billed on a time and expense basis at the hourly rates provided on the Schedule of Professional Fees and Expenses. Extra meetings attended by one professional will be billed on a fixed-fee basis of \$1,500 each, which includes all travel expenses.

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES

Principal	\$125
Land Use Attorney	\$150
Senior Associates	\$95
Associates	\$75
Billable Expenses: Overnight Mail Only	

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE TREE PROTECTION AND PRESERVATION ORDINANCE (§167.01 OF THE FAYETTEVILLE CITY CODE) TO ADD A VARIANCE SECTION

WHEREAS, because the interpretation and application of §Section 167.07 Successors In Interest of The Tree Protection And Preservation Ordinance may not have been clear prior to January, 2001 and;

WHEREAS, an owner or developer may have invested substantial sums to develop his/her property by building infrastructure upon a reasonable assumption that the Successors In Interest Section would be applied differently than its current interpretation and application by the City Landscape Administrator and;

WHEREAS, the City Council may need to decide whether it would be fair and reasonable to allow a reduction, alteration, or variance of §167.07 Successors In Interest to an owner/developer identified above;

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

Section 1. That the City Council hereby amends Ordinance No. 167.01 of the Fayetteville City Code by adding §167.09 as follows:

§ 167.09 – Variance”

A. Appeal Rights

If an owner or developer of a large development or subdivision, or an owner or developer of a lot within said large development or subdivision for which a Tree Preservation Plan had been approved pursuant to 167.05 prior to January 1, 2001, is aggrieved by the City's change in interpretation or application of §167.07, Successors In Interest, and the owner/developer of a large development or the lot within such development has invested or expended substantial sums for development of infrastructure prior to January 1, 2001, then that developer, with the sponsorship of an alderman, may appeal the decision of the Landscape Administrator or Planning Commission concerning the Tree Preservation Plan to the City Council

B. Decision By City Council On Appeal

If the City Council votes to hear this appeal, a public hearing will be held at the City Council Meeting. The City Council may grant such a reduction, alteration, or variance from the requirements of the Tree Protection and Preservation Ordinance if it determines such variance is necessary to avoid an unfair or impractical application of the Tree Protection and Preservation Ordinance upon this particular parcel of land. The City Landscape Administrator shall then administer the Tree Preservation Plan as determined by the City Council.

PASSED and APPROVED this ____ day of June, 2001.

APPROVED:

DAN COODY, Mayor

APPROVED:

Heather Woodruff, City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING §35.20 OF THE CODE OF FAYETTEVILLE (ORDINANCE NO. 2310, AS AMENDED), TRANSIENT OCCUPANCY TAX, LEVY OF TAX TO ADD DELIS, DRIVE-IN RESTAURANTS, CARRY-OUT RESTAURANTS, CONCESSION STANDS, CONVENIENCE STORES, GROCERY STORE RESTAURANTS, CATERERS AND SIMILAR BUSINESSES TO THE LIST OF BUSINESSES TO WHICH THE CITY'S GROSS RECEIPT TAX OF 1% (HOTEL, MOTEL AND RESTAURANT TAX) APPLIES (A.C.A. §26-75-601 ET SEQ.); ADDING OFF PREMISES CONSUMPTION BUSINESSES TO THE LIST OF BUSINESSES SO TAXED, EXCLUDING FROM TAXATION GROSS RECEIPTS OR GROSS PROCEEDS OF ORGANIZATIONS QUALIFIED UNDER 501(c) (3) OF THE FEDERAL INTERNAL REVENUE CODE

WHEREAS, the current gross receipts of tax of 1% on Hotel, Motel and Restaurants (A.C.A. §26-75-601 et seq.) established by Ordinance No. 2310, as amended (HMR tax) levies the tax only upon restaurants, cafes, cafeterias and all other establishments engaged in the business of selling prepared food for consumption on the premises of such establishment in the city, and;

WHEREAS, the City wishes to also apply the HMR tax to delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses selling prepared food or beverages for on or off premises consumption as allowed by A.C.A. §26-75-602 and;

WHEREAS, the City wishes to exclude from HMR taxation the gross receipts or gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

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

Section 1. That §35.20 of the Code of Fayetteville, Tax, Levy of Tax, is hereby repealed and the following inserted in its stead:

§35.20. Levy of Tax. There is hereby levied, a tax of 1% (the tax) upon the gross receipts or gross proceeds from the renting, leasing, or otherwise

furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501-(c)(3) of the Federal Internal Revenue Code.

Section 2. That §35.28 is hereby added as follows:

§35.28. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** – Delis shall include establishments selling prepared food or beverage as defined, however this tax shall not apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** – Stands owned by non-profit groups are excluded from this taxation, as well as stands operated on a short term basis, such as First Night, Springfest, Autumnfest and County fairs. Other stands operated on a recurring basis, such as for athletic events, barbecue stands and other on-going stands, whether mobile or stationary will collect the HMR tax.

C. **Convenience Stores** – All food and beverages prepared on site are taxable.

D. **Caterers** – Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** – These are included within the definitions of “similar businesses” of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** – Businesses that sell beverages prepared or dispensed at their business are included within the definition of “similar businesses” of this ordinance and are therefore subject to this tax.

G. Prepared Food or Beverage – Any food or beverage product prepared or altered in a food/beverage establishment for sale.

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING §35.31 OF THE CODE OF FAYETTEVILLE (ORDINANCE NO. 3900, AS AMENDED), ADDITIONAL OCCUPANCY TAX, LEVY OF TAX TO ADD DELIS, DRIVE-IN RESTAURANTS, CARRY-OUT RESTAURANTS, CONCESSION STANDS, CONVENIENCE STORES, GROCERY STORE RESTAURANTS, CATERERS AND SIMILAR BUSINESSES TO THE LIST OF BUSINESSES TO WHICH THE CITY'S GROSS RECEIPT TAX OF 1% (HOTEL, MOTEL AND RESTAURANT TAX) APPLIES (A.C.A. §26-75-601 ET SEQ.); ADDING OFF PREMISES CONSUMPTION BUSINESSES TO THE LIST OF BUSINESSES SO TAXED, EXCLUDING FROM TAXATION GROSS RECEIPTS OR GROSS PROCEEDS OF ORGANIZATIONS QUALIFIED UNDER 501(c) (3) OF THE FEDERAL INTERNAL REVENUE CODE

WHEREAS, the current gross receipts of tax of 1% for Parks, Hotel, Motel and Restaurants (A.C.A. §26-75-601 et seq.) established by Ordinance No. 3900, as amended (Parks HMR tax) levies the tax only upon restaurants, cafes, cafeterias and all other establishments engaged in the business of selling prepared food for consumption on the premises of such establishment in the city, and;

WHEREAS, the City wishes to also apply the Parks HMR tax to delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses selling prepared food or beverages for on or off premises consumption as allowed by A.C.A. §26-75-602 and;

WHEREAS, the City wishes to exclude from Parks HMR taxation the gross receipts or gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

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

Section 1. That §35.31 of the Code of Fayetteville, Levied; collection, is hereby repealed and the following inserted in its stead:

§35.31 Levy of Parks HMR Tax. There is hereby levied, a tax of 1% (the tax) upon the gross receipts or gross proceeds from the renting, leasing, or

otherwise furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

Section 2. That §35-36 is hereby added as follows:

§35.36. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** - Delis shall include establishments selling prepared food or beverage as defined, however this tax shall not apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** - Stands run by non-profit groups are excluded from this taxation, as well as stands operated on a short term basis, such as First Night, Springfest, Autumnfest and County fairs. Other stands operated on a recurring basis, such as for athletic events, barbecue stands and other on-going stands, whether mobile or stationary, will collect the Parks HMR tax.

C. **Convenience Stores** - All food and beverages prepared on site are taxable.

D. **Caterers** - Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** - These are included within the definitions of "similar businesses" of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** - Businesses that sell beverages prepared or dispensed at their business are included within the definition of "similar businesses" of this ordinance and are therefore subject to this tax.

G. Prepared Food or Beverage – Any food or beverage product prepared or altered in a food/beverage establishment for sale.

PASSED AND APPROVED this ____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE TREE PROTECTION AND PRESERVATION ORDINANCE (§167.01 OF THE FAYETTEVILLE CITY CODE) TO ADD A VARIANCE SECTION

WHEREAS, because the interpretation and application of §Section 167.07 Successors In Interest of The Tree Protection And Preservation Ordinance may not have been clear prior to January, 2001 and;

WHEREAS, an owner or developer may have invested substantial sums to develop his/her property by building infrastructure upon a reasonable assumption that the Successors In Interest Section would be applied differently than its current interpretation and application by the City Landscape Administrator and;

WHEREAS, the City Council may need to decide whether it would be fair and reasonable to allow a reduction, alteration, or variance of §167.07 Successors In Interest to an owner/developer identified above;

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

Section 1. That the City Council hereby amends Ordinance No. 167.01 of the Fayetteville City Code by adding §167.09 as follows:

§ 167.09 - Variance"

A. Appeal Rights

If an owner or developer of a large development or subdivision, or an owner or developer of a lot within said large development or subdivision for which a Tree Preservation Plan had been approved pursuant to 167.05 prior to January 1, 2001, is aggrieved by the City's change in interpretation or application of §167.07, Successors In Interest, and the owner/developer of a large development or the lot within such development has invested or expended substantial sums for development of infrastructure prior to January 1, 2001, then that developer, with the sponsorship of an alderman, may appeal the decision of the Landscape Administrator or Planning Commission concerning the Tree Preservation Plan to the City Council

B. Decision By City Council On Appeal

If the City Council votes to hear this appeal, a public hearing will be held at the City Council Meeting. The City Council may grant such a reduction, alteration, or variance from the requirements of the Tree Protection and Preservation Ordinance if it determines such variance is necessary to avoid an unfair or impractical application of the Tree Protection and Preservation Ordinance upon this particular parcel of land. The City Landscape Administrator shall then administer the Tree Preservation Plan as determined by the City Council.

PASSED and APPROVED this ____ day of June, 2001.

APPROVED:

DAN COODY, Mayor

APPROVED:

Heather Woodruff, City Clerk

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of June 5, 2001

FROM:

Richard Watson, COP

Name

Police

Division

Police

Department

ACTION REQUIRED: Adopt revision of the Police Department Physical Fitness Policy.

COST TO CITY:

\$1,000.00 (shirts)
Cost of this Request

\$ 415,719.00
Category/Project Budget

Services and charges
Category/Project Name

1010-2940-5302.00
Account Number

\$ 145,004.00
Funds Used To Date

Patrol
Program Name

Project Number

\$ 270,715.00
Remaining Balance

General
Fund

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

5/18/01

Date

Internal Auditor

5/18/01

Date

City Attorney

5/18/01

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION:

Adopt by resolution the Police Department Revised Physical Fitness Policy

Division Head

Date

Cross Reference

Department Director

Date

New Item: Yes No

Administrative Services Director

Date

Prev Ord/Res #: _____

Mayor

Date

Orig Contract Date: _____

Orig Contract Number: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

To: Mayor Coody and Members of the City Council

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

Subject: *Proposed Revision of the Physical Fitness Policy*

Date: May 10, 2001

Attached for your review is a copy of proposed changes to the existing physical fitness policy for the police department. The portions to be deleted have a ~~line through the wording~~. Policy changes are **bolded**.

The department achieved 100% compliance with the existing policy; however, each test was met with resistance and seemed to cause dissention within the department. The problems have been caused by the negative connotations (discipline) within the present policy. A committee was formed and was comprised of employees representing each entity within the department. Research of departments with fitness policies led the committee to make the suggestions contained within the attached proposed policy.

I believe that in order for the department to continue to improve, especially in the area of physical fitness, these changes are necessary. I further believe we will continue to achieve the same level of compliance set forth in the proposed policy, only now officers will be rewarded for their efforts. Per a conversation with Steve Davis it was determined that if every officer received a physical in the same year there could be a maximum cost of \$20,000.00.

Thank you for your consideration of this matter. If you have any questions, please contact me at extension 500 or call Lieutenant Helder at extension 502.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Effective Date May 17, 2000		Number 33.1.1
Subject PHYSICAL FITNESS FOR LAW ENFORCEMENT OFFICERS		
Reference		Special Instructions
Distribution All Personnel	Reevaluation Date 1 Year	No. Pages -8-

I. PURPOSE

The purpose of this policy is to establish standards and programs to ensure the physical readiness of officers to perform the frequent and critical physically demanding essential functions of their jobs.

II. DISCUSSION

Physical fitness for law enforcement officers is job-related and fitness tests have undergone court scrutiny and have been accepted as job related.

Another concern is employee health. With the initiation of this program an effort will be made to improve employee physical fitness, employee performance and safety and to reduce the threat of illness caused by lack of physical fitness.

The goal of the Department is to improve employee performance and safety, and to reduce the possibility of premature death, heart attack, stroke, respiratory disease or other illness related to lack of physical activity.

III. POLICY

A. All entry level and sworn uniformed personnel shall comply with the fitness standards set forth within this policy.

1. Entry level personnel are those applying for a police officer position with the City of Fayetteville.

2. Sworn uniformed personnel are those sworn employees at or below the rank of Sergeant. ~~Lieutenants will remain at Phase I which requires mandatory participation and voluntary compliance.~~

3. Testing will be conducted bi-annually on dates set by the Fitness Coordinators.

4. An annual voluntary Medical / Physical examination will be offered by the police department as budgetary funds become available. The examinations will benefit all sworn personnel by detecting any illnesses or conditions that would otherwise go unnoticed. The results of the examinations will be given to each officer and it will be the responsibility of the officer to disclose any pertinent medical information on the PARQ questionnaire before each fitness test. The

examinations will also benefit the police department by insuring that all sworn personnel are in good health, thus reducing the chance of an injury or major health problem during the fitness test. The Chief of Police will determine the physician.

B. Physical Fitness Testing Procedures For Applicants.

1. The Fayetteville Police department will furnish details of the fitness testing requirements and a physical activity readiness form (PARQ) after an application for employment has been submitted.

2. Prior to a final offer of employment, those applicants still eligible shall be subject to a standard physical fitness test as designated by this policy.

3. Failure to meet any of the established Physical Fitness Standards will result in no offer of employment to the applicant.

C. Physical Fitness Testing For Incumbent Sworn Uniformed Personnel.

1. Incumbent personnel will be assessed to determine their level of fitness. A Fitness Coordinator will review the assessment with the employee in order to determine a starter program, which will assist the employee in achieving department standards.

~~2. Incumbent personnel will be introduced to the program in phases.~~

2. Fitness Testing will be Mandatory for all sworn personnel and rewards are given based on the fitness level of each officer. The following components will be dealt with in each fitness test.

~~(a) Phase I (1st year) Mandatory Participation/ Voluntary Compliance. The~~

~~following components will be dealt with in both Phase I and Phase II:~~

(a) Medical screening

(b) Fitness testing

(c) Fitness education

(d) Individualized exercise prescription.

~~(b) Phase II (After 1st year) Mandatory Participation/ Mandatory Compliance.~~

~~1. Department standards must be met.~~

D. Standards and Participation Compliance

~~1. Phase I.~~

1. Officers suffering from an illness, which would prevent them from participating in a fitness test, must contact the on-duty supervisor to advise of their condition and inability to participate. Upon returning to work the officer must contact a physical fitness coordinator to arrange a make-up test.

2. Officers suffering from an injury will need a doctor's note identifying the injury along with a projected date of recovery. This documentation must be submitted to a physical fitness coordinator. If the injury prevents an officer from participating in the testing, he/she should be placed on light duty in accordance with Policy 16.2.3, "Temporary Light Duty".

3. Officers with an injury, illness or other physical condition with lengthy recovery periods preventing them from participating in fitness testing may be provided light duty assignments, as per Policy 16.2.3, "Temporary Light Duty". At such time a physician determines the officer's condition will not improve to a level enabling them to participate in fitness testing, then a determination will be

made by the Chief of Police as to the employment status of that employee with the Fayetteville Police Department.

4. This reflects a very basic rationale for the program - if an officer has a serious enough medical or physical problem that he/she cannot take the fitness test exercise, then he/she could not be expected to perform the essential physical tasks of the job.

~~(d) Phase I should consist of the following:~~

- ~~* medical screening~~
- ~~* periodic fitness testing~~
- ~~* fitness education~~
- ~~* individualized exercise prescription~~
- ~~* no compliance to a standard or to exercise is required.~~

2. ~~Phase II.~~

~~(a) Mandatory participation as defined in Phase I.~~

~~(b) Formal medical and performance review systems from Phase I are in place.~~

~~(c) Mandatory compliance of the following Absolute Standards will be adhered to:~~

5. The following are considered minimum standards:

- * 1.5 mile run (min/sec) 16:28
(ERT) 13:17
- * 300 meter run (seconds) 71.0
(ERT) 57.0
- * 1 RM bench press (ratio) .64
(ERT) .84
- OR
- * Maximum push ups (#) 25
(ERT) 30

* 1 minute sit ups (#) 29
(ERT) 34

* Vertical jump (inches) 16.0
(ERT) 19.0

OR

* Leg press (ratio) 1.25
(ERT) 1.45

~~(d) The compliance process is defined as follows:~~

~~1. Those unable to comply will be given an opportunity to retest as soon as possible with no sanction. The retest will consist of the entire fitness testing process.~~

~~2. A remedial program will be provided for non-compliers.~~

~~(5) Failure to comply with these Absolute Standards will result in disciplinary measures being taken, up and to termination of employment. (Refer to: 26.1.1, Compliance with Department Directives)~~

~~1. Those unable to comply during Phase II testing will retest with no sanction. A remedial program will be provided with assistance from one of the Fitness Coordinators. The retest will be given between four and six weeks from the failure date. This will give ample time for the officer to prepare.~~

~~2. Should an officer fail the retest he/she will receive a Written Reprimand and will be placed on "Light Duty" status until retested within two weeks.~~

~~3. Failure to pass this retesting will result in the officer being suspended without pay for three days. Upon returning to work the officer will remain on "Light Duty" to be retested within two weeks.~~

~~4. Failure of this retest will result in the officer being suspended without pay for 30~~

~~work days. A retest will be given at the end of the suspension.~~

~~5. Should an officer fail the retest at the end of the 30 day suspension, his/her employment with the Police Department will be terminated.~~

(a) Should an officer fail the fitness test, he/she will be assigned to a fitness instructor for a period of two weeks and given three hours per week to workout while on duty.

(b) The fitness instructor will provide fitness programs to assist these officers in meeting the department's minimum fitness standards.

(c) The retest for those who do not comply with the department's minimum fitness standards will be given during the next scheduled fitness test.

(d) If an officer fails the retest, he or she will be placed on light duty and given three hours per week to workout while on duty with an assigned fitness coordinator. The officer will remain on light duty until he or she meets the department's minimum fitness standards. The fitness coordinator will be responsible for scheduling the second fitness test and any subsequent fitness tests.

E. Incentive Plans

1. The following incentives are for sworn personnel who comply with the minimum fitness standards. The incentives do not apply for retests.

(a) If an officer scores at least minimum standards, he/she will be awarded a t-shirt and four fitness hours. Officers are allowed one t-shirt per year.

(b) If an officer scores 10% above the minimum standards in all fitness tests, he/she will be awarded a t-shirt and six fitness hours.

(c) If an officer scores 20% above the minimum standards in all the fitness tests, he/she will be awarded a t-shirt and eight fitness hours.

(d) If an officer scores 30% above the minimum standards in all fitness tests, he/she will be awarded a t-shirt and twelve fitness hours.

% above standard	10%	20%	30%
1.5 mile run	14:49	13:10	11:32
300 meter run	64 sec	57 sec	50 sec
push ups test	28	30	33
OR			
Bench press (ratio)	.74	.84	.94
Sit up Test	32	35	38
Leg press (ratio)	1.35	1.45	1.55
OR			
Vertical Jump	17.5	19	21

F. Procedures for Fitness Testing

1. The 1.5 mile run measures aerobic power (cardiovascular endurance).

(a) Participants should warm up and stretch thoroughly prior to the test.

(b) The participant runs 1.5 miles as fast as possible.

(c) Upon completion, a mandatory cool down period is enforced. The participants should walk slowly for about 5 minutes immediately after the run to prevent venous pooling (i.e. pooling of the blood in the lower extremities which reduces the return of blood to the heart and may cause cardiac arrhythmias).

2. The 300 meter run measures anaerobic strength.

(a) Participants should warm up and stretch thoroughly prior to the test.

(b) The participant runs 300 meters as fast as possible.

(c) A mandatory cool down is enforced, as with the 1.5 mile run.

3. The one repetition maximum (RM) bench press measures absolute strength, which involves forcing a muscle group to exert a maximum force.

(a) Two experienced spotters must be used, one on each end of the bar.

(b) Starting weight for men is about 2/3 of body weight. Starting weight for women is the bar (45 lbs).

(c) With the subject in the supine position, spotters lower the bar to level of subject's chest. Subject should have a shoulder width grip on bar.

(d) Spotters then release the bar and the subject presses to full extension while exhaling.

(e) Spotters take the bar, place it on the rack and increase the poundage.

(f) Repeat steps 3, 4 and 5 until the 1RM is reached. This should take approximately 5 to 6 trials.

(g) Convert the 1RM free weight bench press score to the estimated 1RM Universal bench press score by using the following formulas:

Males: Estimated 1RM
Universal = $(1.016 \times \text{free weight 1RM}) + 18.41$

Females: Estimated 1RM
Universal = $(.848 \times \text{free weight 1RM}) + 21.37$

4. The Push-up Test measures the muscular endurance of the upper body (anterior deltoid, pectoralis major and triceps).

(a) The hands are placed about shoulder-width apart, with fingers pointing forward. The administrator places one fist on the floor below the subject's chest. If a male is testing a female, a 3-inch sponge may be placed under the sternum to substitute for a fist.

(b) Starting from the up position (elbows extended), the subject must keep their back straight at all times and lower their body to the floor until their chest touches the administrator's fist. The subject then returns to the up position. This is one repetition.

(c) Resting is only allowed in the up position.

(d) The total number of correct push-ups performed is recorded as the score.

5. The Sit-up Test measures the abdominal muscular endurance.

(a) The subject starts by lying on their back, knees bent, heels flat on the floor, with their fingers laced and held behind their head.

- (b) A partner holds their feet down firmly.
 - (c) The subject then performs as many correct sit-ups as possible in one minute.
 - (d) In the up position, the subject should touch his/her elbows to his/her knees and then return until their shoulder blades touch the floor.
 - (e) The score is the total number of correct sit-ups. Any resting should be done in the up position.
 - (f) Breathing should be as normal as possible and making sure the subject does not hold their breath.
 - (g) Neck remains in the neutral position.
6. The Vertical Jump measures leg power.
- (a) This test is administered with shoes on.
 - (b) Stand adjacent to and perpendicular to the wall with dominant hand side closest to the wall.
 - (c) With heels flat and slightly apart, reach up, extend arm fully and touch the wall with fingertips.
 - (d) Bend knees, crouch down, arms down by side and jump vertically with maximal effort. Touch the wall with fingertips at height of jump. It is also permissible to keep one foot stationary with the other foot behind. The back foot is then brought forward, in line with the stationary foot, then duplicate the original procedure.
 - (e) A measurement of the distance between the subject standing reach and the farthest point touched during the vertical jump will be taken. The measurement is taken to the nearest 1/2 inch.

- (f) Perform 3 trials using the best score for the test.

7. Leg Press Test

- (a) Load weight stack with body weight.
- (b) The knee angle is set at 70 degrees. Before measuring the angle, be sure the subject is properly seated in the chair, with the ball of the foot on the crease of the pedal.
- (c) Press the weight once for an easy warm-up and breathe out on exertion.
- (d) Progressively increase the resistance until the weight stack can no longer be lifted. The first two or three trials serve as warm up lifts to prepare for a maximal lift on the fifth or sixth trial.

G. DEFINITIONS

Uniformed sworn personnel

Defined as Lieutenant, Lieutenant, Sergeants, Patrol officers, and Detectives.

Fitness coordinators

Trained and certified as a Physical Fitness Specialist to implement a fitness program based on the standard or ordinary care according to American College of Sports Medicine.

Medical History Questioner and Physical Activity Readiness Questionnaire(PAR-Q)

Screening tools used to identify individuals who should not be tested in a field setting without physician clearance.

Informed consent form

Informs the participant about the nature of the testing procedures and includes the potential benefits and risks of the testing.

Body composition

The proportion of fat, muscle, and bone that make up the body

Blood pressure

The force that moves blood through the circulatory system.

High risk factors for Coronary Heart Disease

The factors that would increase the likelihood of a cardiovascular event. These include:

1. Personal history of cardiovascular disease
2. Cigarette smoking
3. Hypertension
 - a. Blood pressure greater than 140/90 mmHg
 - b. Anyone taking antihypertensive medicine
4. Elevated blood cholesterol level
 - a. Total cholesterol greater than 200 mg/dl
 - b. LDL greater than 130 mg/dl
 - c. HDL less than 35 mg/dl
 - d. HDL ratio greater than 5
5. Family History
6. Diabetes Mellitus
7. Sedentary Lifestyle
8. Visceral Obesity
9. Serious medical conditions whereby the risk of exercise outweighs the benefits
10. Age
 - a. Age is only a risk factor when males are older than forty-five and females are older than fifty-five.

LDL Cholesterol

The lipoproteins which bind to arterial walls and create plaque.

HDL Cholesterol

The lipoproteins which assist in the removal of excess cholesterol from the blood.

Total Cholesterol

A sum of the very low density lipoprotein levels, the low density lipoprotein, and the high density lipoprotein.

Absolute standard

The same fitness standards are used to evaluate all personnel.

Absolute strength

The amount of tension a muscle can exhibit in one maximal contraction.

Dynamic Strength or Muscular endurance

The ability to contract the muscle repeatedly over a specific period of time without undue fatigue.

Three-minute step test

The purpose of this test is to measure the heart rate in the recovery period after three minutes of stepping.

One and a half mile run

The purpose of this test is to measure the aerobic power or cardiovascular endurance of the participant. It tests pursuit tasks and use of force that lasts over one to two minutes.

Three hundred meter run

This test measures anaerobic power, which is used during sprints or any short intense use of force.

1 RM (Repetition Maximum) bench press test

This test measures the absolute strength in the upper body. These muscles are used while lifting, carrying, or pushing heavy objects.

One minute sit up test

This test measures abdominal muscle endurance. These muscles are used while lifting, carrying, and dragging.

Maximum Push up Test

This test measures the muscular endurance of the upper body, which is used while lifting, carrying, and pushing.

Sit and Reach Test

This test measures the range of motion in the muscles in the back of the legs (hamstrings), gluteus, and lower back. These muscles are used while lifting, carrying, pushing, dragging, and extracting.

Vertical Jump

This test measures explosive strength in the lower body, which is used while lifting, carrying, pushing, dragging, and extracting.

1 RM (Repetition Maximum Leg Press Test)

The test measures the absolute strength in the lower body.

Fitness Hours

Time off work that is kept separate from compensation time and has no cash value. Fitness hours expire one year from issuance date and can only be taken with the shift supervisor approval.

RESOLUTION NO. _____

DRAFT

A RESOLUTION ADOPTING A REVISED PHYSICAL FITNESS
POLICY FOR THE FAYETTEVILLE POLICE DEPARTMENT.

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

Section 1. That the City Council hereby Adopts a revised physical fitness
policy for the Fayetteville Police Department, attached hereto as Exhibit
"A" and made a part hereof.

PASSED AND APPROVED this _____ day of June, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☒ GRANT REVIEW

For the Fayetteville City Council meeting of June 5, 2001

FROM:

Richard L. Watson Police Police
Name Division Department

ACTION REQUIRED:

City Council accepts the \$225,000.00 COPS Universal Hiring Program Federal Grant and approves a budget adjustment in the amount of \$37,617.00 from Use of Fund Balance.

COST TO CITY:

\$68,867 (31,250) grant rev \$37,617 net cost	\$4,712,898.00	Patrol Program
Cost of this Request	Category/Project Budget	Category/Project Name
multiple	\$1,764,679.00	Patrol
Account Number	Funds Used To Date	Program Name
	\$2,948,219.00	General
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ☐ Budgeted Item ☒ Budget Adjustment Attached

Budget Manager Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

<u>Marsla Fathing</u> Accounting Manager	<u>5/18/01</u> Date	<u>Nancy Smite</u> Internal Auditor	<u>5/18/01</u> Date
<u>P. J. White</u> City Attorney	<u>5/18/01</u> Date	<u>ADA Coordinator</u> Date	
<u>P. Vice</u> Purchasing Officer	<u>5/18/01</u> Date		

STAFF RECOMMENDATION: Accept the \$225,000.00 COPS Universal Hiring Program grant and approve a budget adjustment in the amount of \$37,617.00.

Division Head Date Cross Reference

Richard L. Watson 5-17-01
Department Director Date

New Item: Yes No

John M. Murre 5/18/01
Administrative Services Director Date

Prev Ord/Res #:

Don Cook 5/18/01
Mayor Date

Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

To: Mayor Dan Coody

From: Richard L. Watson, Chief of Police



Subject: Acceptance of \$225,000 Universal Hiring Grant

Date: May 17, 2001

The Fayetteville Police Department has been approved for a three year, \$450,000 Federal grant; however, we are only requesting half of that amount. The purpose of this grant is to increase our efforts in Community Policing. These funds would allow the department to hire one additional sergeant and two officers to be devoted to Community Policing concepts. The goal of these Community Policing officers will be to reduce crime and disorder by carefully examining the characteristics of problems in neighborhoods and using problem oriented policing strategies to analyze and solve those problems. Specific geographic areas and situations are being researched at this time. Some of the types of problems to be addressed are breaking or entering and burglaries at apartment complexes, lewd behavior in parks and disorderly youth who regularly assemble in parking lots.

The "community" for which these officers will be responsible will be specific well-defined geographical area. Officers will attempt to develop extensive contacts and rapport with citizens and communicate the goals of the program and form a partnership with the business community in the area. Officers will supplement vehicle patrol with foot and bicycle patrols of the area as needed. Officers will become familiar with problem-solving strategies, which utilize citizen input and take full advantage of other City government resources such as code enforcement, inspection and planning. They will also take full advantage of social service agencies for assistance when merited.

After a problem has been resolved, this unit can be moved to another location. Each particular situation will dictate how much time we take to deal with a problem and how many officers in the unit are deployed to it. Success will be measured by effectiveness and results rather than the number of projects initiated.

The grant is three years in duration and requires a minimum 25% match from the City. The grant only covers salaries and pays up to \$25,000 per officer per year for a total of \$75,000 per year for a three year total of \$225,000 in Federal monies. The City must fund all other supporting expenses such as uniforms, training, vehicles and equipment. With Council approval, this program is scheduled to begin in August of 2001. The City's cost for the first year is \$37,617 and a budget adjustment is attached. If you have further questions, please contact me.

Universal Hiring Program

Three year grant in the amount of \$225,000

3 year Universal Hiring Grant
Budget detail for 1 additional
sergeant and 2 officers

	Cost 08/01/2001 12/31/2001	Cost 2002	Cost 2003	Cost 2004	Cost 2005
Salaries	\$35,811	\$90,067	\$94,187	\$98,308	\$102,430
Overtime	6,000	12,000	12,000	12,000	12,000
FICA taxes	606	1,480	1,540	1,599	1,659
Life Insurance	245	419	438	457	476
Health Insurance	4,695	11,982	11,268	11,268	11,268
LTD Insurance	165	414	433	452	471
ADD Insurance	57	135	135	135	135
LOPFI	4,197	11,962	12,445	12,928	13,411
Worker's Comp.	978	2,929	3,048	3,166	3,284
	<u>52,754</u>	<u>131,389</u>	<u>135,494</u>	<u>140,314</u>	<u>145,135</u>
Uniforms					
BDU	333	0	0	0	0
Web gear	546	0	0	0	0
	7,302	0	0	0	0
Uniform allowance		1,500	1,500	1,500	1,500
Insurance - Professional Liability	574	1,093	1,093	1,093	1,093
Training	625	0	0	0	0
Motor Pool	693	1,662	1,712	1,746	1,836
Replacement	1,440	3,457	3,561	3,632	3,816
Vehicle Maint	600	1,440	1,500	1,575	1,575
Minor Equipment	4,000	1,000	1,000	1,000	1,000
Total	<u>\$68,867</u>	<u>\$140,541</u>	<u>\$144,859</u>	<u>\$149,860</u>	<u>\$154,955</u>
Grant allowable	<u>\$31,250</u>	<u>\$75,000</u>	<u>\$75,000</u>	<u>\$43,750</u>	<u>\$0</u>
Local match	10,417	25,000	25,000	\$14,583	\$0
Non-allowable	27,200	40,541	44,859	91,527	154,955
Total Local cost	<u>\$37,617</u>	<u>\$65,541</u>	<u>\$69,859</u>	<u>\$106,110</u>	<u>\$154,955</u>

Budget Year 2001	Department: Police Division: Police Program: Patrol	Date Requested 05/17/2001	Adjustment #
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Project or Item Requested: Funds for operating expense of the Community Policing program as a result of accepting the Federal Universal Hiring Program grant to add 1 sergeant and 2 officers. These expenses reflect 5 months in the 2001 budget year.	Project or Item Deleted: None, federal grants require these funds be in addition to the current Police budget.
---	--

Justification of this Increase: With the acceptance of this grant the Police Department will assign this new unit to specific area of the City to solve a current defined problem in the area. This unit will remain at this location until it is determined the problem has been eliminated.	Justification of this Decrease:
---	--

Increase Expense (Decrease Revenue)			
Account Name	Amount	Account Number	Project N
See attached			

Decrease Expense (Increase Revenue)			
Account Name	Amount	Account Number	Project N
Use of Fund Balance	\$37,617	1010 0001 4999 99	

Approval Signatures		Budget Office Use Only				
Requested By	Date	Type:	A	B	C	D
Budget Coordinator	Date	Date of Approval				
<i>Rickon D. Watson</i>	5-17-01	Posted to General Ledger				
Department Director	Date	Posted to Project Accounting				
Admin. Services Director	Date	Entered in Category Log				
Mayor	Date					

Account number	Description	Amount
Expense		
1010 2940 5 101 00	Salaries - Uniform	\$35,811.00
1010 2940 5 104 00	Overtime	\$6,000.00
1010 2940 5 105	FICA	606.00
1010 2940 5 107	Life Insurance	245.00
1010 2940 5 108	Health Insurance	4,695.00
1010 2940 5 108 01	LTD insurance	165.00
1010 2940 5 108 02	ADD insurance	57.00
1010 2940 5 109 03	LOPFI	4,197.00
1010 2940 5 111	Worker's Comp	978.00
1010 2940 5 302	Travel & Training	625.00
1010 2940 5 304	Uniforms	8,181.00
1010 2940 5	Insurance Personal Liability	574.00
1010 2940 5 331	Motor Pool	693.00
1010 2940 5	Replacement	1,440.00
1010 2940 5	Vehicle Maintenance	600.00
1010 2940 5 890	Minor Equipment	4,000.00
	Total	\$68,867.00
Revenue		
1010 0001 4 310 00	Federal Grant	\$31,250.00
1010 0001 4 999 99	Use of Fund Balance	37,617.00
	Total	\$68,867.00

U.S. Department of Justice
Office of Community Oriented Policing Services



COPS Application

C O P S

www.usdoj.gov/cops/

Universal Hiring Program Application Form

This form is to be completed by jurisdictions wishing to apply for grants to pay for salaries and benefits of new or rehired police officers under the Universal Hiring Program. By signing this form you also acknowledge your understanding that Universal Hiring Program grants provide a maximum Federal contribution of 75 percent of the approved salary and benefits of each officer over three years (unless a waiver is authorized), up to a cap of \$75,000 per officer, with the Federal share decreasing and local share increasing from year to year. All budget calculations must be based on the salary of an entry-level officer in your department. All grant recipients must develop a written plan to retain their COPS-funded officer positions for one local budget cycle after federal funding has ended. This plan must be submitted to the COPS Office with your application. The COPS Office will monitor, for one full local set budget cycle, the grantee's implementation of their retention plan following expiration of the three-year grant.

Applications are due postmarked by May 31, 2000

Please complete the information below. All requested information must be typed.

I. General Information

Applicant Organization's Legal Name: City of Fayetteville, AR Police Department

Applicant Agency EIN Number (assigned by IRS. This number should be nine digits): 71-6018462

(If the Office of Justice Programs has assigned your department an EIN Number, please use that assigned number. Otherwise, your Internal Revenue Service EIN number should be used. For further clarification, please refer to your application instruction manual on page 5.)

Applicant Agency ORI Number (assigned by FBI for UCR reporting): AR072100

(Assigned by FBI for UCR reporting. This should be 7 digits long beginning with the first two letters of your state abbreviation. For further clarification, please refer to your application instruction manual on page 5.)

Federal Congressional District Number: 3rd

Are you contracting for law enforcement services?

☐ Yes

☒ No

If "yes," enter the name and agency information of the contract law enforcement department in the Executive Information section below. (For further clarification in determining if this applies to your agency, please see the Application Instruction Manual on Page 5.)

I. Executive Information

(Must be the highest ranking official in both categories)

Law Enforcement Executive's Name: Richard L. Watson

Title: Chief of Police

Agency Name: Fayetteville Police Department

Address: P.O. Box 1988

City: Fayetteville

State: AR

Zip Code: 72702

Telephone: (501) 587-3500

Fax: (501) 587-3522

Type of Police Agency:

☒ Municipal ☐ State ☐ County PD ☐ Sheriff* ☐ Tribal* ☐ Transit*

☐ School* ☐ University/College* (☐ Public or ☐ Private)

☐ Public Housing* ☐ New Start Up* (please specify type of agency): _____

☐ Other* (please specify): _____

*Departments applying from agency types with an asterisk next to them, must complete the additional information questionnaires contained in the Application Kit. This additional information must be submitted with your application.

Government Executive's Name: Fred Hanna

Title: Mayor

Name of Government Entity: City of Fayetteville, AR

Address: 113 West Mountain Street

City: Fayetteville

State: AR

Zip Code: 72701

Telephone: (501) 575-8330

Fax: (501) 575-8257

Type of Government Entity:

☐ State

☒ City

☐ Town

☐ County

☐ Village

☐ Borough

☐ Township

☐ Territory

☐ Region

☐ Council

☐ Community

☐ Pueblo

☐ Nation

☐ School District

☐ Other (please specify): _____

Contact Information:

Name of contact person in your department who is familiar with this grant: Judy Cohea

Telephone: (501) 587-3510

FAX: (501) 587-3522

Email: orbitre@AOL.com

III. General Information

Has your jurisdiction received other COPS grants? ☒ Yes ☐ No

If "yes," under which program(s)? (Choose all that apply.)

- ☐ COPS Phase I ☐ COPS AHEAD ☐ COPS FAST ☒ COPS MORE
☐ Universal Hiring Program ☐ Anti-Gang Initiative/Youth Firearms Violence Initiative
☐ Troops to COPS ☐ Community Policing to Combat Domestic Violence ☐ Police Corps
☐ Problem-Solving Partnerships ☐ Regional Community Policing Institutes
☒ COPS in Schools ☐ School Based Partnerships ☐ Tribal Resources Grant Program
☐ Small Communities Grant Program ☐ Technology
☐ Other (please specify): _____

What is the total number of new officer positions for which you are now applying? Do not include officer positions funded under any other COPS grants.

full-time: 6 part-time: _____

Will any of the requested officers be deployed to primary or secondary schools? ☐ Yes ☒ No
If "Yes," you may want to consider applying for funding under the COPS in Schools Grant Program.

Total amount of Federal funds requested for all full-time and part-time officers: \$ 450,000.00

Total non-Federal matching funds required (local share): \$ 177,846.00

(To answer these questions, complete the budget section for one officer and multiply by the above number of requested officers.)

Population served as of 1990 U.S. Census: 42,099

Current Population if different: 52,976 and square miles covered: 44.54

(Exclude the population and square miles primarily served by other law enforcement agencies within your jurisdiction. For example, sheriffs' departments must exclude populations and areas covered by a city police department for which the sheriffs' department has no primary law enforcement authority.)

Current authorized sworn force strength:

Full time officers: 94 Part time officers: 0

(You must indicate if your department does not have an authorized strength.)

Current budgeted sworn force strength as of March 1, 2000:

Full time officers: 94 Part time officers: 0

(Include the total number of state or locally-funded officer positions budgeted as of this date. Do not include COPS grant-funded positions in this response.)

Actual sworn force strength as of March 1, 2000:

Full time officers: 94 Part time officers: 0

(Include funded vacancies. Do not include COPS funded positions or reserve positions)

Are you requesting a waiver of the local match requirement based upon severe fiscal distress?

☐ Yes ☒ No

If "yes," attach a one to three page, typewritten description of the extraordinary local fiscal hardship upon which you are basing your request for a waiver. (For further clarification on the information that is needed to process a waiver request, please refer to the "Guidelines for Waivers of Local Match" in the Application Instructions Manual on page 9.)



I certify that the information provided on this form is true and accurate to the best of my knowledge. I understand that prior to any grant award, the applicant must comply with all application and program requirements of the Public Safety Partnership and Community Policing Act of 1994 and other requirements of Federal law.

Law Enforcement Executive's Signature:

Richard L. Watson

Date: 5-30-00

(signature of person named on the front of this form)

Government Executive's Signature:

Fred Hanne

Date: 5/26/00

(signature of person named on the front of this form)

Please return 1 original and 2 copies of application materials that are being submitted with this request for funding. This includes the Community Policing Information Worksheet (for first time UHP Applicants), the Budget Information forms, Assurances, Certifications, a written Retention Plan and any additional information that is required. Completed applications should be sent to:

COPS Universal Hiring Program

U. S. Department of Justice

1100 Vermont Avenue, NW

7th floor

Washington, DC 20530

(For overnight delivery, please use 20005 as the zip code.)

Note: Since an original signature is needed to process all funding requests, fax copies will NOT be accepted.

Note: Application pending OMB Approval.

Updated: March 21, 2000
e022k0060

U.S. Department of Justice

Office of Community Oriented Policing Services



Assurances

Several provisions of Federal law and policy apply to all grant programs. We (the Office of Community Oriented Policing Services) need to secure your assurance that you (the applicant) will comply with these provisions. If you would like further information about any of the matters on which we seek your assurance, please contact us.

By your authorized representative's signature, you assure us and certify to us that you will comply with all legal and administrative requirements that govern the applicant for acceptance and use of Federal grant funds. In particular, you assure us that:

1. You have been legally and officially authorized by the appropriate governing body (for example, mayor or city council) to apply for this grant and that the persons signing the application and these assurances on your behalf are authorized to do so and to act on your behalf with respect to any issues that may arise during processing of this application.
2. You will comply with the provisions of Federal law which limit certain political activities of your employees whose principal employment is in connection with an activity financed in whole or in part with this grant. These restrictions are set forth in 5 U.S.C. § 1501, et seq.
3. You will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, if they apply to you.
4. You will establish safeguards, if you have not done so already, to prohibit employees from using their positions for a purpose that is, gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.
5. You will give the Department of Justice or the Comptroller General access to and the right to examine records and documents related to the grant.
6. You will comply with all requirements imposed by the Department of Justice as a condition or administrative requirement of the grant; with the program guidelines; with the requirements of OMB Circulars A-87 (governing cost calculations) and A-128 or A-133 (governing audits); with the applicable provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; with 28 CFR Part 66 (Uniform Administrative Requirements); with the provisions of the current edition of the appropriate COPS grant owner's manual; and with all other applicable laws, orders, regulations or circulars.
7. You will, to the extent practicable and consistent with applicable law, seek, recruit and hire qualified members of racial and ethnic minority groups and qualified women in order to further effective law enforcement by increasing their ranks within the sworn positions in your agency.
8. You will not, on the ground of race, color, religion, national origin, gender, disability or age, unlawfully exclude any person from participation in, deny the benefits of or employment to any person, or subject any person to discrimination in connection with any programs or activities funded in whole or in part with Federal funds. These civil rights requirements are found in the non-discrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. § 3789(d)); Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); Title II, Subtitle A of the Americans with Disabilities Act (ADA) (42 U.S.C. § 12101, et seq.); the Age Discrimination Act of 1975 (42 U.S.C. § 6101, et seq.); and Department of Justice Non-Discrimination Regulations contained in Title 28, Parts 35 and 42 (subparts C, D, E and G) of the Code of Federal Regulations.
- A. In the event that any court or administrative agency makes a finding of discrimination on grounds of race, color, religion, national origin, gender, disability or age against you after a due process hearing, you agree to forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs, 810 7th Street, NW, Washington, DC 20531.
- B. If you are applying for a grant of \$500,000 or more and Department regulations (28 CFR 42.301 et seq.) require you to submit an Equal Opportunity Employment Plan, you will do so at the time of this application, if you have not done so in the past. If you are applying for a grant of less than \$500,000 and the regulations require you to maintain a Plan on file in your office, you will do so within 120 days of your grant award.
9. You will insure that the facilities under your ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that you will notify us if you are advised by the EPA indicating that a facility to be used in this grant is under consideration for listing by EPA.
10. If your state has established a review and comment procedure under Executive Order 12372 and has selected this program for review, you have made this application available for review by the state Single Point of Contact.
11. You will devise a plan to retain the increased hiring level with state and local funds after the conclusion of your grant.

I hereby certify compliance with the above assurances that govern the application and use of Federal funds.

Signature: Fred Hume

Date: 5/26/00

U.S. Department of Justice
Office of Community Oriented Policing Services



Certifications

Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements Coordination with Affected Agencies; Non-Supplanting; and Retention.

Although the Department of Justice has made every effort to simplify the application process, other provisions of Federal law require us to seek your certification regarding certain matters. Applicants should read the regulations cited below and the instructions for certification included in the regulations to understand the requirements and whether they apply to a particular applicant. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying," and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)," and the coordination and non-supplanting requirements of the Public Safety Partnership and Community Policing Act of 1994. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered grant.

1. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 making of any Federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment or modification of any Federal grant or cooperative agreement;
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form 278-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

Federal benefits by a state or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

- (ii) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing public (Federal, state or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (iii) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with commission of any of the offenses enumerated in paragraph (A)(ii) of this certification; and
- (iv) Have not within a three-year period preceding this application had one or more public transactions (Federal, state or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

2. Debarment, Suspension and Other Responsibility Matters (Direct Recipient)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510 —

- A. The applicant certifies that it and its principals:
 - (i) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of

3. Drug-Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67, Sections 67.615 and 67.620 —

- A. The applicant certifies that it will, or will continue to, provide a drug-free workplace by:
 - (i) 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;
 - (ii) Establishing an on-going drug-free awareness program to inform employees about —

- The dangers of drug abuse in the workplace;
- (c) The grantee's policy of maintaining a drug-free workplace;
- (c) Any available drug counseling, rehabilitation and employee assistance programs; and
- (d) The penalties that may be imposed upon employees for drug-abuse violations occurring in the workplace;
- (iii) 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 (i);
- (iv) Notifying the employee in the statement required by paragraph (i) that, as a condition of employment under the grant, the employee will —
- (a) Abide by the terms of the statement; and
- (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (v) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (iv)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: COPS Office, 1100 Vermont Ave., NW, Washington, DC 20530. Notice shall include the identification number(s) of each affected grant;
- (vi) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (iv)(b), with respect to any employee who is so convicted —
- (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state or local health, law enforcement or other appropriate agency;
- (vii) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (i), (ii), (iii), (iv), (v) and (vi).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of performance (street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Section 67.630 of the regulations provides that a grantee that is a state may elect to make one certification in each Federal fiscal year, a copy of which should be included with each application for Department of Justice funding. States and state agencies may elect to use OJP Form 4061/7.

Check ☐ if the state has elected to complete OJP Form 4061/7.

4. Coordination

The Public Safety Partnership and Community Policing Act of 1994 requires applicants to certify that there has been appropriate coordination with all agencies that may be affected by the applicant's grant proposal if approved. Affected agencies may include, among others, the Office of the United States Attorney, state or local prosecutors, or correctional agencies. The applicant certifies that there has been appropriate coordination with all affected agencies.

5. Non-Supplanting

The applicant hereby certifies that Federal funds will not be used to replace or supplant state or local funds, or funds supplied by the Bureau of Indian Affairs, that would, in the absence of Federal aid, be made available to or for law enforcement purposes.

6. Retention

The applicant hereby certifies that it understands that it must abide by its submitted plan to retain the additional officer positions at the conclusion of the grant period.

Grantee Name and Address: City of Fayetteville, AR 113 W Mountain Street Fayetteville AR 72701

Application No. and/or Project Name: COPS Universal Hiring Program Grantee IRS/ Vendor Number: 716018462

Typed Name and Title of Law Enforcement Representative: Richard L. Watson, Chief of Police

Signature: Richard L. Watson Date: 5-30-00

As the duly authorized representative of the governing body, I hereby certify that the I am binding the governing body to the above certifications, including the plan to retain. Elections of new officials will not relieve the governing body of its obligations under this grant.

Typed Name and Title of Government Representative: Fred Hanna, Mayor

Signature: Fred Hanna Date: 5/26/00



FAYETTEVILLE

Cops Federal Grant
A. 3. Page 13

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

Retention Plan

The City of Fayetteville plans to retain the officer positions funded by the Universal Hiring Program grant after the federal funding expires in three years. We, as a community have made a commitment to community policing and will keep these positions after the grant period ends. At the end of the grant period, funding for the six officer positions will be obtained from general fund revenues through growth in our local option sales tax. These revenues have increased in the past allowing the police department to increase personnel at a rate of not less than three officers per year since 1991.

Fred Hanna
Fred Hanna, Mayor

5/24/00
Date

Richard L. Watson 5-30-00
Richard L. Watson, Chief of Police Date

U.S. Department of Justice
Office of Community Oriented Policing Services
Universal Hiring Program Budget Information



Applicant Name: City of Fayetteville, AR

ORI Code (Assigned by FBI): AR072100

State: AR072100

This worksheet will assist you in properly organizing and estimating your costs and providing the necessary details for financial review. Complete Part 1 if you are requesting funds for full-time officers, Part 2 if you are requesting part-time officers, and both parts if you are requesting full- and part-time officers. Everyone must complete a Budget Summary. If you plan to hire more than one part-time officer and they will be working a different number of hours, use average salary and benefit figures.

The budget information you provide will be used to calculate your grant amount. Assistance in completing this information is available from the U.S. Department of Justice Response Center at 1-800-421-6770, or by writing the COPS Office, 1100 Vermont Avenue, NW, Washington, DC 20530.
Pending OMB Approval

Part 1: Complete if you are requesting full-time Officers

1. Cost Per full-time Officer - Year 1

Instructions-Please indicate the Law Enforcement Agency's cost for each of the following categories. Please do not include employee contribution costs.

Current Annual Entry - Level Base Salary	\$ 25,294.00	% of base salary
Annual Fringe Benefits:		
*Social Security	\$ 0.00	%
*Medicare	\$ 367.00	% 1.45
Health Insurance	\$ 3,756.00	%
Life Insurance	\$ 173.00	%
Vacation	\$ 0.00	%
Sick Leave	\$ 0.00	%
Retirement	\$ 2,964.00	% 11.72
*Worker's Comp.	\$ 691.00	%
*Unemployment Ins.	\$	%
Other Long term dis	\$ 116.00	%
Other Accidental death & dismemberment	\$ 45.00	%
Total Fringe Benefits	\$ 8,112.00	
Total Year 1 Salary and Benefits	\$ 33,406.00	

Enter the base annual salary that your department currently pays a new, entry-level officer.

Cost for Social Security may not exceed 6.2%

Cost for Medicare may not exceed 1.45 %

Costs toward health insurance coverage, please indicate if this is for

Family Coverage ☒ Yes ☐ No

Costs toward life insurance coverage.

Vacation costs, if not included in base salary.

Sick leave costs, if not included in base salary.

Contribution to retirement benefits.

Costs of worker's compensation.

Costs of unemployment insurance.

Costs of equipment, training, uniforms, vehicles and overtime are not permitted.

Sum of department fringe benefit costs for Year 1.
Year 1 base salary plus Year 1 fringe benefits

2. Cost Per full-time Officer - Year 2

Instructions:

Enter the base annual salary that your department currently pays a new, entry-level officer.

Cost for Social Security may not exceed 6.2%
Cost for Medicare may not exceed 1.45 %
Costs toward health insurance coverage, please indicate if this is for Family Coverage (X) Yes () No
Costs toward life insurance coverage.
Vacation costs, if not included in base salary.
Sick leave costs, if not included in base salary.
Contribution to retirement benefits.
Costs of worker's compensation.
Costs of unemployment insurance.
Costs of equipment, training, uniforms, vehicles and overtime are not permitted.

Sum of department fringe benefit costs for Year 2.
Year 2 base salary plus Year 2 fringe benefits

Current Annual Entry-Level Base Salary	\$ 26,554.00	% of base salary
Annual Fringe Benefits:		
*Social Security	\$ 0.00	%
*Medicare	\$ 385.00	% 1.45
Health Insurance	\$ 3,756.00	%
Life Insurance	\$ 182.00	%
Vacation	\$ 0.00	%
Sick Leave	\$ 0.00	%
Retirement	\$ 3,112.00	% 11.72
*Worker's Comp.	\$ 725.00	%
*Unemployment Ins.	\$ 0.00	%
Other Long term dis.	\$ 122.00	%
Other Accidental death & dismemberment	\$ 45.00	%
Total Fringe Benefits	\$ 8,327.00	
Total Year 2 Salary and Benefits	\$ 34,881.00	

3. Cost Per full-time Officer - Year 3

Instructions:

Enter the base annual salary that your salary department currently pays a new, entry-level officer.

Cost for Social Security may not exceed 6.2%
Cost for Medicare may not exceed 1.45 %
Costs toward health insurance coverage, please indicate if this is for Family Coverage (X) Yes () No
Costs toward life insurance coverage.
Vacation costs, if not included in base salary.
Sick leave costs, if not included in base salary.
Contribution to retirement benefits.
Costs of worker's compensation.
Costs of unemployment insurance.
Costs of equipment, training, uniforms, vehicles and overtime are not permitted.

Sum of department fringe benefit costs for Year 3.
Year 3 base salary plus Year 3 fringe benefits

Current Annual Entry-Level Base Salary	\$ 27,813.00	% of base
Annual Fringe Benefits:		
*Social Security	\$ 0.00	%
*Medicare	\$ 403.00	% 1.45
Health Insurance	\$ 3,756.00	%
Life Insurance	\$ 190.00	%
Vacation	\$ 0.00	%
Sick Leave	\$ 0.00	%
Retirement	\$ 3,260.00	% 11.72
*Worker's Comp.	\$ 759.00	%
*Unemployment Ins.	\$ 0.00	%
Other Long term dis.	\$ 128.00	%
Other Accidental death & dismemberment	\$ 45.00	%
Total Fringe Benefits	\$ 8,541.00	
Total Year 3 Salary and Benefits	\$ 36,354.00	

Part 2: Complete If You Are Requesting part-time Officers

Note: There is a funding cap for part-time officers in proportion to the number of hours worked (e.g., 20 hours/40 hour week = .5 full-time equivalent officer). For a detailed explanation on how to compute the part-time cap, please see page ____ of the Application Instruction Manual.

1. Part-Time Hours:

What is the average number of hours per week that your part-time COPS officer will work? _____

How many hours per week is considered full-time employment? _____

What is the hourly rate for the part-time COPS officer? _____

Multiply the hourly rate by the average number of hours per year and enter this amount below.

2. Cost Per Part-Time Officer - Year 1

Instructions-Please indicate the Law Enforcement Agency's cost for each of the following categories. Please do not include employee contribution costs.

Current Annual Entry-Level Base Salary \$ _____ % of base salary

Annual Fringe Benefits:

*Social Security	\$ _____	% _____	Cost for Social Security may not exceed 6.2%
*Medicare	\$ _____	% _____	Cost for Medicare may not exceed 1.45 %
Health Insurance	\$ _____	% _____	Costs toward health insurance coverage, please indicate if this is for Family Coverage () Yes () No
Life Insurance	\$ _____	% _____	Costs toward life insurance coverage.
Vacation	\$ _____	% _____	Vacation costs, if not included in base salary.
Sick Leave	\$ _____	% _____	Sick leave costs, if not included in base salary.
Retirement	\$ _____	% _____	Contribution to retirement benefits.
*Worker's Comp.	\$ _____	% _____	Costs of worker's compensation.
*Unemployment Ins.	\$ _____	% _____	Costs of unemployment insurance.
Other _____	\$ _____	% _____	Costs of equipment, training, uniforms, vehicles and overtime are not permitted.
Other _____	\$ _____	% _____	

Total Fringe Benefits

\$ _____ Sum of department fringe benefit costs for Year 1.

Total Year 1 Salary and Benefits \$ _____ Year 1 base salary plus Year 1 fringe benefits

3. Cost Per Part-Time Officer - Year 2

Instructions

Enter the base annual salary that your department currently pays a new, entry-level officer.

Cost for Social Security may not exceed 6.2%
Cost for Medicare may not exceed 1.45 %
Costs toward health insurance coverage, please indicate if this is for Family Coverage () Yes () No
Costs toward life insurance coverage.
Vacation costs, if not included in base salary.
Sick leave costs, if not included in base salary.
Contribution to retirement benefits.
Costs of worker's compensation.
Costs of unemployment insurance.
Costs of equipment, training, uniforms, vehicles and overtime are not permitted.

Sum of department fringe benefit costs for Year 2.
Year 2 base salary plus Year 2 fringe benefits

Current Annual Entry-Level Base Salary	\$ _____	% of base salary
Annual Fringe Benefits:		
*Social Security	\$ _____	% _____
*Medicare	\$ _____	% _____
Health Insurance	\$ _____	% _____
Life Insurance	\$ _____	% _____
Vacation	\$ _____	% _____
Sick Leave	\$ _____	% _____
Retirement	\$ _____	% _____
*Worker's Comp.	\$ _____	% _____
*Unemployment Ins.	\$ _____	% _____
Other _____	\$ _____	% _____
Other _____	\$ _____	% _____
Total Fringe Benefits	\$ _____	
Total Year 2 Salary and Benefits	\$ _____	

4. Cost Per Part-Time Officer - Year 3

Instructions

Enter the base annual salary that your department currently pays a new, entry-level officer.

Cost for Social Security may not exceed 6.2%
Cost for Medicare may not exceed 1.45 %
Costs toward health insurance coverage, please indicate if this is for Family Coverage () Yes () No
Costs toward life insurance coverage.
Vacation costs, if not included in base salary.
Sick leave costs, if not included in base salary.
Contribution to retirement benefits.
Costs of worker's compensation.
Costs of unemployment insurance.
Costs of equipment, training, uniforms, vehicles and overtime are not permitted.

Sum of department fringe benefit costs for Year 3.
Year 3 base salary plus Year 3 fringe benefits

Current Annual Entry-Level Base Salary	\$ _____	% of base salary
Annual Fringe Benefits:		
*Social Security	\$ _____	% _____
*Medicare	\$ _____	% _____
Health Insurance	\$ _____	% _____
Life Insurance	\$ _____	% _____
Vacation	\$ _____	% _____
Sick Leave	\$ _____	% _____
Retirement	\$ _____	% _____
*Worker's Comp.	\$ _____	% _____
*Unemployment Ins.	\$ _____	% _____
Other _____	\$ _____	% _____
Other _____	\$ _____	% _____
Total Fringe Benefits	\$ _____	
Total Year 3 Salary and Benefits	\$ _____	

ORI Code (Assigned by FBI):

Department Name:

Part 3: Universal Hiring Program - Budget Summary

After completing Part 1 and/or Part 2 of this form, answer the following questions. If necessary, attach an explanation of how you computed salaries and benefits for the worksheet. Be sure to answer EVERY question. Missing or erroneous information can greatly slow the grant-making process.

1. If your department's second- and third-year costs for salaries and/or benefits are greater than the first year, check the reason(s) why in the space below:

☐ Cost of living adjustment (COLA) ☒ Step raises ☐ Changes in benefit costs ☐ Other (attach an explanation)

2. Please enter the name of your Federal Cognizant Agency in the space provided:
Department of Transportation

(State and municipal agencies that receive Federal grants are required to have audits of those grants forwarded to a single Federal agency (Justice, HUD, HHS, Transportation, etc.). The single Federal agency where such audits are sent is known as your "Cognizant Federal Agency." For assistance in determining which Federal agency receives your audits, call 1-800-421-6770.)

3. Starting date of your fiscal year: 01/01/2000 Ending date: 12/31/2000
Month/Day/Year Month/Day/Year

4. IF NO FUNDS WERE BUDGETED FOR WORKER'S COMPENSATION, FICA, SOCIAL SECURITY, MEDICARE OR UNEMPLOYMENT YOU MUST PROVIDE AN EXPLANATION IN THE SPACE PROVIDED: (For example if agency is exempt from FICA because it is covered by a local/state retirement program then the agency should explain that). Social Security has been replaced with a state retirement plan. The City covers all Unemployment Insurance coverage through the Personnel Division budget.

5. Under COPS grants, the Federal share of total salaries and benefits must decrease each year leading to full local funding by the fourth year of the officer's employment. At the same time, your local share must increase each year. The percentage of total officers' salaries and benefits paid with Federal funds must be less in Year 2 than in Year 1 and less in Year 3 than in Year 2. Looking at it from the local funding perspective, the percentage of total officers' salaries and benefits paid with local funds must be more in Year 2 than in Year 1 and more in Year 3 than in Year 2. Fill out the following 3-year projection, showing how the Federal share and your share will change year by year for one officer. If applying for a waiver, you must still complete the Federal and local amount sections as if you were not receiving a waiver.

Federal Share Requirement for One Full-time Officer's Salary and Benefits

	YEAR 1	YEAR 2	YEAR 3	TOTAL - 3 YEARS
Federal Amount	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$75,000
(Percentage must decrease each year)	% 74.9	% 71.7	% 68.8	
May not exceed 75% of total costs or \$75,000, whichever is smaller				
Local Amount	\$ 8,406.00	\$ 9,881.00	\$ 11,354.00	\$29,641.00
(Percentage must increase each year)	% 25.1	% 28.3	% 31.2	
Total	\$ 33,406.00	\$ 34,881.00	\$ 36,354.00	\$104,641.00
(Federal Amount plus Local Amount)	Year 1 total	Year 2 total	Year 3 total	Total 3-year costs

Federal Share Requirement for One Part-time Officer's Salary and Benefits

	YEAR 1	YEAR 2	YEAR 3	TOTAL - 3 YEARS
Federal Amount	\$	\$	\$	\$
(Percentage must decrease each year)	%	%	%	
Local Amount	\$	\$	\$	\$
(Percentage must increase each year)	%	%	%	
Total	\$	\$	\$	\$
(Federal Amount plus Local Amount)	Year 1 total	Year 2 total	Year 3 total	Total 3-year costs

Contact Information for Budget Questions

The undersigned attests to the accuracy of the Budget Information submitted on the preceding pages.

Name (typed) of Authorized Official: Steve Davis Title: Budget Coordinator

Phone: (501) 587-3296 Fax: (501) 587-3257

Signature: *Steve Davis* Date: May 26, 2000

Community Policing Information Worksheet

This worksheet will provide the COPS Office with information about the public safety concerns of your community and your department's community policing goals and activities. For assistance in completing this worksheet, contact the U.S. Department of Justice Response Center at 1-800-421-6770.

Your Community Policing Information Worksheet is complete by signing and dating below. Both the law enforcement executive and the government executive must sign.

Applicant Organization's Legal Name: City of Fayetteville Police Department

ORI #: AR0720100

We, the undersigned, attest to the accuracy of the Community Policing Information Worksheet submitted below.

Law Enforcement Executive: Title: Chief of Police

Name (typed): Richard L. Watson

Department: Fayetteville Police Department

Date: May 30, 2000

Signature: Richard L. Watson

Government Executive: Title: Mayor

Name (typed): Fred Hanna

Government Entity: City of Fayetteville

Date: May 30, 2000

Signature: Fred Hanna

Person Completing Form: Title: Financial Analyst

Name (typed): Judy Cohea

Date: May 30, 2000

Signature: Judy Cohea

PART 1

1. From the list that follows, please rank in descending order the following public safety concerns of your community. For example, if "weapons" are the greatest concern in your community, place the letter "f" in rank number 1. If "wildlife crimes" are the lowest concern in your community, place an "n" in rank number 16.

Rank:	Major Public Safety Issues:
1. <u>a.</u>	a. Violent crimes against persons
2. <u>h.</u>	b. Property crimes
3. <u>b.</u>	c. Motor vehicle thefts
4. <u>f.</u>	d. Vandalism
5. <u>i.</u>	e. Gangs
6. <u>o.</u>	f. Weapons
7. <u>j.</u>	g. Prostitution
8. <u>d.</u>	h. Drug crimes
9. <u>g.</u>	i. Domestic violence
10. <u>c.</u>	j. Alcohol-related crime, including DWI
11. <u>e.</u>	k. Disorderly conduct
12. <u>k.</u>	l. Traffic violations
13. <u>l.</u>	m. Agricultural crimes
14. <u>n.</u>	n. Wildlife crimes
15. <u>m.</u>	o. Hate crimes
16. <u>p.</u>	p. Other (specify): _____

Community policing is a policing philosophy that promotes and supports organizational strategies to address the causes and reduce the fear of crime and social disorder through problem-solving tactics and community-police partnerships.

Your answers to the questions below will provide the COPS Office with basic information about your community policing efforts, and how you will use your COPS grant funds to further the implementation of community policing.

You are not expected to engage in all of the activities listed. They are examples of the community policing efforts of other law enforcement agencies. If you have a written document that serves as your community policing plan, please attach it to this form.

Overall Approach

2. Please indicate which of the following are part of your overall approach to community policing, and which you plan to implement under your COPS grant:

a) Crime Prevention Efforts

<i>Have Implemented</i>	<i>Plan to Implement</i>	
☒	☐	a. Youth programs (e.g., in-school, after school, weekend police/youth programs)
☒	☐	b. Anti-drug programs
☒	☐	c. Regular meetings with community groups to discuss crime
☒	☐	d. Anti-violence programs
☒	☐	e. Other (specify): <u>Residential/commerical security surveillance</u>

b) Problem-Solving Activities

<i>Have Implemented</i>	<i>Plan to Implement</i>	
☒	☐	a. Identifying crime problems with members of the community and other government agencies (e.g., prosecutor and courts, social services, probation office)
☒	☐	b. Identifying crime problems by looking at crime trends (e.g., keeping records of crimes and the types of requests for help)
☒	☐	c. Identifying top problems by analyzing repeat calls for service
☒	☐	d. Preventing crime by focusing on conditions that lead to crime (e.g., abandoned buildings and cars, referrals to other civil agencies)
☒	☐	e. Building on information systems to enhance crime analysis capabilities
☒	☐	f. Other (specify) <u>Gang Intelligence file</u>

c) Community Partnerships

<i>Have Implemented</i>	<i>Plan to Implement</i>	
☒	☐	a. Regularly surveying community members to assist in identifying and prioritizing crime problems
☒	☐	b. Locating office or stations within neighborhoods
☒	☐	c. Providing community policing training to citizens
☒	☐	d. Meeting with community members to learn more about the nature of specific problems
☒	☐	e. Involving community members in selecting responses to problems and determining measures of success
☐	☐	f. Other (specify): _____

d) Infrastructure and Management Changes

<i>Have Implemented</i>	<i>Plan to Implement</i>	
☐	☒	a. Have written strategic plan for community policing
☒	☐	b. Department currently designates special unit (or a special officer) for community policing activities
☒	☐	c. Department promotes an agencywide approach to community policing

If your department has implemented or plans to implement an agencywide approach to community policing, please indicate the approximate percentage of time that patrol officers in your department dedicate (or will dedicate) to community policing:

- ☐ Less than 10 percent
☒ 10-20 percent
☐ More than 20 percent

☒	☐	d. Personnel are given responsibility for geographical areas
-------------------------------------	--------------------------	--

<i>Have Implemented</i>	<i>Plan to Implement</i>	
☒	☐	e. Call management systems are in place to free officer time for community policing (e.g., telephone reporting, alternative responses)
☐	☒	f. Personnel evaluations reward participation in collaborative problem-solving efforts
☐	☒	g. Decision-making authority has been decentralized
☐	☒	h. Management positions have been eliminated
☒	☐	i. Community policing concepts have been integrated into agency's mission statement
☒	☐	j. Community policing concepts have been integrated into departmental policies and procedures
☐	☒	k. Detectives have been integrated into community policing efforts
☒	☐	l. Department staff routinely collaborate with other municipal agencies to address problems

Communities

3. Please indicate which of the following groups you have consulted to address crime and disorder problems in your community:

<i>Consulted</i>	<i>Plan to Consult</i>	
☒	☐	a. Other government agencies (e.g. probation office, sanitation)
☒	☐	b. Civic groups
☒	☐	c. Neighborhood associations
☒	☐	d. Tenants' associations
☐	☒	e. Organizations of your employees, including collective bargaining groups
☒	☐	f. Business groups

Consulted

Plan to Consult

☒
☐

g. Religious groups

☒
☐

h. Schools

☒
☐

i. Other (specify): Fayetteville Chamber of Commerce

Citizens

4. Please indicate which of the following partnership activities are currently performed by citizens in your jurisdiction or are planned under your COPS grant:

Currently Perform

Planned Under Grant

☒
☐

a. Neighborhood Watch

☒
☐

b. Citizen volunteer programs

☐
☒

c. Citizen advisory groups to your law enforcement agency

☐
☒

d. Citizen patrols within your community

☒
☐

e. Participate in anti-drug or anti-violence programs

☐
☐

f. Other activities (specify): _____

Officers

5. Please indicate which of the following activities are currently performed by patrol officers or are planned under your COPS grant:

a) Crime Prevention Activities

Currently Perform

Planned Under Grant

☒
☐

a. Foot patrol, bike patrol or mounted patrol

☒
☐

b. Making door-to-door contact with citizens and businesses

Currently Perform	Planned Under Grant	
☒	☐	c. Meeting with community leaders and groups to learn more about crime problems and jointly develop crime prevention plans
☒	☐	d. Using business cards, cellular phones or beepers to maintain contact with, and be contacted by, citizens regarding public safety concerns
☒	☐	e. Working in schools or other public agencies to teach crime prevention
☒	☐	f. Other (specify): <u>County-wide toll free Crimestoppers telephone line</u>

b) Problem-Solving Activities

Currently Perform	Planned Under Grant	
☒	☐	a. Working with citizens to identify and address community crime problems
☒	☐	b. Using computer systems to collect and analyze information, particularly repeat calls for service
☒	☐	c. Coordinating specific problem-solving projects to address problems on their beats
☒	☐	d. Working with other public agencies to solve disorder problems (e.g. trash collection, public works agencies to solve lighting problems)
☒	☐	e. Mapping crime problems
☐	☐	f. Other (specify): _____

c) Training

1) Departmentwide community policing training

- ☐ Have implemented
- ☒ Plan to implement
- ☐ Do not plan to implement

2) Where do recruits/officers receive basic training? (Check all that apply.)

- ☒ State academy
- ☐ Regional academy
- ☐ Local academy
- ☐ Community college
- ☐ Private contract/outside consultant
- ☐ No recruit training
- ☒ Other (specify): 16 week in-house Field Officer Training program

3) How many hours of recruit training dedicated solely to community policing concepts do recruits receive?

32 hours

4) Have community policing concepts been integrated into general training received by agency personnel (e.g., training on law, departmental regulations, conducting investigations)?

- ☒ Yes ☐ Plan to implement ☐ Do not plan to implement

5) Where do in-service officers receive community policing training?

- ☐ State academy
- ☐ Regional academy
- ☐ Local academy
- ☐ Community college
- ☒ Private contract/outside consultant
- ☐ No in-service training
- ☐ Other (specify): _____

6) How many hours of in-service training dedicated solely to community policing concepts do officers receive?

24 hours

7) We would like to know what kind of training your department routinely provides that is pertinent to community policing. Please indicate the community policing training that your department provided in the past fiscal year. Please indicate by checking the appropriate box. The abbreviation "CP" stands for community policing.

	Recruit Academy Only	In-Service Only	Both Recruit & In-Service	Civilian	No Training Provided	Other: _____
a. Concepts and general principles of CP	☒	☐	☐	☐	☐	☐
b. Problem-solving methods (SARA, etc.)	☐	☐	☒	☐	☐	☐
c. Causes and consequences of specific problems (e.g., drugs, spousal abuse)	☐	☐	☒	☐	☐	☐
d. CP approaches to specific problems	☐	☐	☐	☐	☒	☐
e. Organizing/working with public groups	☐	☒	☐	☐	☐	☐
f. Cultural diversity	☒	☐	☐	☐	☐	☐
g. Victim assistance	☐	☐	☐	☒	☐	☐
h. Working with juveniles	☐	☐	☐	☒	☐	☐
i. Using code/civil enforcement	☐	☒	☐	☐	☐	☐
j. Alternative dispute resolution	☐	☐	☐	☒	☐	☐
k. Supervising problem solvers	☐	☒	☐	☐	☐	☐
l. Other (specify): _____	☐	☐	☐	☐	☐	☐
m. Other: _____	☐	☐	☐	☐	☐	☐
n. Other: _____	☐	☐	☐	☐	☐	☐

Retention

6. Indicate how you plan to retain the new officers following the end of Federal grant support.

Have you planned to assume a progressively larger share of an officer's salary and fringe benefits each year over the next three years, leading to full-time retention of the officer at the conclusion of the grant?

☒ Yes ☐ No

Do you have assurance from your local government that these officers will be retained?

☒ Yes ☐ No

If "yes," attach any written letters or other assurances to this application. If "no," explain how you intend to retain the officers.

Complete Part 2 only if:

- You are applying for a COPS hiring grant *and* your jurisdiction's population is 50,000 or more; or
- You are applying for an innovative community policing grant with funding of \$1 million or more; or
- You do not have an established law enforcement agency and wish to establish one; or
- You represent a special law enforcement agency, such as transit, housing, university, school or natural resource police.

PART 2

1. List any fiscal, budgetary or other limitations on your department's ability to address the public safety needs listed in Question 1, Part 1, of the Community Policing Information Worksheet, without Federal assistance:

Fiscal limitations: N/A

Budgetary limitations: Hiring and training personell to address
the funding specialized patrol units to address Vice and property crimes.

Other limitations: _____

2. How does your community policing plan fit with other statewide and local crime prevention and control plans, including statewide Byrne Grant strategies?

*Coordinated
Fully*

*Partially
Coordinated*

☒☐

a. Statewide Byrne Grant strategy

☐☒

b. Other statewide strategies

☒☐

c. Local crime prevention plans

☒☐

d. Local crime control plans

3. Briefly list other governmental or community initiatives that complement or will be coordinated with your plans under this grant:

Neighborhood Watch Program
City Parks and Recreation Department
Bicycle Patrol
Motorcycle Patrol

4. Indicate current and anticipated ongoing community support for your community policing efforts, such as financial support or in-kind contributions:

<i>Current</i>	<i>Anticipated</i>	
☒	☐	a. Programmatic support from the community
☒	☐	b. Financial support from the community
☒	☐	c. Other community support: <u>Downtown/Dickson Street</u> Improvement District and NWA Mall Merchants Association
☒	☐	d. Sought or obtained private financial support

5. Indicate the impact that receiving the requested resources or increasing the number of officers will have on other criminal justice agencies in your jurisdiction:

<i>No Impact</i>	<i>Minimal Impact</i>	<i>Major Impact</i>	
☐	☐	☒	a. Prosecutor's office
☐	☐	☒	b. Public defender's office
☐	☒	☐	c. Local/state correctional agencies
☐	☐	☒	d. Other public criminal justice agencies
☐	☒	☐	e. Other private criminal justice agencies

If you anticipate any major impact on any of these agencies, please briefly describe that impact below.

Please return to:

U.S. Department of Justice
Office of Community Oriented Policing Services (COPS)
1100 Vermont Avenue, NW
Washington, DC 20530

Universal Hiring Program Questionnaire

Name of Agency: City of Fayetteville ORI: AR0720100

Name & Title of Contact: Judy Cohea, Financial Analyst

Phone: (501) 587-3510 Fax: (501) 587-3522

Officers requested: Full 6 Part 0 Current authorized sworn force 98

Current Population 52,976 Current actual sworn force: 91

Officer Request, Retention, Local Match, and Training Questions

Officer Request:

The number of officers requested through UHP appears relatively high in comparison to: (a) ratio of officers to general population; or (b) ratio of additional officers to sworn authorized force. How do you explain the rationale for needing this number of additional officers?

- (a) The population of 52,976 was taken late in 1997. This reflected a 25.84% increase over the 1990 census. The Northwest Arkansas Regional Planning Commission has projected Fayetteville's current population as 56,429 or a 6.5% increase from 1997. Northwest Arkansas is one of the fastest growing areas in the United States and the rate of growth is not projected to slow down. We also have a University population of approximately 15,000 students and those students who spend 9 months or more per year in our town are sometimes not included in the census count.
- (b) Our in-house studies of manpower allocation needs have consistently shown our force to be severely understaffed. In reality, we need over 20 additional officers to be at recommended strength. We didn't request such a large number in the grant application because we knew other agencies need to share in the limited grant resources.

Retention:

What steps will your agency take to absorb the additional officers requested through UHP into your local budget at the expiration of the three year grant period?

The City of Fayetteville plans to retain these six officers by using funding from the increase in sales tax revenues in the General Fund. The sales tax has averaged a 6.7% increase over the past four years or \$740,000. The City also has the ability to levy up to a

5 mill property tax for general operations. Each mill would produce \$ 550,000 per year. A vote of the City Council would be needed to levy a millage increase.

Local Match:

Does your agency have the resources available to pay the local match requirements of the grant as well as pay for training, uniform, vehicle, and all other costs attributed to an entry level officer? If so, what are the resources?

Yes. Upon acceptance of this grant an adjustment from fund balance will be requested to cover the above costs.

Training:

If your agency receives additional officers through UHP how long would it take to have these officers enrolled in your training academy?

The training academy holds four sessions per year at the state academy and two sessions per year at the satellite academy. We consistently coordinate our hiring so a recruit attends the academy within 2 - 4 weeks of their hire date.

DRAFT

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A COPS UNIVERSAL HIRING PROGRAM GRANT IN THE AMOUNT OF TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$225,000.00), AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF THIRTY-SEVEN THOUSAND SIX HUNDRED SEVENTEEN DOLLARS (\$37,617.00).

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

Section 1. That the City Council hereby Accepts a COPS Universal Hiring Program Grant in the amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00).

Section 2. That the City Council hereby Approves a budget adjustment in the amount of Thirty-Seven Thousand Six Hundred Seventeen Dollars (\$37,617.00).

PASSED AND APPROVED this _____ day of June, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF June 5, 2001

FROM:

Perry Franklin Traffic Public Works
Name Division Department

ACTION REQUESTED:

Request approval of an Interlocal Agreement between the City of Fayetteville and City of Johnson for the installation and ownership of a traffic signal at Wilkerson & Joyce.

COST TO THE CITY:

\$ <u>-0-</u>	\$ _____	_____
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

[Signature] _____
Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Maida Furthing 5/8/01
Accounting Manager Date
by: J. Whitel 5/8/01
City Attorney Date
[Signature] 5/8/01
Purchasing Officer Date

Nancy Smith 5/8/01
Internal Auditor Date
_____ _____
ADA Coordinator Date

STAFF RECOMMENDATION:

Recommend approval for the installation, coordination, maintenance, and ownership so that this intersection can be coordinated with other traffic signals on our signal system.

[Signature] 5/8/01
Division Head Date
[Signature] 10/11/01
Department Director Date
[Signature] 5/9/01
Administrative Services Director Date
[Signature] 5/9/01
Mayor Date

DEPARTMENTAL CORRESPONDENCE

TO: Kit Williams, City Attorney

FROM: Perry Franklin, Traffic Division Superintendent *PF*

THRU: Don Bunn, Assistant Public Works Director *DB*

DATE: April 24, 2001

SUBJECT: Interlocal Agreement (Traffic Signal) between the City of Fayetteville and the City of Johnson

During the planning process, the City of Fayetteville required the CMN Business Park developer to make a contribution for the purchase of equipment for five future traffic signal installations. This money is being held in an escrow account. The City agreed to install these signals. The first traffic signal we are going to install is located at the intersection of Joyce Blvd. and Wilkerson. This intersection is located in the city of Johnson at the west end of Joyce Blvd. Since the intersection is not in the city of Fayetteville, before we install the traffic signal we need to execute an Interlocal Agreement between both entities.

I have visited with Mayor Richard Long of Johnson and I believe we are in agreement about what should be included in the document other than the usual legal terminology. The following is a list of what we think should to be included:

1. The City of Fayetteville will install the traffic signal at no cost to the city of Johnson.
2. The City of Fayetteville will own, operate, and maintain the traffic signal at no cost to the City of Johnson. This will include all utility cost.
3. The City of Fayetteville will control all timing and coordination of the traffic signal with other traffic signals located in the area which are on our traffic signal system.

4. The City of Fayetteville will hold the City of Johnson harmless during normal operation and at all times the traffic signal is being controlled by the City of Fayetteville.
5. The City of Johnson Police Department will have a key and access to the police panel located on the front door of the traffic signal cabinet. This access shall be for the sole purpose of manually controlling the traffic signal or placing the traffic signal in flash operation while working a traffic accident, during inclement weather or other emergency conditions.
6. The City of Johnson will hold the City of Fayetteville harmless at all times they have control of the traffic signal either manually or by placing the traffic signal in a flashing operation.

These are the main points that we thought should be included. I have attached a copy of the August 30, 1996 Interlocal Agreement between the City of Fayetteville and the City of Johnson for bridge project #19630. If you need more information please give me a call at extension 228. This traffic signal will be the first project we do this summer and anything you can do to help expedite this agreement will be greatly appreciated.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE AND THE CITY OF JOHNSON, ARKANSAS TO GOVERN THE INSTALLATION, OPERATION AND MAINTENANCE OF A TRAFFIC CONTROL SIGNAL TO BE LOCATED AT THE INTERSECTION OF JOYCE BOULEVARD AND WILKERSON STREET IN THE CITY OF JOHNSON, ARKANSAS.

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

Section 1. That the City Council hereby Approves an Interlocal Agreement between the City Of Fayetteville and the City Of Johnson, Arkansas to govern the installation, operation and maintenance of a traffic control signal. A copy of the agreement is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. That the City Council authorizes the Mayor to sign said Interlocal Agreement with the City Of Johnson, Arkansas.

PASSED AND APPROVED this _____ day of May, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk



**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE
AND THE CITY OF JOHNSON, ARKANSAS**

THIS AGREEMENT entered into this _____ day of _____, 20_____,
by and between the **CITY OF FAYETTEVILLE**, and the **CITY OF JOHNSON**,
ARKANSAS;

WHEREAS, the smooth and orderly flow of vehicular traffic is of mutual
interest to the City of Fayetteville and the City of Johnson; and

WHEREAS, in connection with the development of CMN Business Park,
the City of Fayetteville collected certain monies for the express purpose of
installing traffic control signals in and around the area of development; and

WHEREAS, the intersection of Joyce Boulevard and Wilkerson Street
where the signal is to be installed lies within the corporate limits of the City of
Johnson.

NOW, THEREFORE, IN CONSIDERATION of mutual promises of the
parties contained herein and other good and valuable consideration, the parties
agree as follows:

Article I

The City of Fayetteville agrees to install, operate, and maintain the above-
referenced traffic signal at no cost to the City of Johnson. The City of Fayetteville
shall retain ownership of the signal and be responsible for the payment of any
utility charges related to its operation. The City of Fayetteville shall control the
timing and coordination of the traffic signal as a part of its traffic control system,
subject to the exceptional circumstances set forth in Article III below.

Article II

The City of Fayetteville shall hold harmless the City of Johnson during all
times in which the City of Fayetteville controls the traffic signal, provided that
nothing in this Agreement shall be construed to alter, limit or otherwise
compromise that immunity afforded the City of Fayetteville or the City of
Johnson under the Constitution and Statutes of the State of Arkansas.

Article III

The City of Fayetteville agrees to provide to the City of Johnson a key or combination required to access the traffic signal control panel for the sole purpose of allowing the alteration of the signal pattern in response to any emergency or public necessity.

Article IV

The City of Johnson shall hold harmless the City of Fayetteville during all times in which the City of Johnson controls the traffic signal, provided that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Johnson or the City of Fayetteville under the Constitution and Statutes of the State of Arkansas.

Article V

This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this agreement shall be valid unless made in writing and signed by the duly authorized agents of the parties.

IN WITNESS WHEREOF, the City of Fayetteville and the City of Johnson have executed this Agreement on or as of the date first written above.

CITY OF FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

ATTEST:

City Clerk

CITY OF JOHNSON, ARKANSAS

RICHARD LONG, Mayor

ATTEST:

City Clerk

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING AN ADVISORY COMMITTEE, TO BE KNOWN AS THE SIDEWALKS AND TRAILS ADVISORY COMMITTEE, SETTING FORTH THE SELECTION PROCESS FOR MEMBERSHIP AND THE RESPONSIBILITIES OF THE SIDEWALKS AND TRAILS ADVISORY COMMITTEE.

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

Section 1. That the City Council hereby establishes an advisory committee, to be known as the Sidewalks and Trails Advisory Committee, and it shall be as follows:

- I. Purpose. The Sidewalks and Trails Advisory Committee takes public comment, and advises City Council and City Staff of the public's views with regard to funding, development, design, prioritization and implementation of sidewalk and trail acquisition and construction projects. It is also responsible for creating and maintaining a trails plan, and acts as steward of the plan.
- II. Composition. The Sidewalks and Trails Advisory Committee shall be comprised of eleven (11) voting members, and seven (7) non-voting staff/support members, as follows:
 - a. Four (4) voting members of the Committee shall be members of the City Council;
 - b. One (1) voting member shall be a member of the Planning Commission;
 - c. One (1) voting member shall be a member of the Parks and Recreation Advisory Board;
 - d. Five (5) voting members shall be private citizens, who are qualified electors residing in the City of Fayetteville, and appointed by the City Council, at least one (1) of whom shall represent a bicycle advocacy organization;
 - e. Five (5) non-voting members shall represent the City of Fayetteville staff, with one (1) member each from the Sidewalk Division, Parks

and Recreation Division, Fayetteville Police Department, Planning Division, and Information Technology Division;

- f. One (1) non-voting member shall represent the Washington County Planning staff;
- g. One (1) non-voting member shall represent the Northwest Arkansas Regional Planning Commission.

III. Terms of Office. All private citizen members serving on the Sidewalks and Trails Advisory Committee at the time of passage of this Resolution shall continue to serve until December 31, 2001. Thereafter, private citizen members shall serve two year terms, ~~with no limit to the number of terms they may serve.~~ City Council, Planning Commission, and Parks and Recreation Advisory Board representatives may serve as long as they retain membership on their sponsoring body.

IV. Officers. At the first regularly scheduled committee meeting of each calendar year, the voting members of the committee shall, by a simple majority, elect from among themselves a Chair and Vice Chair. The representative from the Sidewalk Division shall serve as Secretary/Recorder, or may delegate this duty to another of the non-voting staff representatives.

V. Meetings. The Sidewalks and Trails Advisory Committee shall meet at least once per month to conduct regular business, at a time and place that is mutually convenient to the membership. The committee may meet more frequently, if the need shall arise.

Section 2. That the City Council hereby sets forth the selection process for the Sidewalks and Trails Advisory Committee members in the following manner.

Appointment of private citizen members to the Sidewalks and Trails Advisory Committee shall be as follows:

The City Council shall appoint private citizen members from those names provided by the Nominating Committee, in the manner set forth in §H(2) of the Rules of Order and Procedure, Fayetteville Mayor/City Council.

Appointment of all other members to the Sidewalks and Trails Advisory Committee shall be as follows:

All other members of the Sidewalks and Trails Advisory Committee shall be appointed by their respective organizations.

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

STAFF REVIEW FORM

Women's Shelter
A. 6. Page 1

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF June 5, 2001

MAYOR'S APPROVAL

FROM:

Kit Williams
NameCity Attorney
DivisionLegal
Department

ACTION REQUIRED:

A Resolution to approve a lease agreement with the Project for Victim's of Family Violence, Inc. to lease city land for the construction of a new Battered Women's Shelter.

COST TO CITY:

Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used to Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION:

CROSS REFERENCE

Division Head

Date

New Item: Yes No

Previous Ordinance/Resolution No.: _____

Department Director

Date

Administrative Services Director

Date

Mayor

Date

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☒ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF June 5, 2001

FROM:

<u>Marvin Hilton</u>	<u>Cable Administration</u>	<u>Administration</u>
Name	Division	Department

ACTION REQUESTED:

Passage of an amendment to the City's present franchise agreement to release Cox Communications from their obligation to carry a Little Rock, Arkansas, network affiliate broadcast station.

COST TO THE CITY:

\$ <u>0</u>	\$ <u>0</u>	
Cost of this request	Category/Project Budget	Category/Project Name
	<u>0</u>	
Account Number	Funds used to date	Program Name
	<u>0</u>	
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

 Budgeted Item Budget Adjustment Attached

 Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:

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

STAFF RECOMMENDATION:

Marvin Hilton 5-18-01
Division Head Date

 Department Director Date
John Maguire 5/24/01
Administrative Services Director Date

 Mayor Date

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN AMENDMENT TO THE FRANCHISE AGREEMENT WITH WARNER CABLE COMMUNICATIONS, INC. (NOW COX) TO DELETE THE REQUIREMENT TO CARRY "ONE LITTLE ROCK, ARKANSAS, NETWORK AFFILIATE BROADCAST STATION"

WHEREAS, a viewer opinion survey conducted by Cox Communications, Inc. showing a substantial plurality of viewers wished to change cable channel 4 from a Little Rock station to UPN; and

WHEREAS, the Telecommunications Board voted to recommend amending the Franchise Agreement to allow Cox Communications to carry UPN on cable channel 4.

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

Section 1. That the City Council of Fayetteville, Arkansas authorizes the Mayor to sign an Amendment to the current Franchise Agreement to repeal the following language in Section XV, paragraph C (page 34): "one Little Rock, Arkansas, network affiliate broadcast station;"

PASSED and APPROVED this the _____ day of June, 2001.

Approved:

By: _____
DAN COODY, Mayor

Attest:

By: _____
Heather Woodruff, City Clerk

AMENDMENT TO FRANCHISE AGREEMENT
BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS,
AND COX COMMUNICATIONS, INC.

To better serve the Fayetteville customers of Cox Communications, Inc.,
the City of Fayetteville and Cox Communications, Inc. agree to delete the
following language from Section XV, paragraph C (page 34): "one Little Rock,
Arkansas, network affiliate broadcast station;" from the current Franchise
Agreement.

IN WITNESS WHEREOF, this agreement has been executed this _____
day of June, 2001.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
DAN COODY, Mayor

Attest:

By: _____
Heather Woodruff, City Clerk

COX COMMUNICATIONS, INC.

By: _____

Title: _____

Attest:

By: _____

Title: _____

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and Council Members

FROM: Marvin Hilton, Cable Administrator *MH* 5-18-01

SUBJECT: Amendment to the Cable Franchise

DATE: May 18, 2001

The Telecommunications Board, at their May 17 meeting, voted 4 - 1 to recommend that the City Council pass an amendment to the present Franchise Agreement to release Cox Communications of their obligation to carry a Little Rock, Arkansas, network affiliate broadcast station.

This amendment will be, in effect, only temporary until a new franchise agreement is finalized and adopted by the City.

Cox Communications conducted a survey which showed that a majority of Fayetteville Citizens prefer to have another station rather than the often "blacked out" channel four KARK from Little Rock. In accordance with federal regulations, Channel four on the Fayetteville system is now blacked out except when KARK Little Rock has non-duplicated programming such as the local news from Little Rock.

See the Attached:

Survey Report
Page 34, paragraph C of the present franchise agreement

SURVEY REPORT

The following is a brief report of the survey conducted by Cox communications concerning the blackout of channel 4:

1. There was a 15% response
2. Total of 2,568 responses
3. 40.7% voted for UPN
4. 17.7% voted for AETN2
5. 33.1% voted for something else
6. 8.5% voted to keep the Little Rock station
7. Dennis is recommending that the Telecom Board recommend to the City Council that the requirement for the Little Rock station to be carried, be dropped and Cox allowed to choose a replacement.

C. Grantee does not waive its rights under the Cable Communications Policy Act of 1984 to determine specific programming services to be offered to subscribers on the upgraded system; however, Grantee shall offer as basic services the following broad categories of programming: one of each of the major network affiliates; one Little Rock, Arkansas, network affiliate broadcast station; public broadcast station; independent broadcast station; satellite - children's programming channel; satellite - music/cultural programming channel; satellite - sports programming channel; satellite - national public affairs channel; satellite - news programming channel; and, satellite - home shopping channel; provided, Grantee shall have the right to change the broad categories of programming offered as basic services upon any legal, regulatory or economic occurrence that substantially affects Grantee's ability to continue to provide such programming as basic services.

D. Prior to commencing construction work related to the upgrade of the cable television system, Grantee shall submit to the City for its approval a detailed design and construction plan which identifies phases of construction and customer conversions. During the City's approval process, time requirements related to the cable system upgrade shall be stayed.

AGENDA REQUEST FORM

Council Meeting of June 5, 2001

Mayor's Approval _____

FROM Don Bunn Public Works Admin Public Works
Name Division Department

ACTION REQUIRED Approval of the proposed contract amendment in the amount of \$12,000.00, and a budget adjustment.

COST TO CITY

<u>\$ 12,000.00</u> Cost of this Request	<u>\$ 280,609.00</u> Category/Project Budget	<u>Multi-Level Prk Deck</u> Category/Project Name
<u>4470 9470 5314 02</u> Account Number	<u>270,758.00</u> Funds Used to Date	<u>Other Improvements</u> Program Name
<u>00064-1</u> Project Number	<u>\$ 9,851.00</u> Funds Remaining	<u>Sales Tax, Capital</u> Fund Category

BUDGET/CONTRACT REVIEW

X Budgeted Item X Budget Adj. Attached

<u>[Signature]</u> Budget Coordinator	_____	_____	_____
	Date	Admin Services Director	Date
<u>Maura Fathig</u> Accounting Manager	<u>5/22/01</u> Date	_____	_____
	Date	ADA Coordinator	Date
<u>[Signature]</u> City Attorney	<u>5/23/01</u> Date	<u>[Signature]</u> Internal Auditor	<u>5/22/01</u> Date
<u>[Signature]</u> Purchasing Officer	<u>5/23/01</u> Date		

STAFF RECOMMENDATION

It is the recommendation of the Staff that the Council approve Contract Amendment No. 2 with Garver Engineers for \$12,000. Staff recommends approval of a budget adjustment.

[Signature]
Asst. Public Works Director 21 May, 01
Date

Cross Reference

Department Director _____
Date _____
[Signature]
Admin Services Director 5/23/01
Date _____
[Signature]
Mayor 5/23/01
Date _____

New Item: Yes No
Prev Ord/Res # 158 00
Orig. Contract # 786
Orig. Contract Date 21 Nov, 01

City of Fayetteville

CORRESPONDENCE

DEPARTMENTAL

May 14, 2001

To: Fayetteville City Council

From: Don Bunn, Asst. Public Works Director
Thru: Mayor Dan Coody
John Maguire, Administrative Services Director

Subject: Contract Amendment No. 2
Parking Deck Contract
Garver Engineers

Attached for your review and approval is a letter from Garver Engineers which constitutes Contract Amendment No. 2 in connection with their Parking Deck Contract with the City of Fayetteville. The request is to increase the geotechnical portion of their contract be \$12,000.00, from \$7,000.00 to \$19,000.00. The geotechnical firm has done 4 borings so far on the property and have encountered voids on three (3) of them.

Garver feels that additional borings are necessary in order to better define the extent of the voids and to be in a better position to develop costs and design the footing requirements. Also, the original figure for geotechnical investigations was based on the smaller lot across from City Hall, not the larger E.J. Ball lot.

It is the recommendation of the Staff that Contract Amendment No. 2 be approved for \$12,000.00, and that the Council approve a budget adjustment.

COMMENT SHEET

Project: Parking Deck

Engineer/Contractor: Garver Engineers

Notes to Reviewers:

[illegible]

Garver, Inc.
Engineers

3810 Front Street, Suite 10
Fayetteville, AR 72703

501-527-9100
FAX 501-527-9101

www.garverinc.com

GARVER ENGINEERS

May 16, 2001

Mr. Don Bunn, P.E.
Assistant Public Works Director
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Re: Fayetteville Municipal Parking Deck - Professional Engineering Services Contract Amendment No. 2

Dear Mr. Bunn:

Please consider this our revised proposed Amendment No. 2 to our original contract for the Municipal Parking Deck Project dated November 21, 2000. This amendment will cover a warranted increase in our original \$7,000 lump sum fee for geotechnical investigation services. This proposed increase is warranted for the following reasons.

First, since the E.J. Ball lot is approximately one-third larger than the originally proposed lot, we needed to increase the number of test borings from five to eight.

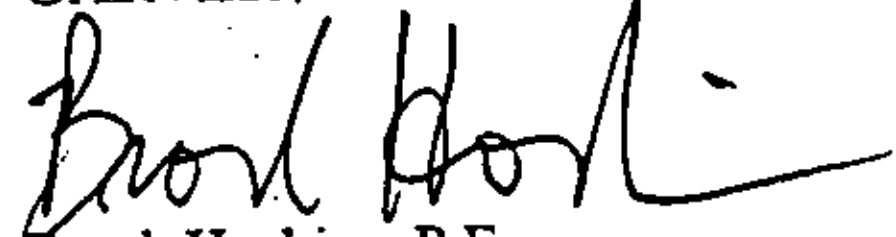
Second, rock discontinuities (voids) of varying thickness were encountered at depths of 33 to 37 feet in three of the four test borings accomplished to date. The presence of these voids, or solution cavities, could limit construction options for current design and future planning of the deck. Our experience with other projects in the general area of the site indicates the rock below the solution cavities is generally sound and strong. We recommend extending all eight of the test borings 20 feet into the unweathered shale, which would result in total boring depths of 60 to 70 feet. Information obtained from the deeper borings should reduce our limitations on construction options.

In summary, your acceptance of this proposed amendment will increase our lump sum fee for geotechnical investigation services from \$7,000 to \$19,000.

We need to proceed with this work as soon as possible to avoid delaying the project. If this proposal is acceptable to you, please sign the three copies and return one copy to me. As always, we appreciate the opportunity to provide professional services to the City of Fayetteville and look forward to successful completion of this project. Please call me with any questions or comments. Thank you.

Respectfully,

GARVER ENGINEERS



Brock Hoskins, P.E.
Vice President / Project Manager

Approved by: _____

Date: _____

cc: John Maguire

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

**Parking Deck
A. 8. Page 5**

Budget Year 2001	Department: Sales Tax Capital Division: Other Capital Program: Parking Deck	Date Requested May 22, 2001	Adjustment #
----------------------------	---	--------------------------------	--------------

Project or Item Requested:
Additional funding is requested for the Parking Deck engineering contract.

Project or Item Deleted:
Funding for this adjustment is from the Plainview Avenue project.

Justification of this Increase:
The additional funds are requested to enable the engineer to perform additional geotechnical services on the proposed sites for the parking deck.

Justification of this Decrease:
The project is complete and the funds are not required.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number				Project Number	
Engineering Services	2,149	4470	9470	5314	03	00064	1

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number				Project Number	
Street Improvements	2,149	4470	9470	5809	00	98031	1

Approval Signatures

Requested By: [Signature] Date: 23 May '01

Budget Manager: [Signature] Date: 5-22-01

Department Director: [Signature] Date: 5/23/01

City Services Director: [Signature] Date: 5/23/01

Mayor: [Signature] Date: 5/23/01

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: _____

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT AMENDMENT IN THE AMOUNT OF TWELVE THOUSAND DOLLARS--(\$12,000.00)-- WITH GARVER ENGINEERS IN CONNECTION WITH GEOTECHNICAL INVESTIGATIONS REQUIRED IN THE E.J. BALL LOT AND APPROVING A BUDGET ADJUSTMENT FOR SAME.

WHEREAS, preliminary geotechnical investigations have revealed subsurface voids in three (3) out of four (4) borings; and

WHEREAS, the presence of these voids could limit construction options for current design and future planning for the proposed parking deck; and,

WHEREAS, the E.J. Ball lot is approximately one-third larger than that originally proposed, increasing the required number of test borings from five (5) to eight (8); and,

WHEREAS, information obtained by increasing boring depths by twenty feet (20') should reduce these limitations.

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

Section 1. That the City Council hereby Approves a contract amendment in the amount of Twelve Thousand Dollars (\$12,000.00) with Garver Engineers in connection with geotechnical investigations required in the E.J. Ball lot and approving a budget adjustment for same.

Section 2. That the City Council authorizes the Mayor to sign such an amendment to the contract with Garver Engineers.

PASSED AND APPROVED this _____ day of June, 2001.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

Heather Woodruff, City Clerk

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

for the Fayetteville City Council meeting of June 5, 2001.

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve a contract with Duncan and Associates to conduct phase 2 of the Development Impact Fee Study for water, wastewater treatment and collection, roads, and parks.

COST TO CITY:

\$To be available by
Agenda Session

Development Impact Fee
Study

Cost of this Request

Category/Project Budget

Category/Project Name

4470-9470-5314-00

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 recommends approval of the contract for phase 2 of the Impact Fee Study.

[Signature]
Division Head

5-18-01
Date

Cross Reference

Department Director

Date

New Item: **Yes**

Administrative Services Director

Date

Prev Ord/Res #: _____

Mayor

Date

Orig Contract Date: _____

Orig Contract Number: _____

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
CITY OF FAYETTEVILLE AND DUNCAN ASSOCIATES**

This Professional Services Agreement is made as of June ____, 2001, by and between the City of Fayetteville, a political subdivision of the State of Arkansas (City) and James Duncan and Associates, Inc., a professional corporation doing business as Duncan Associates located in Austin, Texas (Consultant).

WHEREAS, City desires to engage Consultant to perform certain services relating to the development of impact fee reports, studies and ordinances.

WHEREAS, the scope of services has been divided into two phases, and this contract covers Phase Two, which addresses the preparation of detailed impact fee studies for facilities selected in Phase One.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter provided, City and Consultant agree as follows.

1. **Scope of Agreement.** Consultant's relationship to City shall be that of independent contractor; at all times this relationship shall be governed by and be in strict compliance with the terms of this Professional Services Agreement.
2. **Professional Services.** Consultant shall furnish services to City as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.
3. **Deliverables and Schedule.** Consultant shall begin its services promptly after receipt of an executed copy of this Agreement and will complete the services and deliverable pursuant to the schedule as set forth in Exhibit "B." Times for performance shall be extended for periods of delay resulting from circumstances over which Consultant has no control.
4. **Compensation and Hourly Rates.** For services provided by Consultant as described in Exhibit "A," City shall compensate Consultant based upon the completion of individual tasks and in accordance with the fee schedule outlined in Exhibit "C". Payment of each such invoice shall be due to Consultant within thirty (30) days of receipt by City.
5. **Subcontracting.** Any subcontractor relationships must first be approved by the City.
6. **Conflict of Interest.** Consultant agrees that it has no interest and shall acquire no interest, direct or indirect, that would conflict in any manner with the performance of the services hereunder. Consultant further agrees that, in the performance of this Agreement, no person having any such interest shall be employed.

7. **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon written notice in the event of failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, Consultant will be paid for all services rendered to date of such termination.
8. **Ownership of Documents.** All documents prepared in the performance of this Agreement shall be delivered to City before final payment is made to Consultant.
9. **Amendments.** No amendments or modifications of this Agreement shall be valid unless in writing and signed by each of the parties to the Agreement.
10. **Venue.** The laws of the State of Arkansas shall govern the construction and interpretation of this agreement.
11. **Severability.** Any provision in this Agreement that is prohibited or unenforceable under state or federal law shall be ineffective to the extent of such prohibitions or unenforceability, without invalidating the remaining provisions hereof. Also, the non-enforcement of any provision by either party to this Agreement shall not constitute a waiver of that provision nor shall it effect the enforceability of that provision or the remainder of this Agreement.

IN WITNESS WHEREOF, City and Consultant have caused this instrument to be signed by their respective duly authorized officers, all on the day and year first above written.

ATTEST:

JAMES DUNCAN AND ASSOCIATES, INC.

By: _____
James B. Duncan, President

ATTEST:

CITY OF FAYETTEVILLE

By: _____

Exhibit A
SCOPE OF SERVICES

The project has been divided into two phases. The earlier Phase One: "Policy Directions," reviewed the legal framework, reviewed local data and potential fees, and determined in conjunction with local officials the type of impact fee system that should be developed in the this second phase.

This Phase Two will implement the policy directions provided by the City at the conclusion of Phase One. It entails the development of impact fees for water, wastewater and roads, as well as an update and revision of the City's existing park land dedication and fee-in-lieu requirements.

PHASE TWO: IMPLEMENTATION

Task 2.1: Draft Impact Fee Study

Facilities to be included in the impact fee study include water transmission, distribution and storage facilities; wastewater collection and treatment plant facilities; arterial and collector roads, including City participation in the cost of state road improvements; and parks. The park component will be limited to updating the City's park land dedication requirements, as well as updating the fees paid in lieu of dedication.

The first task will be to prepare a preliminary draft of the impact fee study for staff review. The impact fee study will include all of the elements mandated by statutory and constitutional requirements. These elements include an inventory of existing capital facilities; the cost of improvements required to remedy any existing service deficiencies; and the cost of improvements required to accommodate increased service demands.

The impact fee studies will calculate the cost per service unit to provide new development with the existing or adopted level of service, as well as appropriate revenue credits to ensure that new development is not charged more than its proportionate share of the cost of new facilities. Each study will include a table that establishes the number of service units and amount of facility demand associated with different land use types. Finally, the studies will include, for each of the facility types, a net unit cost schedule that represents the maximum impact fees that could be charged.

DELIVERABLES: DRAFT IMPACT FEE STUDIES

Task 2.2: Local Review Meeting

At least two weeks after delivery of the draft Impact Fee Study, Consultant will schedule a one-day meeting with City staff to present the draft Impact Fee Study and receive staff comments. We will also use this opportunity to meet with developer representatives or a stakeholder advisory committee.

DELIVERABLE: LOCAL REVIEW MEETING (1 PERSON-DAY)

Task 2.3: Final Impact Fee Study

Following the local review meeting, we will prepare the final draft of the impact fee study. The final draft will reflect staff and advisory committee comments on the initial draft. The final draft of the study will be delivered in both original and digital format. It will be accompanied by a spreadsheet in Excel 97 or other format specified by the City that contains all of the impact fee calculations and can be used by staff to easily update the study.

DELIVERABLE: FINAL IMPACT FEE STUDY

Task 2.4: Public Participation

In addition to the local review meeting in Task 2.2, key members of our team will be available to attend and participate in two additional meetings with City staff, a stakeholders advisory committee, Planning Commission, City Council, or the general public as desired by the City. Joint meetings or multiple meetings held on the same day will count as one meeting. The consultant team will prepare exhibits and handouts suitable for public meetings that illustrate and summarize the results and recommendations of the Phase Two: Implementation portion of the project. The meetings should be scheduled approximately two weeks after delivery of the documents to provide time for local review prior to the meetings. This task is limited to a maximum of two person-days of out-of-town consultant time. Team members will also be available for additional meetings on a time plus expense basis.

DELIVERABLE: PUBLIC MEETINGS (TWO PERSON-DAYS)

Exhibit B
PROJECT SCHEDULE

The schedule for the tasks outlined in the Scope of Services for Phase Two is illustrated in the following project schedule.

Tasks	1	2	3	4	5	6
PHASE TWO: IMPLEMENTATION						
2.1: Draft Impact Fee Study						
2.2: Local Review Meeting						
2.3: Final Impact Fee Study						
2.4: Public Participation						

◇ = draft deliverable ◆ = final deliverable ★ = meeting/presentation

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

for the Fayetteville City Council meeting of June 5, 2001.

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve a resolution for AD 01-1.00 to amend Chapter 171 "Streets and Sidewalks", Section 171.13(B)(6) "Width of Driveway Approaches" and Chapter 172 "Parking and Loading", Section 172.01(C)(5)(b)(1)(a-c) "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways and provide for a minimum curb radius, submitted by the City of Fayetteville, Planning Division.

COST TO CITY:

\$

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

et 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 recommends approval and Planning Commission voted 7-2-0 to recommend to City Council.

Division Head

5-18-01
Date

Cross Reference

Department Director

Date

New Item: **Yes**

Administrative Services Director

5/18/01
Date

Prev Ord/Res #:

Mayor

5/18/01
Date

Orig Contract Date:

Orig Contract Number:

Planning Commission
April 9, 2001
Page 102

AD 01-1.00: Administrative Item Amendment to Chapter 171 "Streets and Sidewalks", Section 171.13(B)(6) "Width of Driveway Approaches" and Chapter 172 "Parking and Loading" Section 172.01(C)(5)(b)(1)(a-c) "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways.

Estes: The next item of business to come before us is an administrative item AD 01-1.00 an Amendment to Chapter 171 "Streets and Sidewalks", Section 171.13(B)(6) "Width of Driveway Approaches" and Chapter 172 "Parking and Loading" Section 172.01(C)(5)(b)(1)(a-c) "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways. Tim, what is this about and why is this before us this evening?

Conklin: Staff has brought this forward to amend our driveway specifications. We've had some situations where the island that is required in a driveway that has a one way in and a left out and right out, with a ten foot island, has caused problems for motorists and delivery trucks, tractor trailers from entering and exiting these curb cuts. Staff has removed the requirement for the ten foot island and we do have a driveway that has an entrance lane and then two exit lanes, the left and right out. The proposal is to have a 15 foot entrance lane, a 12 foot exit lane, that's a 27 foot drive for one way in and one way out, then to have a 15 foot entrance lane and 12 foot exit lanes, right out and left out, for a total of 39 feet. Staff believes this will help bring traffic off our streets in a more efficient manner, cars are having to slow down. It will increase the capacity of our roadways and also comply with the Arkansas Highway Transportation Department standards for a maximum curb cut of 40 feet. That is why we have brought this forward to you. In an effort to help minimize the conflicts that are occurring with the automobile.

PUBLIC COMMENT:

Estes: Is there any member of the audience which would like to provide comment on administrative item 01-1.00?

COMMISSION DISCUSSION:

Estes: Seeing none, I'll close the floor to public comment and bring it back to the Commission for discussion, questions of staff, motions?

MOTION:

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April 9, 2001
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Hoffman: Now that I'm fully aware of what it is we are discussing and having seen quite a few of these projects go through with narrower driveways and broken down curbs being a problem, I would like to move for approval of AD 01-1.00 subject to staff comments.

Shackelford: I'll second

Marr: Just to communicate my position. I understand the widening issue. I have a concern about taking out the island. I know that the rationale behind it is flow off a street such as College to make the turn easier. I asked at agenda session to give me examples of places where we had islands in, I was given Denny's, Walgreen's and First Security Bank. I also have a safety concern that, I don't want people making speeding turns into parking lots either. So, while I understand the City position on getting traffic off of the main road, I also have a concern with safety. Islands serve the purpose to not let someone make a two wheel turn. I also believe that when properly planted, they are also adding an aesthetic to the community that is nice. Thirdly, I don't think the rationale of someone who can't drive by driving over one is a reason to remove it. For that reason, I won't support this.

Hoover: I think that maybe I'm not educated enough to understand this because I don't understand why we would be giving up the island. I would like to reiterate what Don said but maybe I'm missing something here.

Conklin: There are always two sides to every argument. The islands are slowing traffic down and they are causing it to be difficult for trucks to enter into the actual sites. One of the things that we've done a tremendous job doing is eliminating two curb cuts and only requiring one. When we do that, it sometimes requires like an "S" turn if they put it right in the middle of their project and those trucks aren't able to maneuver and are crossing the island. That's what you see at Denny's. That's why they have a concrete, mountable island because the trucks can't make that turning movement. At the most recent past two access management seminars, I've raised this question with regard to the concrete island or the landscaped island that we place in our curb cuts in Fayetteville. They recommended against doing that unless you had a wide enough drive and radius in order to get the cars efficiently off the roadways to maintain capacity. That's the other issue. When you drive down College Avenue and you have a very limited radius and you got almost a 90 degree turn, you have to almost slow down to a stop to make it into those driveways. What we've recommended is eliminate the landscaped island and that way cars are not inclined to slow down and stop which reduces your capacity in the roadway and also recommend that the radius should be about 25 feet. I put in the ordinance that it "should" be a requirement because in not all

Planning Commission
April 9, 2001
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situations will you want to have curb cuts designed in that manner. For example, in our downtown area most of the time you will have a driveway which has no radius, it's just a 90 degree turning movement that you make. On our major streets, this is why we are recommending it, is where trucks are having problems getting into the driveways, cars are having problems, cars are going in the wrong direction in some cases. Staff will encourage developers to do a boulevard type entry when they can but it's going to have to be wider and the Highway Department is going to have to grant variances for those types of things.

Hoover: Have we had any complaints from any of the business owners themselves or is this something that you've been observing?

Conklin: We have to force business owners to do this design most of the time. As staff, we tell them they have to do it and we bring it forward to you. Most of the time they do not want to put this island in their driveway.

Hoffman: As it goes forward maybe you can talk about the different uses of the buildings because if you have a smaller professional office building and won't need a delivery truck to service it typically. You can work with the individual developers in that. I do see a problem with, as pretty as they are, the islands that are being overrun and the inside curb is the particular one.

Conklin: I've asked the question at two different conferences now with regard to access management about our islands that we have in our ordinance. Once again, the negative is it does allow vehicles to access into the parking lots in a faster motion than slowing them down on the street in order for them to make a turning movement. They're recommendation was not to have the islands when I asked that question.

Hoover: Is there a way to formulate this that the whole entry is wider and you still have an island? I hate losing the island.

Conklin: I would say that's a possibility. Most of our major streets in Fayetteville are State highways and the Highway Department has already had to grant us a variance for a 48 foot drive with the island. Charles Venable and I went down to Fort Smith and actually got that approval just in order for the Highway Department to be able to deal with it. That was the other problem, the Highway Department wouldn't permit our driveway. The rationale was that if we limit the number of driveways they would consider allowing that to occur. If we go any wider, I'll have to go back down to Fort Smith and convince the District Engineer to allow an even increased island. What they assume is

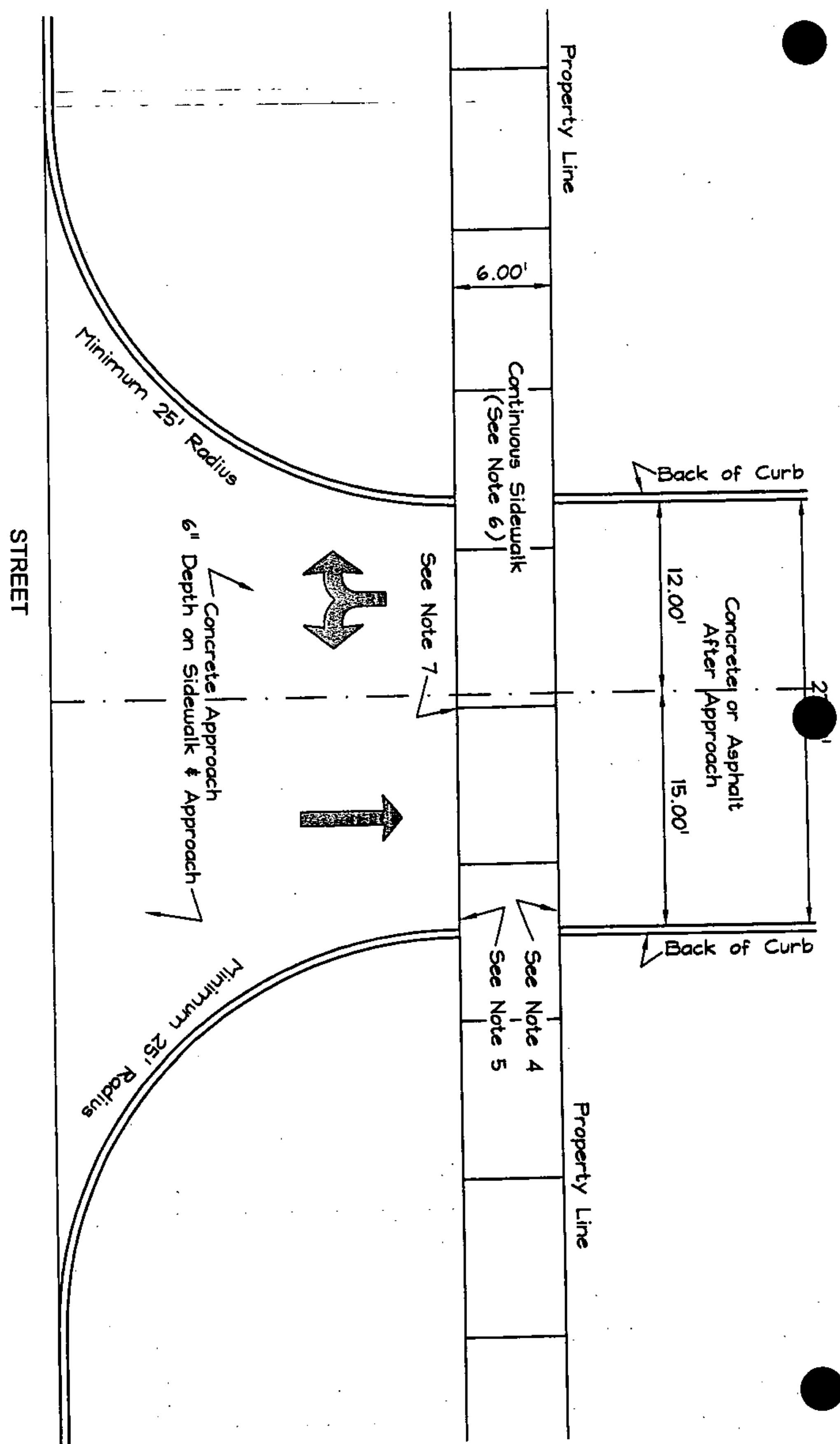
Planning Commission
April 9, 2001
Page 105

your driveway width is from curb to curb including the island. They assume that's a 48 foot curb cut.

Estes: We have a motion to approve AD 01-1.00 by Commission Hoffman and seconded by Commissioner Shackelford. Any other discussion or comment? Sheri, would you call the roll?

ROLL CALL:

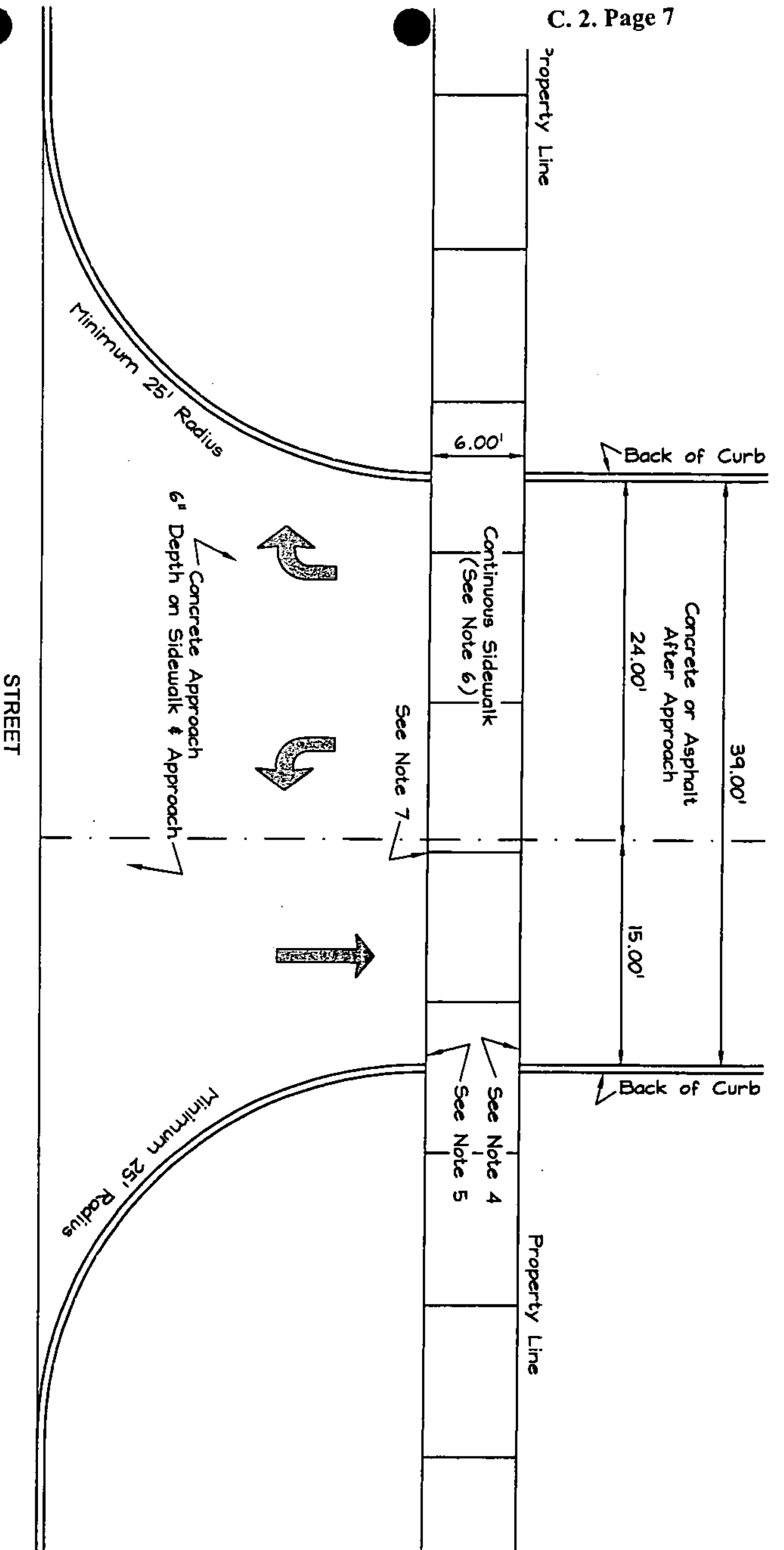
Upon roll AD 01-1.00 is approved on a vote of 7-2-0 with Commissioners Hoover and Marr voting "no".



NOTES

- NOTE 1: Please have all plans approved by the Sidewalk & Trails Coordinator at 575-8291 prior to installation.
- NOTE 2: A permit is required by the AHTD prior to construction on all state highways.
- NOTE 3: All sidewalks and curb cuts made for driveway approaches require an inspection prior to the concrete pour.
- NOTE 4: Sidewalks shall be continuous through driveways with a cold joint or expansion joint at the edge of the sidewalk opposite the street.
- NOTE 5: The sidewalk edge adjacent to the street shall have at least a one (1) inch deep groove joint mark (can be a cold joint) to clearly define the sidewalk through the driveway and approach.
- NOTE 6: The sidewalk elevation shall be two percent above the top of the curb, sloping two percent towards the curb (one fourth inch in each foot). This elevation shall be continuous through the drive and approach.
- NOTE 7: 1 1/2 inch deep control joints, spacing 10 feet or less.





NOTES

NOTE 1: Please have all plans approved by the Sidewalk & Trails Coordinator at 575-8291 prior to installation.

NOTE 2: A permit is required by the AHTD prior to construction on all state highways.

NOTE 3: All sidewalks and curb cuts made for driveway approaches require an inspection prior to the concrete pour.

NOTE 4: Sidewalks shall be continuous through driveways with a cold joint or expansion joint at the edge of the sidewalk opposite the street.

NOTE 5: The sidewalk edge adjacent to the street shall have at least a one (1) inch deep groove joint mark (can be a cold joint) to clearly define the sidewalk through the driveway and approach.

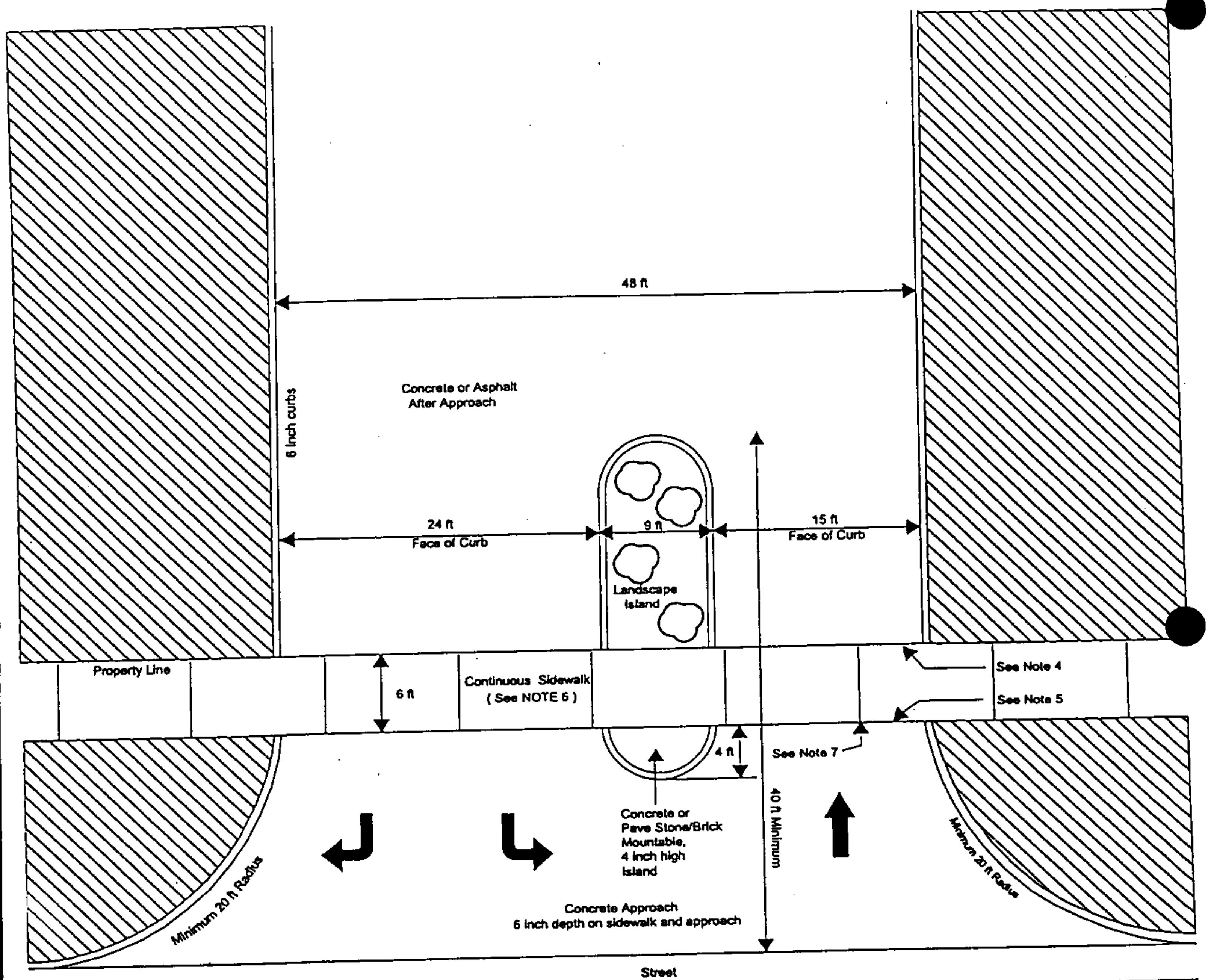
NOTE 6: The sidewalk elevation shall be two percent above the top of the curb, sloping two percent towards the curb (one fourth inch in each foot). This elevation shall be continuous through the drive and approach.

NOTE 7: 1 1/2 inch deep control joints, spacing 10 feet or less.



City of Fayetteville

Commercial Driveway Design



NOTE 1: Please have all plans approved by the Sidewalk and Trails Coordinator, at 575-8291, prior to installation.

NOTE 2: A permit is required by the AHTD prior to construction on all state highways.

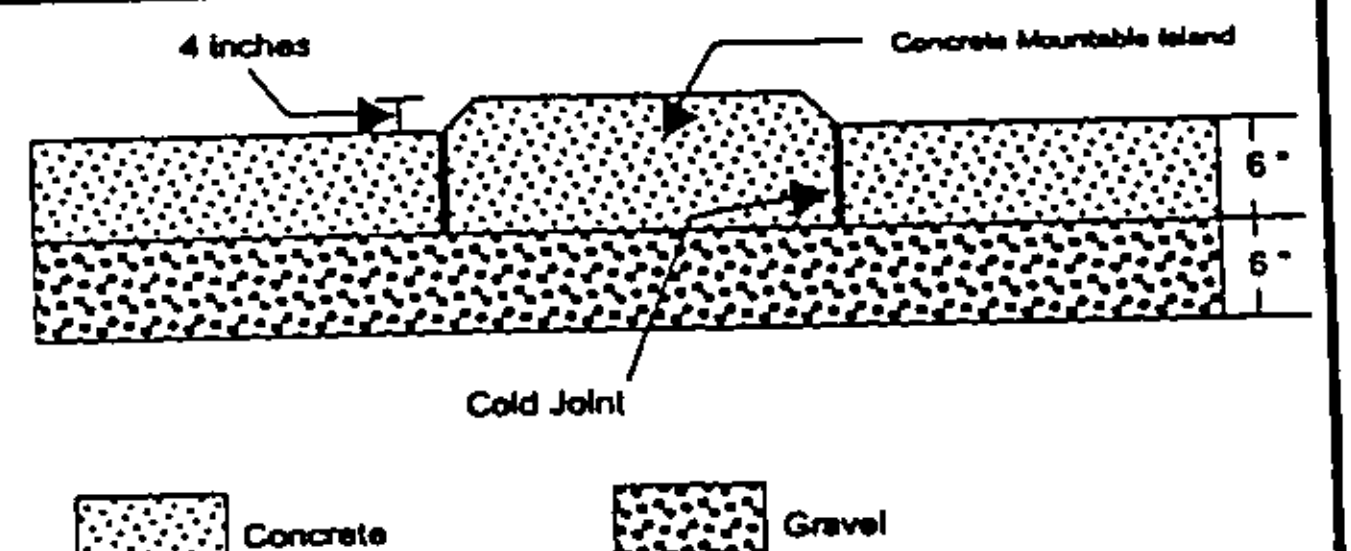
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NOTE 7: 1 1/2 inch deep control joints, spacing 10 feet or less.



4 inch Concrete Mountable Island Crosssection



STAFF REVIEW FORM

REI

Roll-Off Truck
C. 3. Page 1

MAY 26 2001

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICEXX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEWFor the Fayetteville City Council meeting of June 5, 2001

FROM:

W.A.Oestreich

Fleet Operations

Administrative Services

Name

Division

Department

ACTION REQUIRED:

APPROVAL OF AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF A USED DIESEL POWERED ROLL-OFF TRUCK TO BE UTILIZED BY THE FAYETTEVILLE SOLID WASTE DIVISION; ESTABLISHING A REVIEW AND RECOMMENDATION PROCEDURE FOR THE PURCHASE OF THE LISTED EQUIPMENT AND AUTHORIZING THE MAYOR TO APPROVE PURCHASE OF THE LISTED EQUIPMENT.

COST TO CITY:

\$ 94,700.00

Cost of this Request

\$ 783,211.00

Category/Project Budget

Sanitation Veh & Eq Repl/Exp

Category/Project Name

9700-1920-5802.00

Account Number

\$ -0-

Funds Used To Date

Vehicles & Equipment

Program Name

98067

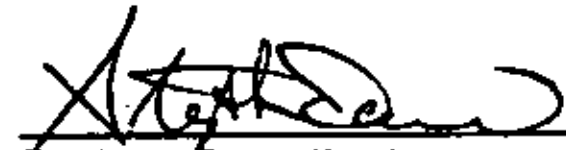
Project Number

\$ 783,211.00

Remaining Balance

Shop

Fund

BUDGET REVIEW: XX Budgeted Item Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:



Accounting Manager

5/23/01
Date

ADA Coordinator

Date



City Attorney

5/23/01
Date

Internal Auditor

5/23/01
Date

Purchasing Officer

5/24/01
Date

STAFF RECOMMENDATION

Approval of Bid Waiver Ordinance



Division Head

5-23-01
Date

Cross Reference

Department Director

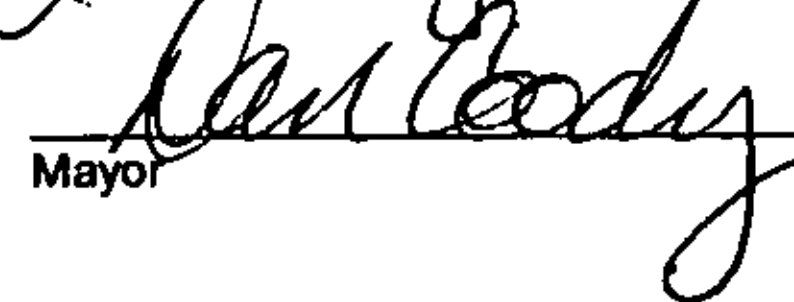
Date

New Item: **Yes No**

Administrative Services Director

5/24/01
Date

Prev Ord/Res #:



Mayor

5/25/01
Date

Orig Contract Date:

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF USED DIESEL POWERED ROLL OFF EQUIPMENT TO BE UTILIZED BY THE SOLID WASTE DIVISION; ESTABLISHING A REVIEW AND RECOMMENDATION PROCEDURE FOR THE PURCHASE OF THE LISTED EQUIPMENT AND AUTHORIZING THE MAYOR TO APPROVE PURCHASE OF THE LISTED EQUIPMENT.

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

Section 1. The City Council hereby waives the requirements of formal competitive bidding for the purchase of one (1) Used Diesel Powered Truck with mounted Roll-off equipment which will primarily be utilized by the Solid Waste Division. Said formal bidding requirements would prevent purchase of such units as dealers do not find it practical or feasible to hold units of this type for the time necessary to comply with those requirements.

Section 2. The City Council hereby establishes the following procedure for review and recommendation for the equipment listed in Section 1. above:

A. Representatives of the Fleet Operations Division and the Fayetteville Solid Waste Division shall evaluate, compare and finalize a recommendation to the Equipment Committee.

B. The Equipment Committee shall review the recommendation received and shall forward the recommendation along with their comments to the Mayor for consideration.

Section 3. The Mayor is hereby authorized to approve the purchase of one (1) Used Diesel Powered Truck with mounted Roll-off equipment for a total cost not to exceed \$94,700.00.

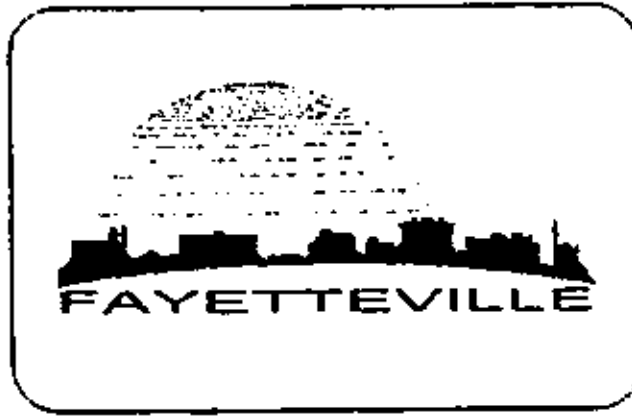
PASSED AND APPROVED this _____ day of _____, 2001

APPROVED

By: _____
Dan Coody, Mayor

ATTEST

By: _____
Heather Woodruff, City Clerk



CITY OF FAYETTEVILLE

FLEET OPERATIONS

INTER-OFFICE MEMORANDUM

TO: Mayor/City Council

THRU: John Maguire, Administrative Services Director

FROM: William Oestreich, Fleet Operations Superintendent 

DATE: May 22, 2001

SUBJECT: **Bid Waiver for Used Diesel Roll-Off Equipment**

Attached is a proposed Ordinance providing for a Bid Waiver to purchase one (1) Used Diesel Powered Roll-Off Truck from RDK Truck Sales & Service, Inc., 3214 Adamo Drive, Tampa, Florida 33605 at a cost not to exceed \$94,700.00.

A new unit of this type has a customer cost of \$102,000.00 to \$112,000.00. It is the intent to limit the cost to a maximum of \$94,700.00 for a former leased used unit in good condition with approximately 40,000 miles. This will be a 2000 Model year Mack equipped with a 60,000 lb. Gilbreath Roll-off.

An opportunity to save a substantial amount of money with the purchase of used units has proven to work out well in the past. We have been very fortunate in locating very serviceable units in the market. Therefore every effort will be made to continue this record with other economically priced used units.

Upon approval of a Bid Waiver, a purchase recommendation for this unit will be submitted to Mayor Coody.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

COPY

DEPARTMENTAL CORRESPONDENCE

TO: Gary Dumas, Utility Services Director

FROM: Ronnie Caudle, Solid Waste Operations Supervisor *R. C.*

DATE: May 23, 2001

SUBJECT: Diesel Roll-Off Equipment Requirements

I am requesting an additional roll-off vehicle be added to our operation, as current usage has exceeded the abilities of only one vehicle and operator. A used unit should provide adequate service in addition to saving the city the high initial cost of a new unit.

I have assisted the Fleet Operations Division by providing them with information as to our needs and they have a unit located that would fit our usage needs. A new unit of this type has a customer cost of approximately \$110,000. An opportunity to save a substantial amount of money with the purchase of used units has proven to work out well in the past. We have been very fortunate in locating very serviceable units in the market. Therefore, every effort will be made to continue this record with other economically priced used units.

DEPARTMENTAL CORRESPONDENCE

To: William Oestreich, Fleet Operations Superintendent

From: Gary Dumas, Utilities Service Director 

Date: May 23, 2001

Subject: Diesel Roll-Off Equipment Requirements

I concur with the attached statement of need and recommendation to pursue the purchase of a pre-owned vehicle.

AGENDA REQUEST FORM

Council Meeting of June 1, 2001

Mayor's Approval _____

FROM Don Bunn
Name

Public Works Admin
Division

Public Works
Department

ACTION REQUIRED Approval or denial of a request to provide sewer service outside of the City Limits.

COST TO CITY

\$ -0-
Cost of this Request

\$ _____
Category/Project Budget

Category/Project Name

Account Number

Funds Used to Date

Program Name

Project Number

\$ _____
Funds Remaining

Fund Category

BUDGET/CONTRACT REVIEW

_____ Budgeted Item _____ Budget Adj. Attached

Budget Coordinator

Date

Admin Services Director

Date

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Officer

Date

STAFF RECOMMENDATION No recommendation


Ass't Public Works Director

17 MAY '01
Date

Cross Reference

Department Director

Date

New Item: Yes No

Admin Services Director

Date

Prev Ord/Res # _____

Mayor

Date

Orig. Contract # _____

Orig. Contract Date _____

Orig. Contract Number _____

City of Fayetteville

DEPARTMENTAL CORRESPONDENCE

May 16, 2001

To: Fayetteville City Council

From: Donald Bunn, Asst. PW Director 
Thru: Mayor Dan Coody

Subject: Request for Sewer Service Outside City Limits
Don and Donna Hendricks
2090 Sunshine Road

Attached is a letter from Don and Donna Hendricks requesting sewer service for their house and a house occupied by their grandson. The Hendricks property is located south of Sunshine Road and north of and adjacent to Bridgeport Subdivision, Phases 4, 5, and 6. The Bridgeport property is inside the City Limits, therefore, the Hendricks property is adjacent to the City Limits.

I have attached two plats showing the Hendricks property and their location with respect to the City Limits and the City's sewer mains. You will note that the larger scale plat clearly shows two existing sewer line crossing the property. The east-west sewer line crossing their property along the north side has been in place for over 30 years. The sewer line shown cross their property going south has just recently been installed by the developers of the Bridgeport Subdivision.

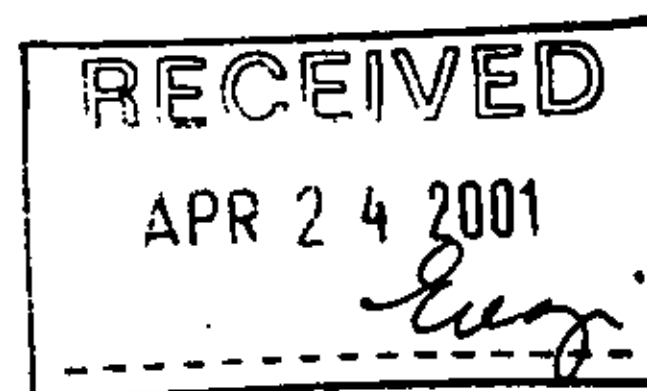
Some clarification items mentioned in the Hendricks letter is necessary. The contact mentioned in the letter is between the Mr. and Mrs. Hendricks and the developers of the Bridgeport Subdivision, the City is not a party to that contract. The contract requirements to provide water hookups, sewer taps, and a fire hydrant were commitments made by the developer to Mr. and Mrs. Hendricks in exchange for granting the City the necessary easements to serve the Subdivision. They were not commitments made by the City.

The two "sewer taps" issued by the Inspections Department in April were actually plumbing permits. The sewer taps are in place, having been put in by the developer at the time the sewer line was installed. The Inspection Department was aware at the time the plumbing permits were issued that they were for houses outside the City Limits, however, it was their understanding that City Council permission would be obtained before the taps would be utilized.

This request is specifically to allow the utilization of two sewer taps without having to annex into the City. The subject property is adjacent to the city limits and therefore could annex by petition.

It has been the policy of the City to not grant sewer taps outside of the City Limits, especially in cases where the property in question can be annexed. The purpose of the policy is to encourage annexation to the City whenever possible.

Don & Donna Hendricks
2090 Sunshine Road CR 877
Fayetteville AR 72704



Fayetteville City Council
City Administration Building
Fayetteville AR 72701

April 23, 2001

Dear Council Members:

We are applying to you for permission to tie on to the city sewer line running through our property at 2090-2096 Sunshine Road. Several months ago, we signed permission to Bridgeport Subdivision to cross out property with the necessary sewer lines for their Bridgeport project to proceed. This contract was submitted to the Planning Commission per their instructions and approved by that group.

The terms of the contract stipulated that two (2) water hookups, two (2) sewer taps and one (1) fire hydrant were items in the contract and also gave the city easement rights. Of the two (2) sewer taps, one is 30 feet from our house and the other is approximately 60 feet from our grandson's house.

We would like to point out that there is already a flow sewer line through to the pump station and a pressure sewer line sending these contents back to the disposal plant. There are also six (6) manholes on our property. It would be ludicrous to put in a septic tank and have the runoff eventually enter Hamestring Creek.

Now we are experiencing difficulty from the city in using these agreed upon taps. We were issued a sewer tap on April 5, 2001 by Jan. I made it very clear that we were NOT in the city and she sent me to Washington County 911 for an address verification. I obtained that verification and paid the \$40.00 and received my permit. The next day, Jan called my grandson's wife with a threat of "coming out to smoke your homes" and if we are hooked to the sewer the City would disconnect the sewer line and take out our water meters.

Our grandson's wife had also been issued a water tap permit on April 17, 2001. Now we are told that although there is a permit for the water tap, the City hasn't approved Phase 5 of Bridgeport and we cannot have water from the Bridgeport Addition. Needless to say, this is a very frustrating experience.

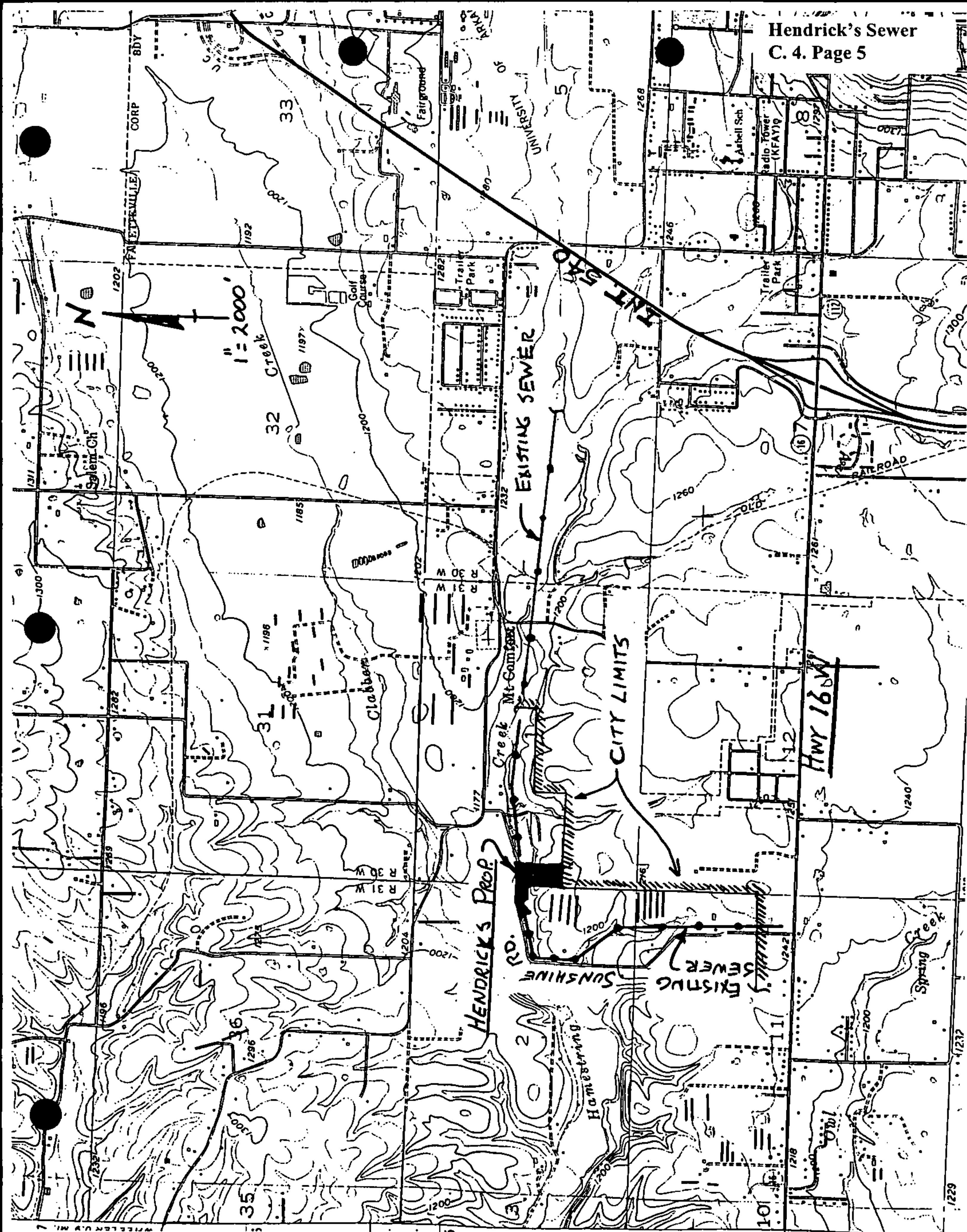
One suggestion has been that we apply for "coming into the city". While we realize that this is a possible and probably plausible route, Donna and I are nearly 70 years old and for many years planned to retire on our little country acreage, hopefully avoiding the property taxes that reached such outrageous proportions on our town home.

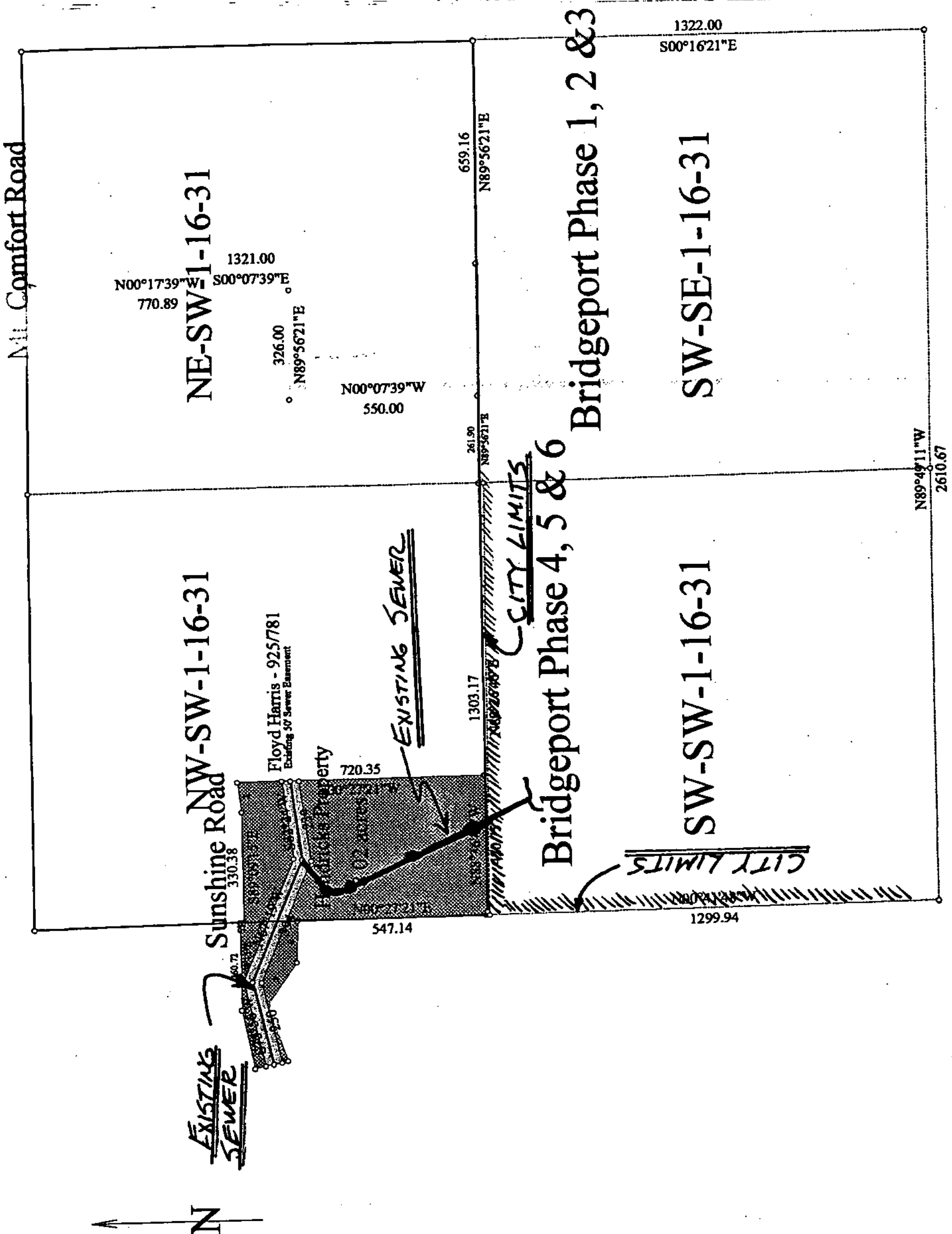
We feel that by allowing this sewer project, we have helped to provide the city of Fayetteville with a good deal of revenue from the additional homes this sewer project will afford. Your own city workers have pointed out that there are numerous homes outside the city limits with City sewer taps.

We will certainly appreciate your approval of our application.

Sincerely,


Don & Donna Hendricks





Disk: 2001-Misc

Title: Hendricks Property: 1-16-31		Date: 05-16-2001
Scale: 1 inch = 400 feet	File: Hendriv_PP360	

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF

MAYOR'S APPROVAL

FROM:

Kit Williams

Name

City Attorney
DivisionLegal
Department

ACTION REQUIRED:

A Resolution to approve an agreement with the Fayetteville Boys and Girls Club, Inc. to provide public recreation for the citizens of Fayetteville and an Ordinance to waive competitive bidding for the payment to the Fayetteville Boys and Girls Club, Inc. through the end of 2001 for the provision of public recreation.

COST TO CITY:

\$108,708.81 (already budgeted)

Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used to Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ☐ Budgeted Item ☐ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION:

CROSS REFERENCE

Division Head

Date

New Item: Yes No

Department Director

Date

Previous Ordinance/Resolution No.: _____

Administrative Services Director

Date

Mayor

Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE CITY COUNCIL JUNE 5, 2001

A meeting of the Fayetteville City Council will be held on June 5, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES:** Approval of the minutes.
2. **POLICE PHYSICAL FITNESS POLICY:** A resolution adopting a revision to the Police Department's Physical Fitness Policy.
3. **COPS FEDERAL GRANT:** A resolution accepting the \$225,000 COPS Universal Hiring Program Federal Grant and approval of a budget adjustment in the amount of \$37,617.00 from Use of Fund Balance.
4. **INTERLOCAL AGREEMENT:** A resolution approving an interlocal agreement between the City of Fayetteville and the City of Johnson for the installation and ownership of a traffic signal at Wilkerson and Joyce.
5. **SIDEWALKS AND TRAILS COMMITTEE:** A resolution establishing an advisory committee to be known as the Sidewalks and Trails Advisory Committee, setting forth the selection process for membership and the responsibilities of the Sidewalks and Trails Committee.
6. **WOMEN'S SHELTER:** A resolution to approve a lease agreement with the Project for Victims's of Family Violence, Inc. to lease city land for the construction of a new Battered Women's Shelter.
7. **COX COMMUNICATION:** A resolution approving an amendment to the present franchise agreement with Cox Communication to release them from their obligation to carry a Little Rock, Arkansas, network affiliate broadcast station.
8. **PARKING DECK:** A resolution approving Amendment No. 2 in the amount of \$12,000 to the contract with Garver Engineers for additional geotechnical study regarding the proposed parking deck for the downtown area.

B. OLD BUSINESS

1. **TREE PROTECTION AND PRESERVATION:** An ordinance amending the Tree Protection and Preservation Ordinance to allow for a waiver, reduction or alteration in the requirements of the Tree Preservation Ordinance. The ordinance was left on the second reading as amended at the May 15, 2000 meeting.
2. **HMR TAX:** An ordinance amending § 35.20 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax. The ordinance was left on the first reading as amended at the May 15, 2001 meeting.
3. **PARKS HMR TAX:** An ordinance amending § 35.31 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax. The ordinance was left on the first reading as amended at the May 15, 2001 meeting.
4. **SPECIAL ELECTION:** An ordinance calling and setting a date for a special election for the adoption or rejection of ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel, and Restaurant Tax and the Parks Hotel, Motel, and Restaurant Tax. The ordinance was tabled at the May 15, 2001 meeting.

B. NEW BUSINESS

1. **IMPACT FEES:** A resolution approving a contract with Duncan and Associates to conduct Phase 2 of the Development Impact Fee Study for water, wastewater treatment and collection, roads, and parks.
2. **AD 01-1.00:** An ordinance approving an amendment to Chapter 171 "Streets and Sidewalks", Section 171.13 "Width of Driveway Approachs" and Chapter 172 "Parking and Loading", Section 172.01 "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways and provide for a minium curb radius.
3. **ROLL-OFF TRUCK:** An ordinance approving a bid waiver for the purchase of a used diesel powered roll-off truck to be utilized by the Fayetteville Solid Waste Division.
4. **HENDRICKS SEWER SERVICE:** Consideration of a request to provide sewer service outside of the City Limits.

5. **BOYS AND GIRLS CLUB:** An ordinance approving an agreement with the Fayetteville Boys and Girls Club to provide public recreation for the citizens of Fayetteville and approval of a bid waiver for the payment to the Boys and Girls Club, Inc. through the end of 2001 for the provision of public recreation.

INFORMATIONAL ITEMS:

1. **OMI PRESENTATION:** Presentation of a rebate check for wastewater treatment plant services.
2. **BUDGET BRIEFING**

THE CITY OF FAYETTEVILLE, ARKANSAS

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CITY COUNCIL
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Remove From Agenda

~~6. **WOMEN'S SHELTER:** A resolution to approve a lease agreement with the Project for Victims's of Family Violence, Inc. to lease city land for the construction of a new Battered Women's Shelter.~~

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⑥ GAGE HOUSE / CHILDREN HOUSE.

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Remove from agenda

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INFORMATIONAL ITEMS:

1. **OMI PRESENTATION:** Presentation of a rebate check for wastewater treatment plant services. *\$62,000*
2. **BUDGET BRIEFING**

2

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE CITY COUNCIL JUNE 5, 2001

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INFORMATIONAL ITEMS:

1. **OMI PRESENTATION:** Presentation of a rebate check for wastewater treatment plant services.
2. **BUDGET BRIEFING**

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of June 5, 2001

FROM:

Richard Watson, COP
Name

Police
Division

Police
Department

ACTION REQUIRED: Adopt revision of the Police Department Physical Fitness Policy.

COST TO CITY:

\$1,000.00 (shirts)
Cost of this Request

\$ 415,719.00
Category/Project Budget

Services and charges
Category/Project Name

1010-2940-5302.00
Account Number

\$ 145,000.00
Funds Used To Date

Patrol
Program Name

Project Number

\$ 270,715.00
Remaining Balance

General
Fund

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached


Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

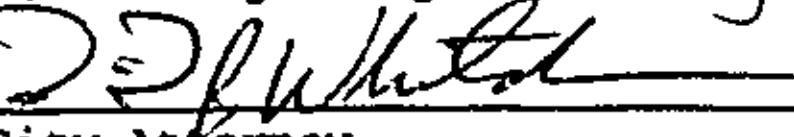
GRANTING AGENCY:


Accounting Manager

5/18/01
Date


Internal Auditor

5/18/01
Date


City Attorney

5/18/01
Date

ADA Coordinator

Date


Purchasing Officer

Date

STAFF RECOMMENDATION:

Adopt by resolution the Police Department Revised Physical Fitness Policy

Division Head


Department Director

Date

5/14/01
Date

Cross Reference

New Item: Yes No


Administrative Services Director

5/18/01
Date

Prev Ord/Res #: _____


Mayor

5/18/01
Date

Orig Contract Date: _____

Orig Contract Number: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

To: Mayor Coody and Members of the City Council

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

Subject: *Proposed Revision of the Physical Fitness Policy*

Date: May 10, 2001

Attached for your review is a copy of proposed changes to the existing physical fitness policy for the police department. The portions to be deleted have a ~~line through the wording~~. Policy changes are **bolded**.

The department achieved 100% compliance with the existing policy; however, each test was met with resistance and seemed to cause dissention within the department. The problems have been caused by the negative connotations (discipline) within the present policy. A committee was formed and was comprised of employees representing each entity within the department. Research of departments with fitness policies led the committee to make the suggestions contained within the attached proposed policy.

I believe that in order for the department to continue to improve, especially in the area of physical fitness, these changes are necessary. I further believe we will continue to achieve the same level of compliance set forth in the proposed policy, only now officers will be rewarded for their efforts. Per a conversation with Steve Davis it was determined that if every officer received a physical in the same year there could be a maximum cost of \$20,000.00.

Thank you for your consideration of this matter. If you have any questions, please contact me at extension 500 or call Lieutenant Helder at extension 502.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Effective Date May 17, 2000		Number 33.1.1
Subject PHYSICAL FITNESS FOR LAW ENFORCEMENT OFFICERS		
Reference		Special Instructions
Distribution All Personnel	Reevaluation Date 1 Year	No. Pages -8-

I. PURPOSE

The purpose of this policy is to establish standards and programs to ensure the physical readiness of officers to perform the frequent and critical physically demanding essential functions of their jobs.

II. DISCUSSION

Physical fitness for law enforcement officers is job-related and fitness tests have undergone court scrutiny and have been accepted as job related.

Another concern is employee health. With the initiation of this program an effort will be made to improve employee physical fitness, employee performance and safety and to reduce the threat of illness caused by lack of physical fitness.

The goal of the Department is to improve employee performance and safety, and to reduce the possibility of premature death, heart attack, stroke, respiratory disease or other illness related to lack of physical activity.

III. POLICY

A. All entry level and sworn uniformed personnel shall comply with the fitness standards set forth within this policy.

1. Entry level personnel are those applying for a police officer position with the City of Fayetteville.

2. Sworn uniformed personnel are those sworn employees at or below the rank of Sergeant. ~~Lieutenants will remain at Phase I which requires mandatory participation and voluntary compliance.~~

3. Testing will be conducted bi-annually on dates set by the Fitness Coordinators.

4. An annual voluntary Medical / Physical examination will be offered by the police department as budgetary funds become available. The examinations will benefit all sworn personnel by detecting any illnesses or conditions that would otherwise go unnoticed. The results of the examinations will be given to each officer and it will be the responsibility of the officer to disclose any pertinent medical information on the PARQ questionnaire before each fitness test. The

examinations will also benefit the police department by insuring that all sworn personnel are in good health, thus reducing the chance of an injury or major health problem during the fitness test. The Chief of Police will determine the physician.

B. Physical Fitness Testing Procedures For Applicants.

1. The Fayetteville Police department will furnish details of the fitness testing requirements and a physical activity readiness form (PARQ) after an application for employment has been submitted.

2. Prior to a final offer of employment, those applicants still eligible shall be subject to a standard physical fitness test as designated by this policy.

3. Failure to meet any of the established Physical Fitness Standards will result in no offer of employment to the applicant.

C. Physical Fitness Testing For Incumbent Sworn Uniformed Personnel.

1. Incumbent personnel will be assessed to determine their level of fitness. A Fitness Coordinator will review the assessment with the employee in order to determine a starter program, which will assist the employee in achieving department standards.

~~2. Incumbent personnel will be introduced to the program in phases.~~

2. Fitness Testing will be Mandatory for all sworn personnel and rewards are given based on the fitness level of each officer. The following components will be dealt with in each fitness test.

~~(a) Phase I (1st year) Mandatory Participation/ Voluntary Compliance. The~~

~~following components will be dealt with in both Phase I and Phase II:~~

(a) Medical screening

(b) Fitness testing

(c) Fitness education

(d) Individualized exercise prescription.

~~(b) Phase II (After 1st year) Mandatory Participation/ Mandatory Compliance.~~

~~1. Department standards must be met.~~

D. Standards and Participation Compliance

~~1. Phase I.~~

1. Officers suffering from an illness, which would prevent them from participating in a fitness test, must contact the on-duty supervisor to advise of their condition and inability to participate. Upon returning to work the officer must contact a physical fitness coordinator to arrange a make-up test.

2. Officers suffering from an injury will need a doctor's note identifying the injury along with a projected date of recovery. This documentation must be submitted to a physical fitness coordinator. If the injury prevents an officer from participating in the testing, he/she should be placed on light duty in accordance with Policy 16.2.3, "Temporary Light Duty".

3. Officers with an injury, illness or other physical condition with lengthy recovery periods preventing them from participating in fitness testing may be provided light duty assignments, as per Policy 16.2.3, "Temporary Light Duty". At such time a physician determines the officer's condition will not improve to a level enabling them to participate in fitness testing, then a determination will be

made by the Chief of Police as to the employment status of that employee with the Fayetteville Police Department.

4. This reflects a very basic rationale for the program - if an officer has a serious enough medical or physical problem that he/she cannot take the fitness test exercise, then he/she could not be expected to perform the essential physical tasks of the job.

(d) ~~Phase I should consist of the following:~~

- * ~~medical screening~~
- * ~~periodic fitness testing~~
- * ~~fitness education~~
- * ~~individualized exercise prescription~~
- * ~~no compliance to a standard or to exercise is required.~~

2. ~~Phase II.~~

(a) ~~Mandatory participation as defined in Phase I.~~

(b) ~~Formal medical and performance review systems from Phase I are in place.~~

(c) ~~Mandatory compliance of the following Absolute Standards will be adhered to:~~

5. The following are considered minimum standards:

- * 1.5 mile run (min/sec) 16:28
(ERT) 13:17
- * 300 meter run (seconds) 71.0
(ERT) 57.0
- * 1 RM bench press (ratio) .64
(ERT) .84
OR
- * Maximum push ups (#) 25
(ERT) 30

* 1 minute sit ups (#) 29
(ERT) 34

* Vertical jump (inches) 16.0
(ERT) 19.0

OR

* Leg press (ratio) 1.25
(ERT) 1.45

~~(d) The compliance process is defined as follows:~~

1. ~~Those unable to comply will be given an opportunity to retest as soon as possible with no sanction. The retest will consist of the entire fitness testing process.~~

2. ~~A remedial program will be provided for non-compliers.~~

(5) ~~Failure to comply with these Absolute Standards will result in disciplinary measures being taken, up and to termination of employment. (Refer to: 26.1.1, Compliance with Department Directives)~~

1. ~~Those unable to comply during Phase II testing will retest with no sanction. A remedial program will be provided with assistance from one of the Fitness Coordinators. The retest will be given between four and six weeks from the failure date. This will give ample time for the officer to prepare.~~

2. ~~Should an officer fail the retest he/she will receive a Written Reprimand and will be placed on "Light Duty" status until retested within two weeks.~~

3. ~~Failure to pass this retesting will result in the officer being suspended without pay for three days. Upon returning to work the officer will remain on "Light Duty" to be retested within two weeks.~~

4. ~~Failure of this retest will result in the officer being suspended without pay for 30~~

~~work days. A retest will be given at the end of the suspension.~~

~~5. Should an officer fail the retest at the end of the 30 day suspension, his/her employment with the Police Department will be terminated.~~

(a) Should an officer fail the fitness test, he/she will be assigned to a fitness instructor for a period of two weeks and given three hours per week to workout while on duty.

(b) The fitness instructor will provide fitness programs to assist these officers in meeting the department's minimum fitness standards.

(c) The retest for those who do not comply with the department's minimum fitness standards will be given during the next scheduled fitness test.

(d) If an officer fails the retest, he or she will be placed on light duty and given three hours per week to workout while on duty with an assigned fitness coordinator. The officer will remain on light duty until he or she meets the department's minimum fitness standards. The fitness coordinator will be responsible for scheduling the second fitness test and any subsequent fitness tests.

E. Incentive Plans

1. The following incentives are for sworn personnel who comply with the minimum fitness standards. The incentives do not apply for retests.

(a) If an officer scores at least minimum standards, he/she will be awarded a t-shirt and four fitness hours. Officers are allowed one t-shirt per year.

(b) If an officer scores 10% above the minimum standards in all fitness tests, he/she will be awarded a t-shirt and six fitness hours.

(c) If an officer scores 20% above the minimum standards in all the fitness tests, he/she will be awarded a t-shirt and eight fitness hours.

(d) If an officer scores 30% above the minimum standards in all fitness tests, he/she will be awarded a t-shirt and twelve fitness hours.

% above standard	10%	20%	30%
1.5 mile run	14:49	13:10	11:32
300 meter run	64 sec	57 sec	50 sec
push ups test	28	30	33

OR

Bench press (ratio)	.74	.84	.94
Sit up Test	32	35	38
Leg press (ratio)	1.35	1.45	1.55

OR

Vertical Jump	17.5	19	21
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F. Procedures for Fitness Testing

1. The 1.5 mile run measures aerobic power (cardiovascular endurance).

(a) Participants should warm up and stretch thoroughly prior to the test.

(b) The participant runs 1.5 miles as fast as possible.

(c) Upon completion, a mandatory cool down period is enforced. The participants should walk slowly for about 5 minutes immediately after the run to prevent venous pooling (i.e. pooling of the blood in the lower extremities which reduces the return of blood to the heart and may cause cardiac arrhythmias).

2. The 300 meter run measures anaerobic strength.

(a) Participants should warm up and stretch thoroughly prior to the test.

(b) The participant runs 300 meters as fast as possible.

(c) A mandatory cool down is enforced, as with the 1.5 mile run.

3. The one repetition maximum (RM) bench press measures absolute strength, which involves forcing a muscle group to exert a maximum force.

(a) Two experienced spotters must be used, one on each end of the bar.

(b) Starting weight for men is about 2/3 of body weight. Starting weight for women is the bar (45 lbs).

(c) With the subject in the supine position, spotters lower the bar to level of subject's chest. Subject should have a shoulder width grip on bar.

(d) Spotters then release the bar and the subject presses to full extension while exhaling.

(e) Spotters take the bar, place it on the rack and increase the poundage.

(f) Repeat steps 3, 4 and 5 until the 1RM is reached. This should take approximately 5 to 6 trials.

(g) Convert the 1RM free weight bench press score to the estimated 1RM Universal bench press score by using the following formulas:

Males: Estimated 1RM
Universal = $(1.016 \times \text{free weight 1RM}) + 18.41$

Females: Estimated 1RM
Universal = $(.848 \times \text{free weight 1RM}) + 21.37$

4. The Push-up Test measures the muscular endurance of the upper body (anterior deltoid, pectoralis major and triceps).

(a) The hands are placed about shoulder-width apart, with fingers pointing forward. The administrator places one fist on the floor below the subject's chest. If a male is testing a female, a 3-inch sponge may be placed under the sternum to substitute for a fist.

(b) Starting from the up position (elbows extended), the subject must keep their back straight at all times and lower their body to the floor until their chest touches the administrator's fist. The subject then returns to the up position. This is one repetition.

(c) Resting is only allowed in the up position.

(d) The total number of correct push-ups performed is recorded as the score.

5. The Sit-up Test measures the abdominal muscular endurance.

(a) The subject starts by lying on their back, knees bent, heels flat on the floor, with their fingers laced and held behind their head.

- (b) A partner holds their feet down firmly.
- (c) The subject then performs as many correct sit-ups as possible in one minute.
- (d) In the up position, the subject should touch his/her elbows to his/her knees and then return until their shoulder blades touch the floor.
- (e) The score is the total number of correct sit-ups. Any resting should be done in the up position.
- (f) Breathing should be as normal as possible and making sure the subject does not hold their breath.
- (g) Neck remains in the neutral position.

6. The Vertical Jump measures leg power.

- (a) This test is administered with shoes on.
- (b) Stand adjacent to and perpendicular to the wall with dominant hand side closest to the wall.
- (c) With heels flat and slightly apart, reach up, extend arm fully and touch the wall with fingertips.
- (d) Bend knees, crouch down, arms down by side and jump vertically with maximal effort. Touch the wall with fingertips at height of jump. It is also permissible to keep one foot stationary with the other foot behind. The back foot is then brought forward, in line with the stationary foot, then duplicate the original procedure.
- (e) A measurement of the distance between the subject standing reach and the farthest point touched during the vertical jump will be taken. The measurement is taken to the nearest 1/2 inch.

- (f) Perform 3 trials using the best score for the test.

7. Leg Press Test

- (a) Load weight stack with body weight.
- (b) The knee angle is set at 70 degrees. Before measuring the angle, be sure the subject is properly seated in the chair, with the ball of the foot on the crease of the pedal.
- (c) Press the weight once for an easy warm-up and breathe out on exertion.
- (d) Progressively increase the resistance until the weight stack can no longer be lifted. The first two or three trials serve as warm up lifts to prepare for a maximal lift on the fifth or sixth trial.

G. DEFINITIONS

Uniformed sworn personnel

Defined as Lieutenant, ~~Lieutenant~~, Sergeants, Patrol officers, and Detectives.

Fitness coordinators

Trained and certified as a Physical Fitness Specialist to implement a fitness program based on the standard or ordinary care according to American College of Sports Medicine.

Medical History Questioner and Physical Activity Readiness Questionnaire(PAR-Q)

Screening tools used to identify individuals who should not be tested in a field setting without physician clearance.

Informed consent form

Informs the participant about the nature of the testing procedures and includes the potential benefits and risks of the testing.

Body composition

The proportion of fat, muscle, and bone that make up the body

Blood pressure

The force that moves blood through the circulatory system.

High risk factors for Coronary Heart Disease

The factors that would increase the likelihood of a cardiovascular event. These include:

1. Personal history of cardiovascular disease
2. Cigarette smoking
3. Hypertension
 - a. Blood pressure greater than 140/90 mmHg
 - b. Anyone taking antihypertensive medicine
4. Elevated blood cholesterol level
 - a. Total cholesterol greater than 200 mg/dl
 - b. LDL greater than 130 mg/dl
 - c. HDL less than 35 mg/dl
 - d. HDL ratio greater than 5
5. Family History
6. Diabetes Mellitus
7. Sedentary Lifestyle
8. Visceral Obesity
9. Serious medical conditions whereby the risk of exercise outweighs the benefits
10. Age
 - a. Age is only a risk factor when males are older than forty-five and females are older than fifty-five.

LDL Cholesterol

The lipoproteins which bind to arterial walls and create plaque.

HDL Cholesterol

The lipoproteins which assist in the removal of excess cholesterol from the blood.

Total Cholesterol

A sum of the very low density lipoprotein levels, the low density lipoprotein, and the high density lipoprotein.

Absolute standard

The same fitness standards are used to evaluate all personnel.

Absolute strength

The amount of tension a muscle can exhibit in one maximal contraction.

Dynamic Strength or Muscular endurance

The ability to contract the muscle repeatedly over a specific period of time without undue fatigue.

Three-minute step test

The purpose of this test is to measure the heart rate in the recovery period after three minutes of stepping.

One and a half mile run

The purpose of this test is to measure the aerobic power or cardiovascular endurance of the participant. It tests pursuit tasks and use of force that lasts over one to two minutes.

Three hundred meter run

This test measures anaerobic power, which is used during sprints or any short intense use of force.

1 RM (Repetition Maximum) bench press test

This test measures the absolute strength in the upper body. These muscles are used while lifting, carrying, or pushing heavy objects.

One minute sit up test

This test measures abdominal muscle endurance. These muscles are used while lifting, carrying, and dragging.

Maximum Push up Test

This test measures the muscular endurance of the upper body, which is used while lifting, carrying, and pushing.

Sit and Reach Test

This test measures the range of motion in the muscles in the back of the legs (hamstrings), gluteus, and lower back. These muscles are used while lifting, carrying, pushing, dragging, and extracting.

Vertical Jump

This test measures explosive strength in the lower body, which is used while lifting, carrying, pushing, dragging, and extracting.

1 RM (Repetition Maximum Leg Press Test)

The test measures the absolute strength in the lower body.

Fitness Hours

Time off work that is kept separate from compensation time and has no cash value. Fitness hours expire one year from issuance date and can only be taken with the shift supervisor approval.

DRAFT

RESOLUTION NO. _____

A RESOLUTION ADOPTING A REVISED PHYSICAL FITNESS
POLICY FOR THE FAYETTEVILLE POLICE DEPARTMENT.

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

Section 1. That the City Council hereby Adopts a revised physical fitness
policy for the Fayetteville Police Department, attached hereto as Exhibit
"A" and made a part hereof.

PASSED AND APPROVED this _____ day of June, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☒ GRANT REVIEW

For the Fayetteville City Council meeting of June 5, 2001

FROM:

Richard L. Watson
Name

Police
Division

Police
Department

ACTION REQUIRED:

City Council accepts the \$225,000.00 COPS Universal Hiring Program Federal Grant and approves a budget adjustment in the amount of \$37,617.00 from Use of Fund Balance.

COST TO CITY:

\$68,867 (31,250) grant rev \$37,617 net cost	\$4,712,898.00	Patrol Program
Cost of this Request	Category/Project Budget	Category/Project Name
multiple	\$1,764,679.00	Patrol
Account Number	Funds Used To Date	Program Name
	\$2,948,219.00	General
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ☐ Budgeted Item ☒ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Maria Fathin
Accounting Manager

5/18/01
Date

Nancy Smite
Internal Auditor

5/18/01
Date

D. J. Wild
City Attorney

5/18/01
Date ADA Coordinator

Date

P. Vice
Purchasing Officer

5/18/01
Date

STAFF RECOMMENDATION: Accept the \$225,000.00 COPS Universal Hiring Program grant and approve a budget adjustment in the amount of \$37,617.00.

Division Head

Date

Cross Reference

Richard L. Watson
Department Director

5-17-01
Date

New Item: Yes No

John Munn
Administrative Services Director

5/18/01
Date

Prev Ord/Res #:

Dan Cook
Mayor

5/18/01
Date

Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

To: Mayor Dan Coody

From: Richard L. Watson, Chief of Police



Subject: Acceptance of \$225,000 Universal Hiring Grant

Date: May 17, 2001

The Fayetteville Police Department has been approved for a three year, \$450,000 Federal grant; however, we are only requesting half of that amount. The purpose of this grant is to increase our efforts in Community Policing. These funds would allow the department to hire one additional sergeant and two officers to be devoted to Community Policing concepts. The goal of these Community Policing officers will be to reduce crime and disorder by carefully examining the characteristics of problems in neighborhoods and using problem oriented policing strategies to analyze and solve those problems. Specific geographic areas and situations are being researched at this time. Some of the types of problems to be addressed are breaking or entering and burglaries at apartment complexes, lewd behavior in parks and disorderly youth who regularly assemble in parking lots.

The "community" for which these officers will be responsible will be specific well-defined geographical area. Officers will attempt to develop extensive contacts and rapport with citizens and communicate the goals of the program and form a partnership with the business community in the area. Officers will supplement vehicle patrol with foot and bicycle patrols of the area as needed. Officers will become familiar with problem-solving strategies, which utilize citizen input and take full advantage of other City government resources such as code enforcement, inspection and planning. They will also take full advantage of social service agencies for assistance when merited.

After a problem has been resolved, this unit can be moved to another location. Each particular situation will dictate how much time we take to deal with a problem and how many officers in the unit are deployed to it. Success will be measured by effectiveness and results rather than the number of projects initiated.

The grant is three years in duration and requires a minimum 25% match from the City. The grant only covers salaries and pays up to \$25,000 per officer per year for a total of \$75,000 per year for a three year total of \$225,000 in Federal monies. The City must fund all other supporting expenses such as uniforms, training, vehicles and equipment. With Council approval, this program is scheduled to begin in August of 2001. The City's cost for the first year is \$37,617 and a budget adjustment is attached. If you have further questions, please contact me.

Universal Hiring Program

Three year grant in the amount of \$225,000

3 year Universal Hiring Grant
Budget detail for 1 additional
sergeant and 2 officers

	Cost 08/01/2001 12/31/2001	Cost 2002	Cost 2003	Cost 2004	Cost 2005
Salaries	\$35,811	\$90,067	\$94,187	\$98,308	\$102,430
Overtime	6,000	12,000	12,000	12,000	12,000
FICA taxes	606	1,480	1,540	1,599	1,659
Life Insurance	245	419	438	457	476
Health Insurance	4,695	11,982	11,268	11,268	11,268
LTD Insurance	165	414	433	452	471
ADD Insurance	57	135	135	135	135
LOPFI	4,197	11,962	12,445	12,928	13,411
Worker's Comp.	978	2,929	3,048	3,166	3,284
	<u>52,754</u>	<u>131,389</u>	<u>135,494</u>	<u>140,314</u>	<u>145,135</u>
Uniforms					
BDU	333	0	0	0	0
Web gear	546	0	0	0	0
	7,302	0	0	0	0
Uniform allowance		1,500	1,500	1,500	1,500
Insurance - Professional Liability	574	1,093	1,093	1,093	1,093
Training	625	0	0	0	0
Motor Pool	693	1,662	1,712	1,746	1,836
Replacement	1,440	3,457	3,561	3,632	3,816
Vehicle Maint	600	1,440	1,500	1,575	1,575
Minor Equipment	4,000	1,000	1,000	1,000	1,000
Total	<u>\$68,867</u>	<u>\$140,541</u>	<u>\$144,859</u>	<u>\$149,860</u>	<u>\$154,955</u>
Grant allowable	<u>\$31,250</u>	<u>\$75,000</u>	<u>\$75,000</u>	<u>\$43,750</u>	<u>\$0</u>
Local match	10,417	25,000	25,000	\$14,583	\$0
Non-allowable	27,200	40,541	44,859	91,527	154,955
Total Local cost	<u>\$37,617</u>	<u>\$65,541</u>	<u>\$69,859</u>	<u>\$106,110</u>	<u>\$154,955</u>

Cops Federal Grant
A. 3. Page 4

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year 2001	Department: Police Division: Police Program: Patrol	Date Requested 05/17/2001	Adjustment #
---------------------	---	------------------------------	--------------

Project or Item Requested:

Funds for operating expense of the Community Policing program as a result of accepting the Federal Universal Hiring Program grant to add 1 sergeant and 2 officers. These expenses reflect 5 months in the 2001 budget year.

Project or Item Deleted:

None, federal grants require these funds be in addition to the current Police budget.

Justification of this Increase:

With the acceptance of this grant the Police Department will assign this new unit to specific area of the City to solve a current defined problem in the area. This unit will remain at this location until it is determined the problem has been eliminated.

Justification of this Decrease:

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number	Project N
See attached			

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number	Project N
Use of Fund Balance	\$37,617	1010 0001 4999 99	

Approval Signatures

Requested By	Date
Budget Coordinator	Date
<i>Rickon D. Watson</i>	5-17-01
Department Director	Date
Admin. Services Director	Date
Mayor	Date

Budget Office Use Only

Type:	A	B	C	D
Date of Approval				
Posted to General Ledger				
Posted to Project Accounting				
Entered in Category Log				

Blue Copy: Budget & Research / Yellow Copy: Requester

Budget adjustment to accept the COPS Universal Hiring Grant for 6 officers

Account number	Description	Amount
Expense		
1010 2940 5 101 00	Salaries - Uniform	\$35,811.00
1010 2940 5 104 00	Overtime	\$6,000.00
1010 2940 5 105	FICA	606.00
1010 2940 5 107	Life Insurance	245.00
1010 2940 5 108	Health Insurance	4,695.00
1010 2940 5 108 01	LTD insurance	165.00
1010 2940 5 108 02	ADD insurance	57.00
1010 2940 5 109 03	LOPFI	4,197.00
1010 2940 5 111	Worker's Comp	978.00
1010 2940 5 302	Travel & Training	625.00
1010 2940 5 304	Uniforms	8,181.00
1010 2940 5	Insurance Personal Liability	574.00
1010 2940 5 331	Motor Pool	693.00
1010 2940 5	Replacement	1,440.00
1010 2940 5	Vehicle Maintenance	600.00
1010 2940 5 890	Minor Equipment	4,000.00
	Total	<u><u>\$68,867.00</u></u>
Revenue		
1010 0001 4 310 00	Federal Grant	\$31,250.00
1010 0001 4 999 99	Use of Fund Balance	37,617.00
	Total	<u><u>\$68,867.00</u></u>

U.S. Department of Justice
Office of Community Oriented Policing Services



COPS Application

C O P S

www.usdoj.gov/cops/

Universal Hiring Program Application Form

This form is to be completed by jurisdictions wishing to apply for grants to pay for salaries and benefits of new or rehired police officers under the Universal Hiring Program. By signing this form you also acknowledge your understanding that Universal Hiring Program grants provide a maximum Federal contribution of 75 percent of the approved salary and benefits of each officer over three years (unless a waiver is authorized), up to a cap of \$75,000 per officer, with the Federal share decreasing and local share increasing from year to year. All budget calculations must be based on the salary of an entry-level officer in your department. All grant recipients must develop a written plan to retain their COPS-funded officer positions for one local budget cycle after federal funding has ended. This plan must be submitted to the COPS Office with your application. The COPS Office will monitor, for one full local set budget cycle, the grantee's implementation of their retention plan following expiration of the three-year grant.

Applications are due postmarked by May 31, 2000

Please complete the information below. All requested information must be typed.

I. General Information

Applicant Organization's Legal Name: City of Fayetteville, AR Police Department

Applicant Agency EIN Number (assigned by IRS. This number should be nine digits): 71-6018462

(If the Office of Justice Programs has assigned your department an EIN Number, please use that assigned number. Otherwise, your Internal Revenue Service EIN number should be used. For further clarification, please refer to your application instruction manual on page 5.)

Applicant Agency ORI Number (assigned by FBI for UCR reporting): AR072100

(Assigned by FBI for UCR reporting. This should be 7 digits long beginning with the first two letters of your state abbreviation. For further clarification, please refer to your application instruction manual on page 5.)

Federal Congressional District Number: 3rd

Are you contracting for law enforcement services?

☐ Yes

☒ No

If "yes," enter the name and agency information of the contract law enforcement department in the Executive Information section below. (For further clarification in determining if this applies to your agency, please see the Application Instruction Manual on Page 5.)



II. Executive Information

(Must be the highest ranking official in both categories)

Law Enforcement Executive's Name: Richard L. Watson

Title: Chief of Police

Agency Name: Fayetteville Police Department

Address: P.O. Box 1988

City: Fayetteville

State: AR

Zip Code: 72702

Telephone: (501) 587-3500

Fax: (501) 587-3522

Type of Police Agency:

- ☒ Municipal ☐ State ☐ County PD ☐ Sheriff* ☐ Tribal* ☐ Transit*
☐ School* ☐ University/College* (☐ Public or ☐ Private)
☐ Public Housing* ☐ New Start Up* (please specify type of agency): _____
☐ Other* (please specify): _____

*Departments applying from agency types with an asterisk next to them, must complete the additional information questionnaires contained in the Application Kit. This additional information must be submitted with your application.

Government Executive's Name: Fred Hanna

Title: Mayor

Name of Government Entity: City of Fayetteville, AR

Address: 113 West Mountain Street

City: Fayetteville

State: AR

Zip Code: 72701

Telephone: (501) 575-8330

Fax: (501) 575-8257

Type of Government Entity:

- ☐ State ☒ City ☐ Town ☐ County
☐ Village ☐ Borough ☐ Township ☐ Territory
☐ Region ☐ Council ☐ Community ☐ Pueblo
☐ Nation ☐ School District

☐ Other (please specify): _____

Contact Information:

Name of contact person in your department who is familiar with this grant: Judy Cohea

Telephone: (501) 587-3510

FAX: (501) 587-3522

Email: orbitre@AOL.com



III. General Information

Has your jurisdiction received other COPS grants? ☒ Yes ☐ No

If "yes," under which program(s)? (Choose all that apply.)

- ☐ COPS Phase I ☐ COPS AHEAD ☐ COPS FAST ☒ COPS MORE
☐ Universal Hiring Program ☐ Anti-Gang Initiative/Youth Firearms Violence Initiative
☐ Troops to COPS ☐ Community Policing to Combat Domestic Violence ☐ Police Corps
☐ Problem-Solving Partnerships ☐ Regional Community Policing Institutes
☒ COPS in Schools ☐ School Based Partnerships ☐ Tribal Resources Grant Program
☐ Small Communities Grant Program ☐ Technology
☐ Other (please specify): _____

What is the total number of new officer positions for which you are now applying? Do not include officer positions funded under any other COPS grants.

full-time: 6 part-time: _____

Will any of the requested officers be deployed to primary or secondary schools? ☐ Yes ☒ No
 If "Yes," you may want to consider applying for funding under the COPS in Schools Grant Program.

Total amount of Federal funds requested for all full-time and part-time officers: \$ 450,000.00

Total non-Federal matching funds required (local share): \$ 177,846.00

(To answer these questions, complete the budget section for one officer and multiply by the above number of requested officers.)

Population served as of 1990 U.S. Census: 42,099

Current Population if different: 52,976 and square miles covered: 44.54

(Exclude the population and square miles primarily served by other law enforcement agencies within your jurisdiction. For example, sheriffs' departments must exclude populations and areas covered by a city police department for which the sheriffs' department has no primary law enforcement authority.)

Current authorized sworn force strength:

Full time officers: 94 Part time officers: 0

(You must indicate if your department does not have an authorized strength.)

Current budgeted sworn force strength as of March 1, 2000:

Full time officers: 94 Part time officers: 0

(Include the total number of state or locally-funded officer positions budgeted as of this date. Do not include COPS grant-funded positions in this response.)

Actual sworn force strength as of March 1, 2000:

Full time officers: 94 Part time officers: 0

(Include funded vacancies. Do not include COPS funded positions or reserve positions)

Are you requesting a waiver of the local match requirement based upon severe fiscal distress?

☐ Yes ☒ No

If "yes," attach a one to three page, typewritten description of the extraordinary local fiscal hardship upon which you are basing your request for a waiver. (For further clarification on the information that is needed to process a waiver request, please refer to the "Guidelines for Waivers of Local Match" in the Application Instructions Manual on page 9.)

I certify that the information provided on this form is true and accurate to the best of my knowledge. I understand that prior to any grant award, the applicant must comply with all application and program requirements of the Public Safety Partnership and Community Policing Act of 1994 and other requirements of Federal law.

Law Enforcement Executive's Signature:

Richard L. Watson Date: 5-30-00
(signature of person named on the front of this form)

Government Executive's Signature:

Fred Hann Date: 5/26/00
(signature of person named on the front of this form)

Please return 1 original and 2 copies of application materials that are being submitted with this request for funding. This includes the Community Policing Information Worksheet (for first time UHP Applicants), the Budget Information forms, Assurances, Certifications, a written Retention Plan and any additional information that is required. Completed applications should be sent to:

COPS Universal Hiring Program
U. S. Department of Justice
1100 Vermont Avenue, NW
7th floor
Washington, DC 20530
(For overnight delivery, please use 20005 as the zip code.)

Note: Since an original signature is needed to process all funding requests, fax copies will NOT be accepted.

Note: Application pending OMB Approval.

Updated: March 21, 2000
e022k0060

U.S. Department of Justice

Office of Community Oriented Policing Services



Assurances

Several provisions of Federal law and policy apply to all grant programs. We (the Office of Community Oriented Policing Services) need to secure your assurance that you (the applicant) will comply with these provisions. If you would like further information about any of the matters on which we seek your assurance, please contact us.

By your authorized representative's signature, you assure us and certify to us that you will comply with all legal and administrative requirements that govern the applicant for acceptance and use of Federal grant funds. In particular, you assure us that:

1. You have been legally and officially authorized by the appropriate governing body (for example, mayor or city council) to apply for this grant and that the persons signing the application and these assurances on your behalf are authorized to do so and to act on your behalf with respect to any issues that may arise during processing of this application.
2. You will comply with the provisions of Federal law which limit certain political activities of your employees whose principal employment is in connection with an activity financed in whole or in part with this grant. These restrictions are set forth in 5 U.S.C. § 1501, et seq.
3. You will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, if they apply to you.
4. You will establish safeguards, if you have not done so already, to prohibit employees from using their positions for a purpose that is, gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.
5. You will give the Department of Justice or the Comptroller General access to and the right to examine records and documents related to the grant.
6. You will comply with all requirements imposed by the Department of Justice as a condition or administrative requirement of the grant; with the program guidelines; with the requirements of OMB Circulars A-87 (governing cost calculations) and A-128 or A-133 (governing audits); with the applicable provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; with 28 CFR Part 66 (Uniform Administrative Requirements); with the provisions of the current edition of the appropriate COPS grant owner's manual; and with all other applicable laws, orders, regulations or circulars.
7. You will, to the extent practicable and consistent with applicable law, seek, recruit and hire qualified members of racial and ethnic minority groups and qualified women in order to further effective law enforcement by increasing their ranks within the sworn positions in your agency.
8. You will not, on the ground of race, color, religion, national origin, gender, disability or age, unlawfully exclude any person from participation in, deny the benefits of or employment to any person, or subject any person to discrimination in connection with any programs or activities funded in whole or in part with Federal funds. These civil rights requirements are found in the non-discrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. § 3789(d)); Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); Title II, Subtitle A of the Americans with Disabilities Act (ADA) (42 U.S.C. § 12101, et seq.); the Age Discrimination Act of 1975 (42 U.S.C. § 6101, et seq.); and Department of Justice Non-Discrimination Regulations contained in Title 28, Parts 35 and 42 (subparts C, D, E and G) of the Code of Federal Regulations.
 - A. In the event that any court or administrative agency makes a finding of discrimination on grounds of race, color, religion, national origin, gender, disability or age against you after a due process hearing, you agree to forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs, 810 7th Street, NW, Washington, DC 20531.
 - B. If you are applying for a grant of \$500,000 or more and Department regulations (28 CFR 42.301 et seq.) require you to submit an Equal Opportunity Employment Plan, you will do so at the time of this application, if you have not done so in the past. If you are applying for a grant of less than \$500,000 and the regulations require you to maintain a Plan on file in your office, you will do so within 120 days of your grant award.
9. You will insure that the facilities under your ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that you will notify us if you are advised by the EPA indicating that a facility to be used in this grant is under consideration for listing by EPA.
10. If your state has established a review and comment procedure under Executive Order 12372 and has selected this program for review, you have made this application available for review by the state Single Point of Contact.
11. You will devise a plan to retain the increased hiring level with state and local funds after the conclusion of your grant.

I hereby certify compliance with the above assurances that govern the application and use of Federal funds.

Signature: Fred Hanne

Date: 5/26/00

U.S. Department of Justice
Office of Community Oriented Policing Services



Certifications

Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements Coordination with Affected Agencies; Non-Supplanting; and Retention.

Although the Department of Justice has made every effort to simplify the application process, other provisions of Federal law require us to seek your certification regarding certain matters. Applicants should read the regulations cited below and the instructions for certification included in the regulations to understand the requirements and whether they apply to a particular applicant. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying," and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)," and the coordination and non-supplanting requirements of the Public Safety Partnership and Community Policing Act of 1994. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered grant.

I. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 making of any Federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment or modification of any Federal grant or cooperative agreement;
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form 278-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. Debarment, Suspension and Other Responsibility Matters (Direct Recipient)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510 —

- A. The applicant certifies that it and its principals:
 - (i) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of

Federal benefits by a state or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

- (ii) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing public (Federal, state or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (iii) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with commission of any of the offenses enumerated in paragraph (A)(ii) of this certification; and
- (iv) Have not within a three-year period preceding this application had one or more public transactions (Federal, state or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. Drug-Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67, Sections 67.615 and 67.620 —

- A. The applicant certifies that it will, or will continue to, provide a drug-free workplace by:
 - (i) 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;
 - (ii) Establishing an on-going drug-free awareness program to inform employees about —

The dangers of drug abuse in the workplace;

(b) The grantee's policy of maintaining a drug-free workplace;

(c) Any available drug counseling, rehabilitation and employee assistance programs; and

(d) The penalties that may be imposed upon employees for drug-abuse violations occurring in the workplace;

(iii) 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 (i);

(iv) Notifying the employee in the statement required by paragraph (i) that, as a condition of employment under the grant, the employee will —

(a) Abide by the terms of the statement; and

(b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(v) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (iv)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: COPS Office, 1100 Vermont Ave., NW, Washington, DC 20530. Notice shall include the identification number(s) of each affected grant;

(vi) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (iv)(b), with respect to any employee who is so convicted —

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state or local health, law enforcement or other appropriate agency;

(vii) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (i), (ii), (iii), (iv), (v) and (vi).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of performance (street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Section 67.630 of the regulations provides that a grantee that is a state may elect to make one certification in each Federal fiscal year, a copy of which should be included with each application for Department of Justice funding. States and state agencies may elect to use OJPForm 4061/7.

Check ☐ if the state has elected to complete OJPForm 4061/7.

4. Coordination

The Public Safety Partnership and Community Policing Act of 1994 requires applicants to certify that there has been appropriate coordination with all agencies that may be affected by the applicant's grant proposal if approved. Affected agencies may include, among others, the Office of the United States Attorney, state or local prosecutors, or correctional agencies. The applicant certifies that there has been appropriate coordination with all affected agencies.

5. Non-Supplanting

The applicant hereby certifies that Federal funds will not be used to replace or supplant state or local funds, or funds supplied by the Bureau of Indian Affairs, that would, in the absence of Federal aid, be made available to or for law enforcement purposes.

6. Retention

The applicant hereby certifies that it understands that it must abide by its submitted plan to retain the additional officer positions at the conclusion of the grant period.

Grantee Name and Address: City of Fayetteville, AR 113 W. Mountain Street Fayetteville AR 72701

Application No. and/or Project Name: COPS Universal Hiring Program Grantee IRS/ Vendor Number: 716018462

Typed Name and Title of Law Enforcement Representative: Richard L. Watson, Chief of Police

Signature: Richard L. Watson Date: 5-30-00

As the duly authorized representative of the governing body, I hereby certify that the I am binding the governing body to the above certifications, including the plan to retain. Elections of new officials will not relieve the governing body of its obligations under this grant.

Typed Name and Title of Government Representative: Fred Hanna, Mayor

Signature: Fred Hanna Date: 5/26/00



FAYETTEVILLE

Cops Federal Grant
A. 3. Page 13

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

Retention Plan

The City of Fayetteville plans to retain the officer positions funded by the Universal Hiring Program grant after the federal funding expires in three years. We, as a community have made a commitment to community policing and will keep these positions after the grant period ends. At the end of the grant period, funding for the six officer positions will be obtained from general fund revenues through growth in our local option sales tax. These revenues have increased in the past allowing the police department to increase personnel at a rate of not less than three officers per year since 1991.


Fred Hanna, Mayor


Date


Richard L. Watson, Chief of Police


Date

U.S. Department of Justice
Office of Community Oriented Policing Services
Universal Hiring Program Budget Information



Applicant Name: City of Fayetteville, AR

ORI Code (Assigned by FBI): AR072100

State: AR072100

This worksheet will assist you in properly organizing and estimating your costs and providing the necessary details for financial review. Complete Part 1 if you are requesting funds for full-time officers, Part 2 if you are requesting part-time officers, and both parts if you are requesting full- and part-time officers. Everyone must complete a Budget Summary. If you plan to hire more than one part-time officer and they will be working a different number of hours, use average salary and benefit figures.

The budget information you provide will be used to calculate your grant amount. Assistance in completing this information is available from the U.S. Department of Justice Response Center at 1-800-421-6770, or by writing the COPS Office, 1100 Vermont Avenue, NW, Washington, DC 20530.
Pending OMB Approval

Part 1: Complete if you are requesting full-time Officers

1. Cost Per full-time Officer - Year 1

Instructions-Please indicate the Law Enforcement Agency's cost for each of the following categories. Please do not include employee contribution costs.

Current Annual Entry - Level Base Salary	\$ <u>25,294.00</u>	% of base salary	Enter the base annual salary that your department currently pays a new, entry-level officer.
Annual Fringe Benefits:			Cost for Social Security may not exceed 6.2%
*Social Security	\$ <u>0.00</u>	% <u> </u>	Cost for Medicare may not exceed 1.45 %
*Medicare	\$ <u>367.00</u>	% <u>1.45</u>	Costs toward health insurance coverage, please indicate if this is for
Health Insurance	\$ <u>3,756.00</u>	% <u> </u>	Family Coverage ☒ Yes ☐ No
Life Insurance	\$ <u>173.00</u>	% <u> </u>	Costs toward life insurance coverage.
Vacation	\$ <u>0.00</u>	% <u> </u>	Vacation costs, if not included in base salary.
Sick Leave	\$ <u>0.00</u>	% <u> </u>	Sick leave costs, if not included in base salary.
Retirement	\$ <u>2,964.00</u>	% <u>11.72</u>	Contribution to retirement benefits.
*Worker's Comp.	\$ <u>691.00</u>	% <u> </u>	Costs of worker's compensation.
*Unemployment Ins.	\$ <u> </u>	% <u> </u>	Costs of unemployment insurance.
Other Long term dis	\$ <u>116.00</u>	% <u> </u>	Costs of equipment, training, uniforms, vehicles and overtime
Other Accidental death & dismemberment	\$ <u>45.00</u>	% <u> </u>	are not permitted.
Total Fringe Benefits	\$ <u>8,112.00</u>		Sum of department fringe benefit costs for Year 1.
Total Year 1 Salary and Benefits	\$ <u>33,406.00</u>		Year 1 base salary plus Year 1 fringe benefits

2. Cost Per full-time Officer - Year 2

Current Annual Entry-Level Base Salary	\$ 26,554.00	% of base salary	
Annual Fringe Benefits:			
*Social Security	\$ 0.00	%	
*Medicare	\$ 385.00	%	1.45
Health Insurance	\$ 3,756.00	%	
Life Insurance	\$ 182.00	%	
Vacation	\$ 0.00	%	
Sick Leave	\$ 0.00	%	
Retirement	\$ 3,112.00	%	11.72
*Worker's Comp.	\$ 725.00	%	
*Unemployment Ins.	\$ 0.00	%	
Other Long term dis.	\$ 122.00	%	
Other Accidental	\$ 45.00	%	
death & dismemberment			
Total Fringe Benefits	\$ 8,327.00		
Total Year 2 Salary and Benefits	\$ 34,881.00		

Instructions:

Enter the base annual salary that your department currently pays a new, entry-level officer.

Cost for Social Security may not exceed 6.2%
 Cost for Medicare may not exceed 1.45 %
 Costs toward health insurance coverage, please indicate if this is for Family Coverage ☒ Yes ☐ No
 Costs toward life insurance coverage.
 Vacation costs, if not included in base salary.
 Sick leave costs, if not included in base salary.
 Contribution to retirement benefits.
 Costs of worker's compensation.
 Costs of unemployment insurance.
 Costs of equipment, training, uniforms, vehicles and overtime are not permitted.

Sum of department fringe benefit costs for Year 2.
 Year 2 base salary plus Year 2 fringe benefits

3. Cost Per full-time Officer - Year 3

Current Annual Entry-Level Base Salary	\$ 27,813.00	% of base	
Annual Fringe Benefits:			
*Social Security	\$ 0.00	%	
*Medicare	\$ 403.00	%	1.45
Health Insurance	\$ 3,756.00	%	
Life Insurance	\$ 190.00	%	
Vacation	\$ 0.00	%	
Sick Leave	\$ 0.00	%	
Retirement	\$ 3,260.00	%	11.72
*Worker's Comp.	\$ 759.00	%	
*Unemployment Ins.	\$ 0.00	%	
Other Long term dis.	\$ 128.00	%	
Other Accidental	\$ 45.00	%	
death & dismemberment			
Total Fringe Benefits	\$ 8,541.00		
Total Year 3 Salary and Benefits	\$ 36,354.00		

Instructions:

Enter the base annual salary that your salary department currently pays a new, entry-level officer.

Cost for Social Security may not exceed 6.2%
 Cost for Medicare may not exceed 1.45 %
 Costs toward health insurance coverage, please indicate if this is for Family Coverage ☒ Yes ☐ No
 Costs toward life insurance coverage.
 Vacation costs, if not included in base salary.
 Sick leave costs, if not included in base salary.
 Contribution to retirement benefits.
 Costs of worker's compensation.
 Costs of unemployment insurance.
 Costs of equipment, training, uniforms, vehicles and overtime are not permitted.

Sum of department fringe benefit costs for Year 3.
 Year 3 base salary plus Year 3 fringe benefits

ORI Code (Assigned by FBI):

Depa: it Name:

Part 2: Complete If You Are Requesting part-time Officers

Note: There is a funding cap for part-time officers in proportion to the number of hours worked (e.g., 20 hours/40 hour week = .5 full-time equivalent officer). For a detailed explanation on how to compute the part-time cap, please see page ___ of the Application Instruction Manual.

1. Part-Time Hours: What is the average number of hours per week that your part-time COPS officer will work? _____
 How many hours per week is considered full-time employment? _____
 What is the hourly rate for the part-time COPS officer? _____
 Multiply the hourly rate by the average number of hours per year and enter this amount below.

2. Cost Per Part-Time Officer - Year 1

Instructions-Please indicate the Law Enforcement Agency's cost for each of the following categories. Please do not include employee contribution costs.

Enter the base annual salary that your department currently pays a new, entry-level officer.

Current Annual Entry-Level Base Salary \$ _____ % of base salary

Annual Fringe Benefits:

*Social Security	\$ _____	% _____	Cost for Social Security may not exceed 6.2%
*Medicare	\$ _____	% _____	Cost for Medicare may not exceed 1.45 %
Health Insurance	\$ _____	% _____	Costs toward health insurance coverage, please indicate if this is for Family Coverage () Yes () No
Life Insurance	\$ _____	% _____	Costs toward life insurance coverage.
Vacation	\$ _____	% _____	Vacation costs, if not included in base salary.
Sick Leave	\$ _____	% _____	Sick leave costs, if not included in base salary.
Retirement	\$ _____	% _____	Contribution to retirement benefits.
*Worker's Comp.	\$ _____	% _____	Costs of worker's compensation.
*Unemployment Ins.	\$ _____	% _____	Costs of unemployment insurance.
Other _____	\$ _____	% _____	Costs of equipment, training, uniforms, vehicles and overtime are not permitted.
Other _____	\$ _____	% _____	

Total Fringe Benefits \$ _____
Total Year 1 Salary and Benefits \$ _____

Sum of department fringe benefit costs for Year 1.
 Year 1 base salary plus Year 1 fringe benefits

3. Cost Per Part-Time Officer - Year 2

Instructions

Enter the base annual salary that your department currently pays a new, entry-level officer.

Cost for Social Security may not exceed 6.2%
Cost for Medicare may not exceed 1.45 %
Costs toward health insurance coverage, please indicate if this is for Family Coverage () Yes () No
Costs toward life insurance coverage.
Vacation costs, if not included in base salary.
Sick leave costs, if not included in base salary.
Contribution to retirement benefits.
Costs of worker's compensation.
Costs of unemployment insurance.
Costs of equipment, training, uniforms, vehicles and overtime are not permitted.

Sum of department fringe benefit costs for Year 2.
Year 2 base salary plus Year 2 fringe benefits

4. Cost Per Part-Time Officer - Year 3

Instructions

Enter the base annual salary that your department currently pays a new, entry-level officer.

Cost for Social Security may not exceed 6.2%
Cost for Medicare may not exceed 1.45 %
Costs toward health insurance coverage, please indicate if this is for Family Coverage () Yes () No
Costs toward life insurance coverage.
Vacation costs, if not included in base salary.
Sick leave costs, if not included in base salary.
Contribution to retirement benefits.
Costs of worker's compensation.
Costs of unemployment insurance.
Costs of equipment, training, uniforms, vehicles and overtime are not permitted.

Sum of department fringe benefit costs for Year 3.
Year 3 base salary plus Year 3 fringe benefits

Part 3: Universal Hiring Program - Budget Summary

After completing Part 1 and/or Part 2 of this form, answer the following questions. If necessary, attach an explanation of how you computed salaries and benefits for the worksheet. Be sure to answer EVERY question. Missing or erroneous information can greatly slow the grant-making process.

1. If your department's second- and third-year costs for salaries and/or benefits are greater than the first year, check the reason(s) why in the space below:

☐ Cost of living adjustment (COLA) ☒ Step raises ☐ Changes in benefit costs ☐ Other (attach an explanation)

2. Please enter the name of your Federal Cognizant Agency in the space provided:

Department of Transportation

(State and municipal agencies that receive Federal grants are required to have audits of those grants forwarded to a single Federal agency (Justice, HUD, HHS, Transportation, etc.). The single Federal agency where such audits are sent is known as your "Cognizant Federal Agency." For assistance in determining which Federal agency receives your audits, call 1-800-421-6770.)

3. Starting date of your fiscal year: 01/01/2000 Ending date: 12/31/2000

Month/Day/Year

Month/Day/Year

4. IF NO FUNDS WERE BUDGETED FOR WORKER'S COMPENSATION, FICA, SOCIAL SECURITY, MEDICARE OR UNEMPLOYMENT YOU MUST PROVIDE AN EXPLANATION IN THE SPACE PROVIDED: (For example if agency is exempt from FICA because it is covered by a local/state retirement program then the agency should explain that). Social Security has been replaced with a state retirement plan. The City covers all Unemployment Insurance coverage through the Personnel Division budget.

5. Under COPS grants, the Federal share of total salaries and benefits must decrease each year leading to full local funding by the fourth year of the officer's employment. At the same time, your local share must increase each year. The percentage of total officers' salaries and benefits paid with Federal funds must be less in Year 2 than in Year 1 and less in Year 3 than in Year 2. Looking at it from the local funding perspective, the percentage of total officers' salaries and benefits paid with local funds must be more in Year 2 than in Year 1 and more in Year 3 than in Year 2. Fill out the following 3-year projection, showing how the Federal share and your share will change year by year for one officer. If applying for a waiver, you must still complete the Federal and local amount sections as if you were not receiving a waiver.

Federal Share Requirement for One Full-time Officer's Salary and Benefits

	YEAR 1	YEAR 2	YEAR 3	TOTAL - 3 YEARS
Federal Amount	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$75,000
(Percentage must decrease each year) May not exceed 75% of total costs or \$75,000, whichever is smaller	% 74.9	% 71.7	% 68.8	
Local Amount	\$ 8,406.00	\$ 9,881.00	\$ 11,354.00	\$29,641.00
(Percentage must increase each year)	% 25.1	% 28.3	% 31.2	
Total	\$ 33,406.00	\$ 34,881.00	\$ 36,354.00	\$104,641.00
(Federal Amount plus Local Amount)	Year 1 total	Year 2 total	Year 3 total	Total 3-year costs

Federal Share Requirement for One Part-time Officer's Salary and Benefits

	YEAR 1	YEAR 2	YEAR 3	TOTAL - 3 YEARS
Federal Amount (Percentage must decrease each year)	\$ %	\$ %	\$ %	\$
Local Amount (Percentage must increase each year)	\$ %	\$ %	\$ %	\$
Total (Federal Amount plus Local Amount)	\$	\$	\$	\$
	Year 1 total	Year 2 total	Year 3 total	Total 3-year costs

Contact Information for Budget Questions

The undersigned attests to the accuracy of the Budget Information submitted on the preceding pages.

Name (typed) of Authorized Official: Steve Davis Title: Budget Coordinator

Phone: (501) 587-3296 Fax: (501) 587-3257

Signature: *Steve Davis* Date: May 26, 2000

Community Policing Information Worksheet

This worksheet will provide the COPS Office with information about the public safety concerns of your community and your department's community policing goals and activities. For assistance in completing this worksheet, contact the U.S. Department of Justice Response Center at 1-800-421-6770.

Your Community Policing Information Worksheet is complete by signing and dating below. Both the law enforcement executive and the government executive must sign.

Applicant Organization's Legal Name: City of Fayetteville Police Department

ORI #: AR0720100

We, the undersigned, attest to the accuracy of the Community Policing Information Worksheet submitted below.

Law Enforcement Executive: Title: Chief of Police

Name (typed): Richard L. Watson

Department: Fayetteville Police Department

Date: May 30, 2000

Signature: Richard L. Watson

Government Executive: Title: Mayor

Name (typed): Fred Hanna

Government Entity: City of Fayetteville

Date: May 30, 2000

Signature: Fred Hanna

Person Completing Form: Title: Financial Analyst

Name (typed): Judy Cohea

Date: May 30, 2000

Signature: Judy Cohea

PART 1

1. From the list that follows, please rank in descending order the following public safety concerns of your community. For example, if "weapons" are the greatest concern in your community, place the letter "f" in rank number 1. If "wildlife crimes" are the lowest concern in your community, place an "n" in rank number 16.

Rank:

1. a.
2. h.
3. b.
4. f.
5. i.
6. o.
7. j.
8. d.
9. g.
10. c.
11. e.
12. k.
13. l.
14. n.
15. m.
16. p.

Major Public Safety Issues:

- a. Violent crimes against persons
- b. Property crimes
- c. Motor vehicle thefts
- d. Vandalism
- e. Gangs
- f. Weapons
- g. Prostitution
- h. Drug crimes
- i. Domestic violence
- j. Alcohol-related crime, including DWI
- k. Disorderly conduct
- l. Traffic violations
- m. Agricultural crimes
- n. Wildlife crimes
- o. Hate crimes
- p. Other (specify): _____

Community policing is a policing philosophy that promotes and supports organizational strategies to address the causes and reduce the fear of crime and social disorder through problem-solving tactics and community-police partnerships.

Your answers to the questions below will provide the COPS Office with basic information about your community policing efforts, and how you will use your COPS grant funds to further the implementation of community policing.

You are not expected to engage in all of the activities listed. They are examples of the community policing efforts of other law enforcement agencies. If you have a written document that serves as your community policing plan, please attach it to this form.

Overall Approach

2. Please indicate which of the following are part of your overall approach to community policing, and which you plan to implement under your COPS grant:

a) Crime Prevention Efforts

<i>Have Implemented</i>	<i>Plan to Implement</i>	
☒	☐	a. Youth programs (e.g., in-school, after school, weekend police/youth programs)
☒	☐	b. Anti-drug programs
☒	☐	c. Regular meetings with community groups to discuss crime
☒	☐	d. Anti-violence programs
☒	☐	e. Other (specify): <u>Residential/commerical security surveillance</u>

b) Problem-Solving Activities

<i>Have Implemented</i>	<i>Plan to Implement</i>	
☒	☐	a. Identifying crime problems with members of the community and other government agencies (e.g., prosecutor and courts, social services, probation office)
☒	☐	b. Identifying crime problems by looking at crime trends (e.g., keeping records of crimes and the types of requests for help)
☒	☐	c. Identifying top problems by analyzing repeat calls for service
☒	☐	d. Preventing crime by focusing on conditions that lead to crime (e.g., abandoned buildings and cars, referrals to other civil agencies)
☒	☐	e. Building on information systems to enhance crime analysis capabilities
☒	☐	f. Other (specify) <u>Gang Intelligence file</u>

c) Community Partnerships

*Have
Implemented*

*Plan to
Implement*



a. Regularly surveying community members to assist in identifying and prioritizing crime problems



b. Locating office or stations within neighborhoods



c. Providing community policing training to citizens



d. Meeting with community members to learn more about the nature of specific problems



e. Involving community members in selecting responses to problems and determining measures of success



f. Other (specify): _____

d) Infrastructure and Management Changes

*Have
Implemented*

*Plan to
Implement*



a. Have written strategic plan for community policing



b. Department currently designates special unit (or a special officer) for community policing activities



c. Department promotes an agencywide approach to community policing

If your department has implemented or plans to implement an agencywide approach to community policing, please indicate the approximate percentage of time that patrol officers in your department dedicate (or will dedicate) to community policing:



Less than 10 percent



10-20 percent



More than 20 percent



d. Personnel are given responsibility for geographical areas

<i>Have Implemented</i>	<i>Plan to Implement</i>	
☒	☐	e. Call management systems are in place to free officer time for community policing (e.g., telephone reporting, alternative responses)
☐	☒	f. Personnel evaluations reward participation in collaborative problem-solving efforts
☐	☒	g. Decision-making authority has been decentralized
☐	☒	h. Management positions have been eliminated
☒	☐	i. Community policing concepts have been integrated into agency's mission statement
☒	☐	j. Community policing concepts have been integrated into departmental policies and procedures
☐	☒	k. Detectives have been integrated into community policing efforts
☒	☐	l. Department staff routinely collaborate with other municipal agencies to address problems

Communities

3. Please indicate which of the following groups you have consulted to address crime and disorder problems in your community:

<i>Consulted</i>	<i>Plan to Consult</i>	
☒	☐	a. Other government agencies (e.g. probation office, sanitation)
☒	☐	b. Civic groups
☒	☐	c. Neighborhood associations
☒	☐	d. Tenants' associations
☐	☒	e. Organizations of your employees, including collective bargaining groups
☒	☐	f. Business groups

Consulted

Plan to Consult



g. Religious groups



h. Schools



i. Other (specify): Fayetteville Chamber of Commerce

Citizens

4. Please indicate which of the following partnership activities are currently performed by citizens in your jurisdiction or are planned under your COPS grant:

*Currently
Perform*

*Planned Under
Grant*



a. Neighborhood Watch



b. Citizen volunteer programs



c. Citizen advisory groups to your law enforcement agency



d. Citizen patrols within your community



e. Participate in anti-drug or anti-violence programs



f. Other activities (specify): _____

Officers

5. Please indicate which of the following activities are currently performed by patrol officers or are planned under your COPS grant:

a) Crime Prevention Activities

*Currently
Perform*

*Planned Under
Grant*



a. Foot patrol, bike patrol or mounted patrol



b. Making door-to-door contact with citizens and businesses

*Currently
Perform*

*Planned Under
Grant*



c. Meeting with community leaders and groups to learn more about crime problems and jointly develop crime prevention plans



d. Using business cards, cellular phones or beepers to maintain contact with, and be contacted by, citizens regarding public safety concerns



e. Working in schools or other public agencies to teach crime prevention



f. Other (specify): County-wide toll free Crimestoppers telephone line

b) Problem-Solving Activities

*Currently
Perform*

*Planned Under
Grant*



a. Working with citizens to identify and address community crime problems



b. Using computer systems to collect and analyze information, particularly repeat calls for service



c. Coordinating specific problem-solving projects to address problems on their beats



d. Working with other public agencies to solve disorder problems (e.g. trash collection, public works agencies to solve lighting problems)



e. Mapping crime problems



f. Other (specify): _____

c) Training

1) Departmentwide community policing training



Have implemented



Plan to implement



Do not plan to implement

2) Where do recruits/officers receive basic training? (Check all that apply.)

- ☒ State academy
- ☐ Regional academy
- ☐ Local academy
- ☐ Community college
- ☐ Private contract/outside consultant
- ☐ No recruit training
- ☒ Other (specify): 16 week in-house Field Officer Training program

3) How many hours of recruit training dedicated solely to community policing concepts do recruits receive?

32 hours

4) Have community policing concepts been integrated into general training received by agency personnel (e.g., training on law, departmental regulations, conducting investigations)?

- ☒ Yes ☐ Plan to implement ☐ Do not plan to implement

5) Where do in-service officers receive community policing training?

- ☐ State academy
- ☐ Regional academy
- ☐ Local academy
- ☐ Community college
- ☒ Private contract/outside consultant
- ☐ No in-service training
- ☐ Other (specify): _____

6) How many hours of in-service training dedicated solely to community policing concepts do officers receive?

24 hours

7) We would like to know what kind of training your department routinely provides that is pertinent to community policing. Please indicate the community policing training that your department provided in the past fiscal year. Please indicate by checking the appropriate box. The abbreviation "CP" stands for community policing.

	Recruit Academy Only	In-Service Only	Both Recruit & In-Service	Civilian	No Training Provided	Other:
a. Concepts and general principles of CP	☒	☐	☐	☐	☐	☐
b. Problem-solving methods (SARA, etc.)	☐	☐	☒	☐	☐	☐
c. Causes and consequences of specific problems (e.g., drugs, spousal abuse)	☐	☐	☒	☐	☐	☐
d. CP approaches to specific problems	☐	☐	☐	☐	☒	☐
e. Organizing/working with public groups	☐	☒	☐	☐	☐	☐
f. Cultural diversity	☒	☐	☐	☐	☐	☐
g. Victim assistance	☐	☐	☐	☒	☐	☐
h. Working with juveniles	☐	☐	☐	☒	☐	☐
i. Using code/civil enforcement	☐	☒	☐	☐	☐	☐
j. Alternative dispute resolution	☐	☐	☐	☒	☐	☐
k. Supervising problem solvers	☐	☒	☐	☐	☐	☐
l. Other (specify):_____	☐	☐	☐	☐	☐	☐
m. Other:_____	☐	☐	☐	☐	☐	☐
n. Other:_____	☐	☐	☐	☐	☐	☐

Retention

6. Indicate how you plan to retain the new officers following the end of Federal grant support.

Have you planned to assume a progressively larger share of an officer's salary and fringe benefits each year over the next three years, leading to full-time retention of the officer at the conclusion of the grant?

☒ Yes ☐ No

Do you have assurance from your local government that these officers will be retained?

☒ Yes ☐ No

If "yes," attach any written letters or other assurances to this application. If "no," explain how you intend to retain the officers.

Complete Part 2 only if:

- You are applying for a COPS hiring grant *and* your jurisdiction's population is 50,000 or more; or
- You are applying for an innovative community policing grant with funding of \$1 million or more; or
- You do not have an established law enforcement agency and wish to establish one; or
- You represent a special law enforcement agency, such as transit, housing, university, school or natural resource police.

PART 2

1. List any fiscal, budgetary or other limitations on your department's ability to address the public safety needs listed in Question 1, Part 1, of the Community Policing Information Worksheet, without Federal assistance:

Fiscal limitations: N/A

Budgetary limitations: Hiring and training personell to address
the funding specialized patrol units to address Vice and property crimes.

Other limitations: _____

2. How does your community policing plan fit with other statewide and local crime prevention and control plans, including statewide Byrne Grant strategies?

*Coordinated
Fully*

*Partially
Coordinated*



a. Statewide Byrne Grant strategy



b. Other statewide strategies



c. Local crime prevention plans



d. Local crime control plans

3. Briefly list other governmental or community initiatives that complement or will be coordinated with your plans under this grant:

Neighborhood Watch Program
City Parks and Recreation Department
Bicycle Patrol
Motorcycle Patrol

4. Indicate current and anticipated ongoing community support for your community policing efforts, such as financial support or in-kind contributions:

<i>Current</i>	<i>Anticipated</i>	
☒	☐	a. Programmatic support from the community
☒	☐	b. Financial support from the community
☒	☐	c. Other community support: <u>Downtown/Dickson Street</u> Improvement District and NWA Mall Merchants Association
☒	☐	d. Sought or obtained private financial support

5. Indicate the impact that receiving the requested resources or increasing the number of officers will have on other criminal justice agencies in your jurisdiction:

<i>No Impact</i>	<i>Minimal Impact</i>	<i>Major Impact</i>	
☐	☐	☒	a. Prosecutor's office
☐	☐	☒	b. Public defender's office
☐	☒	☐	c. Local/state correctional agencies
☐	☐	☒	d. Other public criminal justice agencies
☐	☒	☐	e. Other private criminal justice agencies

If you anticipate any major impact on any of these agencies, please briefly describe that impact below.

Please return to:

U.S. Department of Justice
Office of Community Oriented Policing Services (COPS)
1100 Vermont Avenue, NW
Washington, DC 20530

Universal Hiring Program Questionnaire

Name of Agency: City of Fayetteville ORI: AR0720100

Name & Title of Contact: Judy Cohea, Financial Analyst

Phone: (501) 587-3510 Fax: (501) 587-3522

Officers requested: Full 6 Part 0 Current authorized sworn force 98

Current Population 52,976 Current actual sworn force: 91

Officer Request, Retention, Local Match, and Training Questions

Officer Request:

The number of officers requested through UHP appears relatively high in comparison to: (a) ratio of officers to general population; or (b) ratio of additional officers to sworn authorized force. How do you explain the rationale for needing this number of additional officers?

- (a) The population of 52,976 was taken late in 1997. This reflected a 25.84% increase over the 1990 census. The Northwest Arkansas Regional Planning Commission has projected Fayetteville's current population as 56,429 or a 6.5% increase from 1997. Northwest Arkansas is one of the fastest growing areas in the United States and the rate of growth is not projected to slow down. We also have a University population of approximately 15,000 students and those students who spend 9 months or more per year in our town are sometimes not included in the census count.
- (b) Our in-house studies of manpower allocation needs have consistently shown our force to be severely understaffed. In reality, we need over 20 additional officers to be at recommended strength. We didn't request such a large number in the grant application because we knew other agencies need to share in the limited grant resources.

Retention:

What steps will your agency take to absorb the additional officers requested through UHP into your local budget at the expiration of the three year grant period?

The City of Fayetteville plans to retain these six officers by using funding from the increase in sales tax revenues in the General Fund. The sales tax has averaged a 6.7% increase over the past four years or \$740,000. The City also has the ability to levy up to a

5 mill property tax for general operations. Each mill would produce \$ 550,000 per year. A vote of the City Council would be needed to levy a millage increase.

Local Match:

Does your agency have the resources available to pay the local match requirements of the grant as well as pay for training, uniform, vehicle, and all other costs attributed to an entry level officer? If so, what are the resources?

Yes. Upon acceptance of this grant an adjustment from fund balance will be requested to cover the above costs.

Training:

If your agency receives additional officers through UHP how long would it take to have these officers enrolled in your training academy?

The training academy holds four sessions per year at the state academy and two sessions per year at the satellite academy. We consistently coordinate our hiring so a recruit attends the academy within 2 - 4 weeks of their hire date.

RESOLUTION NO. _____

DRAFT

A RESOLUTION ACCEPTING A COPS UNIVERSAL HIRING PROGRAM GRANT IN THE AMOUNT OF TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$225,000.00), AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF THIRTY-SEVEN THOUSAND SIX HUNDRED SEVENTEEN DOLLARS (\$37,617.00).

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

Section 1. That the City Council hereby Accepts a COPS Universal Hiring Program Grant in the amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00).

Section 2. That the City Council hereby Approves a budget adjustment in the amount of Thirty-Seven Thousand Six Hundred Seventeen Dollars (\$37,617.00).

PASSED AND APPROVED this _____ day of June, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF June 5, 2001

FROM:

Perry Franklin Traffic Public Works
Name Division Department

ACTION REQUESTED:

Request approval of an Interlocal Agreement between the City of Fayetteville and City of Johnson for the installation and ownership of a traffic signal at Wilkerson & Joyce.

COST TO THE CITY:

\$ <u>-0-</u>	\$ _____	_____
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

[Signature]
Budget Coordinator

_____ Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Narda Futhing 5/8/01
Accounting Manager Date
[Signature] 5/8/01
City Attorney Date
[Signature] 5/8/01
Purchasing Officer Date

Nancy Smith 5/8/01
Internal Auditor Date

ADA Coordinator Date

STAFF RECOMMENDATION:

Recommend approval for the installation, coordination, maintenance, and ownership so that this intersection can be coordinated with other traffic signals on our signal system.

[Signature] 5/8/01
Division Head Date
[Signature] 10/24/01
Department Director Date
[Signature] 5/9/01
Administrative Services Director Date
[Signature] 5/9/01
Mayor Date

DEPARTMENTAL CORRESPONDENCE

TO: Kit Williams, City Attorney

FROM: Perry Franklin, Traffic Division Superintendent 

THRU: Don Bunn, Assistant Public Works Director 

DATE: April 24, 2001

SUBJECT: Interlocal Agreement (Traffic Signal) between the City of Fayetteville and the City of Johnson

During the planning process, the City of Fayetteville required the CMN Business Park developer to make a contribution for the purchase of equipment for five future traffic signal installations. This money is being held in an escrow account. The City agreed to install these signals. The first traffic signal we are going to install is located at the intersection of Joyce Blvd. and Wilkerson. This intersection is located in the city of Johnson at the west end of Joyce Blvd. Since the intersection is not in the city of Fayetteville, before we install the traffic signal we need to execute an Interlocal Agreement between both entities.

I have visited with Mayor Richard Long of Johnson and I believe we are in agreement about what should be included in the document other than the usual legal terminology. The following is a list of what we think should be included:

1. The City of Fayetteville will install the traffic signal at no cost to the city of Johnson.
2. The City of Fayetteville will own, operate, and maintain the traffic signal at no cost to the City of Johnson. This will include all utility cost.
3. The City of Fayetteville will control all timing and coordination of the traffic signal with other traffic signals located in the area which are on our traffic signal system.

4. The City of Fayetteville will hold the City of Johnson harmless during normal operation and at all times the traffic signal is being controlled by the City of Fayetteville.
5. The City of Johnson Police Department will have a key and access to the police panel located on the front door of the traffic signal cabinet. This access shall be for the sole purpose of manually controlling the traffic signal or placing the traffic signal in flash operation while working a traffic accident, during inclement weather or other emergency conditions.
6. The City of Johnson will hold the City of Fayetteville harmless at all times they have control of the traffic signal either manually or by placing the traffic signal in a flashing operation.

These are the main points that we thought should be included. I have attached a copy of the August 30, 1996 Interlocal Agreement between the City of Fayetteville and the City of Johnson for bridge project #19630. If you need more information please give me a call at extension 228. This traffic signal will be the first project we do this summer and anything you can do to help expedite this agreement will be greatly appreciated.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE AND THE CITY OF JOHNSON, ARKANSAS TO GOVERN THE INSTALLATION, OPERATION AND MAINTENANCE OF A TRAFFIC CONTROL SIGNAL TO BE LOCATED AT THE INTERSECTION OF JOYCE BOULEVARD AND WILKERSON STREET IN THE CITY OF JOHNSON, ARKANSAS.

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

Section 1. That the City Council hereby Approves an Interlocal Agreement between the City Of Fayetteville and the City Of Johnson, Arkansas to govern the installation, operation and maintenance of a traffic control signal. A copy of the agreement is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. That the City Council authorizes the Mayor to sign said Interlocal Agreement with the City Of Johnson, Arkansas.

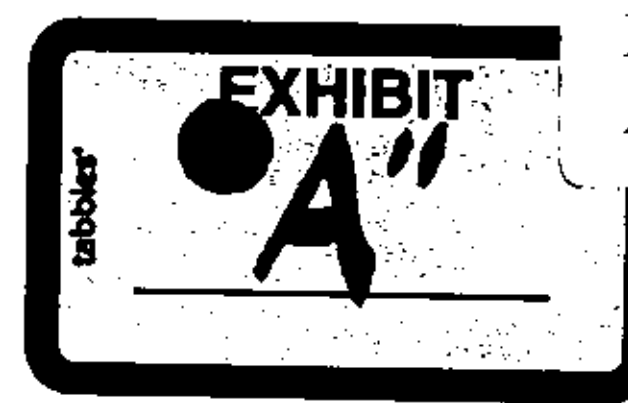
PASSED AND APPROVED this _____ day of May, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk



**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE
AND THE CITY OF JOHNSON, ARKANSAS**

THIS AGREEMENT entered into this _____ day of _____, 20_____,
by and between the **CITY OF FAYETTEVILLE**, and the **CITY OF JOHNSON**,
ARKANSAS;

WHEREAS, the smooth and orderly flow of vehicular traffic is of mutual
interest to the City of Fayetteville and the City of Johnson; and

WHEREAS, in connection with the development of CMN Business Park,
the City of Fayetteville collected certain monies for the express purpose of
installing traffic control signals in and around the area of development; and

WHEREAS, the intersection of Joyce Boulevard and Wilkerson Street
where the signal is to be installed lies within the corporate limits of the City of
Johnson.

NOW, THEREFORE, IN CONSIDERATION of mutual promises of the
parties contained herein and other good and valuable consideration, the parties
agree as follows:

Article I

The City of Fayetteville agrees to install, operate, and maintain the above-
referenced traffic signal at no cost to the City of Johnson. The City of Fayetteville
shall retain ownership of the signal and be responsible for the payment of any
utility charges related to its operation. The City of Fayetteville shall control the
timing and coordination of the traffic signal as a part of its traffic control system,
subject to the exceptional circumstances set forth in Article III below.

Article II

The City of Fayetteville shall hold harmless the City of Johnson during all
times in which the City of Fayetteville controls the traffic signal, provided that
nothing in this Agreement shall be construed to alter, limit or otherwise
compromise that immunity afforded the City of Fayetteville or the City of
Johnson under the Constitution and Statutes of the State of Arkansas.

Article III

The City of Fayetteville agrees to provide to the City of Johnson a key or combination required to access the traffic signal control panel for the sole purpose of allowing the alteration of the signal pattern in response to any emergency or public necessity.

Article IV

The City of Johnson shall hold harmless the City of Fayetteville during all times in which the City of Johnson controls the traffic signal, provided that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Johnson or the City of Fayetteville under the Constitution and Statutes of the State of Arkansas.

Article V

This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this agreement shall be valid unless made in writing and signed by the duly authorized agents of the parties.

IN WITNESS WHEREOF, the City of Fayetteville and the City of Johnson have executed this Agreement on or as of the date first written above.

CITY OF FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

ATTEST:

City Clerk

CITY OF JOHNSON, ARKANSAS

RICHARD LONG, Mayor

ATTEST:

City Clerk

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING AN ADVISORY COMMITTEE, TO BE KNOWN AS THE SIDEWALKS AND TRAILS ADVISORY COMMITTEE, SETTING FORTH THE SELECTION PROCESS FOR MEMBERSHIP AND THE RESPONSIBILITIES OF THE SIDEWALKS AND TRAILS ADVISORY COMMITTEE.

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

Section 1. That the City Council hereby establishes an advisory committee, to be known as the Sidewalks and Trails Advisory Committee, and it shall be as follows:

- I. Purpose. The Sidewalks and Trails Advisory Committee takes public comment, and advises City Council and City Staff of the public's views with regard to funding, development, design, prioritization and implementation of sidewalk and trail acquisition and construction projects. It is also responsible for creating and maintaining a trails plan, and acts as steward of the plan.
- II. Composition. The Sidewalks and Trails Advisory Committee shall be comprised of eleven (11) voting members, and seven (7) non-voting staff/support members, as follows:
 - a. Four (4) voting members of the Committee shall be members of the City Council;
 - b. One (1) voting member shall be a member of the Planning Commission;
 - c. One (1) voting member shall be a member of the Parks and Recreation Advisory Board;
 - d. Five (5) voting members shall be private citizens, who are qualified electors residing in the City of Fayetteville, and appointed by the City Council, at least one (1) of whom shall represent a bicycle advocacy organization;
 - e. Five (5) non-voting members shall represent the City of Fayetteville staff, with one (1) member each from the Sidewalk Division, Parks

and Recreation Division, Fayetteville Police Department, Planning Division, and Information Technology Division;

- f. One (1) non-voting member shall represent the Washington County Planning staff;
- g. One (1) non-voting member shall represent the Northwest Arkansas Regional Planning Commission.

- III. Terms of Office. All private citizen members serving on the Sidewalks and Trails Advisory Committee at the time of passage of this Resolution shall continue to serve until December 31, 2001. Thereafter, private citizen members shall serve two year terms, with no limit to the number of terms they may serve. City Council, Planning Commission, and Parks and Recreation Advisory Board representatives may serve as long as they retain membership on their sponsoring body.
- IV. Officers. At the first regularly scheduled committee meeting of each calendar year, the voting members of the committee shall, by a simple majority, elect from among themselves a Chair and Vice Chair. The representative from the Sidewalk Division shall serve as Secretary/Recorder, or may delegate this duty to another of the non-voting staff representatives.
- V. Meetings. The Sidewalks and Trails Advisory Committee shall meet at least once per month to conduct regular business, at a time and place that is mutually convenient to the membership. The committee may meet more frequently, if the need shall arise.

Section 2. That the City Council hereby sets forth the selection process for the Sidewalks and Trails Advisory Committee members in the following manner.

Appointment of private citizen members to the Sidewalks and Trails Advisory Committee shall be as follows:

The City Council shall appoint private citizen members from those names provided by the Nominating Committee, in the manner set forth in §H(2) of the Rules of Order and Procedure, Fayetteville Mayor/City Council.

Appointment of all other members to the Sidewalks and Trails Advisory Committee shall be as follows:

All other members of the Sidewalks and Trails Advisory Committee shall be appointed by their respective organizations.

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF June 5, 2001

MAYOR'S APPROVAL

FROM:

Kit Williams
Name

City Attorney
Division

Legal
Department

ACTION REQUIRED:

A Resolution to approve a lease agreement with the Project for Victim's of Family Violence, Inc. to lease city land for the construction of a new Battered Women's Shelter.

COST TO CITY:

Cost of this Request

Category/Project Budget

Category/Project Name

Account Number

Funds Used to Date

Program Name

Project Number

Remaining Balance

Fund

BUDGET REVIEW:

☐ Budgeted Item

☐ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION:

CROSS REFERENCE

Division Head

Date

New Item: Yes

No

Department Director

Date

Administrative Services Director

Date

Mayor

Date

Previous Ordinance/Resolution No.: _____

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF June 5, 2001

FROM:

Marvin Hilton Cable Administration Administration
Name Division Department

ACTION REQUESTED:

Passage of an amendment to the City's present franchise agreement to release Cox Communications from their obligation to carry a Little Rock, Arkansas, network affiliate broadcast station.

COST TO THE CITY:

\$ <u>0</u>	\$ <u>0</u>	
Cost of this request	Category/Project Budget	Category/Project Name
	<u>0</u>	
Account Number	Funds used to date	Program Name
	<u>0</u>	
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

☐ Budgeted Item ☐ Budget Adjustment Attached

Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY: _____

Accounting Manager	Date	Internal Auditor	Date
City Attorney	Date	ADA Coordinator	Date
<u>[Signature]</u>	<u>5-24-01</u>		
Purchasing Officer	Date		

STAFF RECOMMENDATION:

<u>Marvin Hilton</u>	<u>5-18-01</u>
Division Head	Date
<u>[Signature]</u>	<u>5/24/01</u>
Department Director	Date
<u>[Signature]</u>	<u>5/24/01</u>
Administrative Services Director	Date
Mayor	Date

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN AMENDMENT TO THE FRANCHISE AGREEMENT WITH WARNER CABLE COMMUNICATIONS, INC. (NOW COX) TO DELETE THE REQUIREMENT TO CARRY "ONE LITTLE ROCK, ARKANSAS, NETWORK AFFILIATE BROADCAST STATION"

WHEREAS, a viewer opinion survey conducted by Cox Communications, Inc. showing a substantial plurality of viewers wished to change cable channel 4 from a Little Rock station to UPN; and

WHEREAS, the Telecommunications Board voted to recommend amending the Franchise Agreement to allow Cox Communications to carry UPN on cable channel 4.

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

Section 1. That the City Council of Fayetteville, Arkansas authorizes the Mayor to sign an Amendment to the current Franchise Agreement to repeal the following language in Section XV, paragraph C (page 34): "one Little Rock, Arkansas, network affiliate broadcast station;".

PASSED and APPROVED this the ____ day of June, 2001.

Approved:

By: _____
DAN COODY, Mayor

Attest:

By: _____
Heather Woodruff, City Clerk

**AMENDMENT TO FRANCHISE AGREEMENT
BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS,
AND COX COMMUNICATIONS, INC.**

To better serve the Fayetteville customers of Cox Communications, Inc., the City of Fayetteville and Cox Communications, Inc. agree to delete the following language from Section XV, paragraph C (page 34): "one Little Rock, Arkansas, network affiliate broadcast station;" from the current Franchise Agreement.

IN WITNESS WHEREOF, this agreement has been executed this _____ day of June, 2001.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
DAN COODY, Mayor

Attest:

By: _____
Heather Woodruff, City Clerk

COX COMMUNICATIONS, INC.

By: _____

Title: _____

Attest:

By: _____

Title: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and Council Members

FROM: Marvin Hilton, Cable Administrator

MA 5-18-01

SUBJECT: Amendment to the Cable Franchise

DATE: May 18, 2001

The Telecommunications Board, at their May 17 meeting, voted 4 - 1 to recommend that the City Council pass an amendment to the present Franchise Agreement to release Cox Communications of their obligation to carry a Little Rock, Arkansas, network affiliate broadcast station.

This amendment will be, in effect, only temporary until a new franchise agreement is finalized and adopted by the City.

Cox Communications conducted a survey which showed that a majority of Fayetteville Citizens prefer to have another station rather than the often "blackout" channel four KARK from Little Rock. In accordance with federal regulations, Channel four on the Fayetteville system is now blacked out except when KARK Little Rock has non-duplicated programming such as the local news from Little Rock.

See the Attached:

Survey Report

Page 34, paragraph C of the present franchise agreement

SURVEY REPORT

The following is a brief report of the survey conducted by Cox communications concerning the blackout of channel 4:

1. There was a 15% response
2. Total of 2,568 responses
3. 40.7% voted for UPN
4. 17.7% voted for AETN2
5. 33.1% voted for something else
6. 8.5% voted to keep the Little Rock station
7. Dennis is recommending that the Telecom Board recommend to the City Council that the requirement for the Little Rock station to be carried, be dropped and Cox allowed to choose a replacement.

C. Grantee does not waive its rights under the Cable Communications Policy Act of 1984 to determine specific programming services to be offered to subscribers on the upgraded system; however, Grantee shall offer as basic services the following broad categories of programming: one of each of the major network affiliates; one Little Rock, Arkansas, network affiliate broadcast station; public broadcast station; independent broadcast station; satellite - children's programming channel; satellite - music/cultural programming channel; satellite - sports programming channel; satellite - national public affairs channel; satellite - news programming channel; and, satellite - home shopping channel; provided, Grantee shall have the right to change the broad categories of programming offered as basic services upon any legal, regulatory or economic occurrence that substantially affects Grantee's ability to continue to provide such programming as basic services.

D. Prior to commencing construction work related to the upgrade of the cable television system, Grantee shall submit to the City for its approval a detailed design and construction plan which identifies phases of construction and customer conversions. During the City's approval process, time requirements related to the cable system upgrade shall be stayed.

AGENDA REQUEST FORM

Council Meeting of June 5, 2001

Mayor's Approval _____

FROM Don Bunn Public Works Admin Public Works
Name Division Department

ACTION REQUIRED Approval of the proposed contract amendment in the amount of \$12,000.00, and a budget adjustment.

COST TO CITY

<u>\$ 12,000.00</u> Cost of this Request	<u>\$ 280,609.00</u> Category/Project Budget	<u>Multi-Level Prk Deck</u> Category/Project Name
<u>4470 9470 5314 02</u> Account Number	<u>270,758.00</u> Funds Used to Date	<u>Other Improvements</u> Program Name
<u>00064-1</u> Project Number	<u>\$ 9,851.00</u> Funds Remaining	<u>Sales Tax, Capital</u> Fund Category

BUDGET/CONTRACT REVIEW

X Budgeted Item X Budget Adj. Attached

[Signature]
Budget Coordinator

Date

Admin Services Director

Date

Maura Fathig
Accounting Manager

Date

ADA Coordinator

Date

[Signature]
City Attorney

Date

[Signature]
Internal Auditor

Date

[Signature]
Purchasing Officer

Date

STAFF RECOMMENDATION

It is the recommendation of the Staff that the Council approve Contract Amendment No. 2 with Garver Engineers for \$12,000. Staff recommends approval of a budget adjustment.

[Signature]
Asst. Public Works Director

21 May, 01
Date

Cross Reference

Department Director

Date

New Item: Yes No

[Signature]
Admin Services Director

Date

Prev Ord/Res # 158 00

[Signature]
Mayor

Date

Orig. Contract # 786

Orig. Contract Date 21 Nov, 01

City of
Fayetteville
CORRESPONDENCE

DEPARTMENTAL

May 14, 2001

To: Fayetteville City Council

From: Don Bunn, Asst. Public Works Director

Thru: Mayor Dan Coody

John Maguire, Administrative Services Director

Subject: Contract Amendment No. 2

Parking Deck Contract

Garver Engineers

Attached for your review and approval is a letter from Garver Engineers which constitutes Contract Amendment No. 2 in connection with their Parking Deck Contract with the City of Fayetteville. The request is to increase the geotechnical portion of their contract be \$12,000.00, from \$7,000.00 to \$19,000.00. The geotechnical firm has done 4 borings so far on the property and have encountered voids on three (3) of them.

Garver feels that additional borings are necessary in order to better define the extent of the voids and to be in a better position to develop costs and design the footing requirements. Also, the original figure for geotechnical investigations was based on the smaller lot across from City Hall, not the larger E.J. Ball lot.

It is the recommendation of the Staff that Contract Amendment No. 2 be approved for \$12,000.00, and that the Council approve a budget adjustment.

COMMENT SHEET

Project: Parking Deck

Engineer/Contractor: Garver Engineers

Notes to Reviewers:

[illegible]

Garver, Inc.
Engineers

3810 Front Street, Suite 10
Fayetteville, AR 72703

501-527-9100
FAX 501-527-9101

www.garverinc.com

GARVER|ENGINEERS

May 16, 2001

Mr. Don Bunn, P.E.
Assistant Public Works Director
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Re: Fayetteville Municipal Parking Deck - Professional Engineering Services Contract Amendment No. 2

Dear Mr. Bunn:

Please consider this our revised proposed Amendment No. 2 to our original contract for the Municipal Parking Deck Project dated November 21, 2000. This amendment will cover a warranted increase in our original \$7,000 lump sum fee for geotechnical investigation services. This proposed increase is warranted for the following reasons.

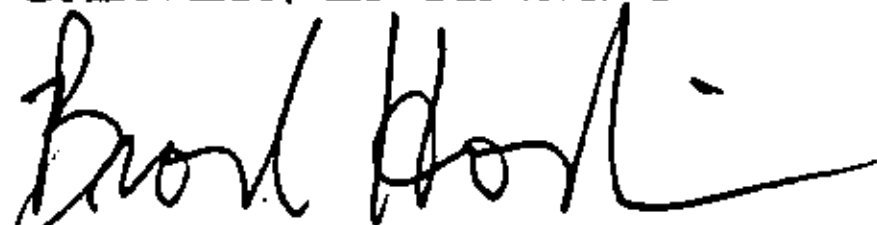
First, since the E.J. Ball lot is approximately one-third larger than the originally proposed lot, we needed to increase the number of test borings from five to eight.

Second, rock discontinuities (voids) of varying thickness were encountered at depths of 33 to 37 feet in three of the four test borings accomplished to date. The presence of these voids, or solution cavities, could limit construction options for current design and future planning of the deck. Our experience with other projects in the general area of the site indicates the rock below the solution cavities is generally sound and strong. We recommend extending all eight of the test borings 20 feet into the unweathered shale, which would result in total boring depths of 60 to 70 feet. Information obtained from the deeper borings should reduce our limitations on construction options.

In summary, your acceptance of this proposed amendment will increase our lump sum fee for geotechnical investigation services from \$7,000 to \$19,000.

We need to proceed with this work as soon as possible to avoid delaying the project. If this proposal is acceptable to you, please sign the three copies and return one copy to me. As always, we appreciate the opportunity to provide professional services to the City of Fayetteville and look forward to successful completion of this project. Please call me with any questions or comments. Thank you.

Respectfully,
GARVER|ENGINEERS



Brock Hoskins, P.E.
Vice President / Project Manager

Approved by: _____

Date: _____

cc: John Maguire

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

**Parking Deck
A. 8. Page 5**

Budget Year 2001	Department: Sales Tax Capital Division: Other Capital Program: Parking Deck	Date Requested May 22, 2001	Adjustment #
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Project or Item Requested: Additional funding is requested for the Parking Deck engineering contract.	Project or Item Deleted: Funding for this adjustment is from the Plainview Avenue project.
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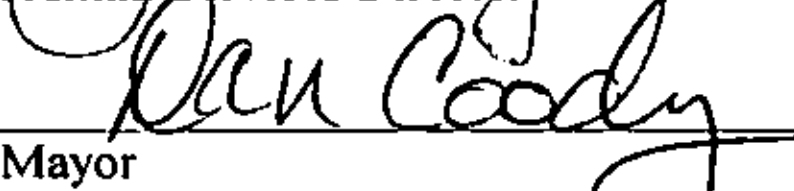
Justification of this Increase: The additional funds are requested to enable the engineer to perform additional geotechnical services on the proposed sites for the parking deck.	Justification of this Decrease: The project is complete and the funds are not required.
---	---

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number	Project Number
Engineering Services	2,149	4470 9470 5314 03	00064 1

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number	Project Number
Street Improvements	2,149	4470 9470 5809 00	98031 1

Approval Signatures  Requested By 23 May '01 Date  Budget Manager 5-22-01 Date  Admin Services Director 5/23/01 Date  Mayor 5/23/01 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 _____
---	--

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT AMENDMENT IN THE AMOUNT OF TWELVE THOUSAND DOLLARS--(\$12,000.00)-- WITH GARVER ENGINEERS IN CONNECTION WITH GEOTECHNICAL INVESTIGATIONS REQUIRED IN THE E.J. BALL LOT AND APPROVING A BUDGET ADJUSTMENT FOR SAME.

WHEREAS, preliminary geotechnical investigations have revealed subsurface voids in three (3) out of four (4) borings; and

WHEREAS, the presence of these voids could limit construction options for current design and future planning for the proposed parking deck; and,

WHEREAS, the E.J. Ball lot is approximately one-third larger than that originally proposed, increasing the required number of test borings from five (5) to eight (8); and,

WHEREAS, information obtained by increasing boring depths by twenty feet (20') should reduce these limitations.

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

Section 1. That the City Council hereby Approves a contract amendment in the amount of Twelve Thousand Dollars (\$12,000.00) with Garver Engineers in connection with geotechnical investigations required in the E.J. Ball lot and approving a budget adjustment for same.

Section 2. That the City Council authorizes the Mayor to sign such an amendment to the contract with Garver Engineers.

PASSED AND APPROVED this _____ day of June, 2001.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of June 5, 2001.

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve a contract with Duncan and Associates to conduct phase 2 of the Development Impact Fee Study for water, wastewater treatment and collection, roads, and parks.

COST TO CITY:

<u>\$To be available by Agenda Session</u>	<u>Category/Project Budget</u>	<u>Development Impact Fee Study</u>
<u>Cost of this Request</u>	<u>Category/Project Name</u>	
<u>4470-9470-5314-00</u>		
<u>Account Number</u>	<u>Funds Used To Date</u>	<u>Program Name</u>
<u>Project Number</u>	<u>Remaining Balance</u>	<u>Fund</u>

BUDGET REVIEW: _____ 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

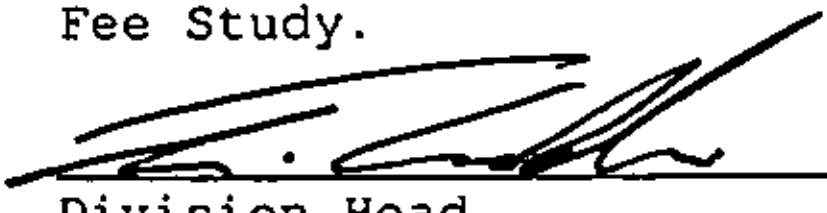
ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommends approval of the contract for phase 2 of the Impact Fee Study.


Division Head

5-18-01
Date

Cross Reference

Department Director

Date

New Item: **Yes**

Administrative Services Director

Date

Prev Ord/Res #: _____

Mayor

Date

Orig Contract Date: _____

Orig Contract Number: _____

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
CITY OF FAYETTEVILLE AND DUNCAN ASSOCIATES**

This Professional Services Agreement is made as of June ____, 2001, by and between the City of Fayetteville, a political subdivision of the State of Arkansas (City) and James Duncan and Associates, Inc., a professional corporation doing business as Duncan Associates located in Austin, Texas (Consultant).

WHEREAS, City desires to engage Consultant to perform certain services relating to the development of impact fee reports, studies and ordinances.

WHEREAS, the scope of services has been divided into two phases, and this contract covers Phase Two, which addresses the preparation of detailed impact fee studies for facilities selected in Phase One.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter provided, City and Consultant agree as follows.

1. **Scope of Agreement.** Consultant's relationship to City shall be that of independent contractor; at all times this relationship shall be governed by and be in strict compliance with the terms of this Professional Services Agreement.
2. **Professional Services.** Consultant shall furnish services to City as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.
3. **Deliverables and Schedule.** Consultant shall begin its services promptly after receipt of an executed copy of this Agreement and will complete the services and deliverable pursuant to the schedule as set forth in Exhibit "B." Times for performance shall be extended for periods of delay resulting from circumstances over which Consultant has no control.
4. **Compensation and Hourly Rates.** For services provided by Consultant as described in Exhibit "A," City shall compensate Consultant based upon the completion of individual tasks and in accordance with the fee schedule outlined in Exhibit "C". Payment of each such invoice shall be due to Consultant within thirty (30) days of receipt by City.
5. **Subcontracting.** Any subcontractor relationships must first be approved by the City.
6. **Conflict of Interest.** Consultant agrees that it has no interest and shall acquire no interest, direct or indirect, that would conflict in any manner with the performance of the services hereunder. Consultant further agrees that, in the performance of this Agreement, no person having any such interest shall be employed.

7. **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon written notice in the event of failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, Consultant will be paid for all services rendered to date of such termination.
8. **Ownership of Documents.** All documents prepared in the performance of this Agreement shall be delivered to City before final payment is made to Consultant.
9. **Amendments.** No amendments or modifications of this Agreement shall be valid unless in writing and signed by each of the parties to the Agreement.
10. **Venue.** The laws of the State of Arkansas shall govern the construction and interpretation of this agreement.
11. **Severability.** Any provision in this Agreement that is prohibited or unenforceable under state or federal law shall be ineffective to the extent of such prohibitions or unenforceability, without invalidating the remaining provisions hereof. Also, the non-enforcement of any provision by either party to this Agreement shall not constitute a waiver of that provision nor shall it effect the enforceability of that provision or the remainder of this Agreement.

IN WITNESS WHEREOF, City and Consultant have caused this instrument to be signed by their respective duly authorized officers, all on the day and year first above written.

ATTEST:

JAMES DUNCAN AND ASSOCIATES, INC.

By: _____
James B. Duncan, President

ATTEST:

CITY OF FAYETTEVILLE

By: _____

Exhibit A
SCOPE OF SERVICES

The project has been divided into two phases. The earlier Phase One: "Policy Directions," reviewed the legal framework, reviewed local data and potential fees, and determined in conjunction with local officials the type of impact fee system that should be developed in the this second phase.

This Phase Two will implement the policy directions provided by the City at the conclusion of Phase One. It entails the development of impact fees for water, wastewater and roads, as well as an update and revision of the City's existing park land dedication and fee-in-lieu requirements.

PHASE TWO: IMPLEMENTATION

Task 2.1: Draft Impact Fee Study

Facilities to be included in the impact fee study include water transmission, distribution and storage facilities; wastewater collection and treatment plant facilities; arterial and collector roads, including City participation in the cost of state road improvements; and parks. The park component will be limited to updating the City's park land dedication requirements, as well as updating the fees paid in lieu of dedication.

The first task will be to prepare a preliminary draft of the impact fee study for staff review. The impact fee study will include all of the elements mandated by statutory and constitutional requirements. These elements include an inventory of existing capital facilities; the cost of improvements required to remedy any existing service deficiencies; and the cost of improvements required to accommodate increased service demands.

The impact fee studies will calculate the cost per service unit to provide new development with the existing or adopted level of service, as well as appropriate revenue credits to ensure that new development is not charged more than its proportionate share of the cost of new facilities. Each study will include a table that establishes the number of service units and amount of facility demand associated with different land use types. Finally, the studies will include, for each of the facility types, a net unit cost schedule that represents the maximum impact fees that could be charged.

DELIVERABLES: DRAFT IMPACT FEE STUDIES

Task 2.2: Local Review Meeting

At least two weeks after delivery of the draft Impact Fee Study, Consultant will schedule a one-day meeting with City staff to present the draft Impact Fee Study and receive staff comments. We will also use this opportunity to meet with developer representatives or a stakeholder advisory committee.

DELIVERABLE: LOCAL REVIEW MEETING (1 PERSON-DAY)

Task 2.3: Final Impact Fee Study

Following the local review meeting, we will prepare the final draft of the impact fee study. The final draft will reflect staff and advisory committee comments on the initial draft. The final draft of the study will be delivered in both original and digital format. It will be accompanied by a spreadsheet in Excel 97 or other format specified by the City that contains all of the impact fee calculations and can be used by staff to easily update the study.

DELIVERABLE: FINAL IMPACT FEE STUDY

Task 2.4: Public Participation

In addition to the local review meeting in Task 2.2, key members of our team will be available to attend and participate in two additional meetings with City staff, a stakeholders advisory committee, Planning Commission, City Council, or the general public as desired by the City. Joint meetings or multiple meetings held on the same day will count as one meeting. The consultant team will prepare exhibits and handouts suitable for public meetings that illustrate and summarize the results and recommendations of the Phase Two: Implementation portion of the project. The meetings should be scheduled approximately two weeks after delivery of the documents to provide time for local review prior to the meetings. This task is limited to a maximum of two person-days of out-of-town consultant time. Team members will also be available for additional meetings on a time plus expense basis.

DELIVERABLE: PUBLIC MEETINGS (TWO PERSON-DAYS)

Exhibit B PROJECT SCHEDULE

The schedule for the tasks outlined in the Scope of Services for Phase Two is illustrated in the following project schedule.

Tasks	1	2	3	4	5	6
PHASE TWO: IMPLEMENTATION						
2.1: Draft Impact Fee Study						
2.2: Local Review Meeting						
2.3: Final Impact Fee Study						
2.4: Public Participation						

◇ = draft deliverable ◆ = final deliverable ★ = meeting/presentation

STAFF REVIEW FORM

AD 01-1.00
C. 2. Page 1

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of **June 5, 2001.**

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve a resolution for AD 01-1.00 to amend Chapter 171 "Streets and Sidewalks", Section 171.13(B)(6) "Width of Driveway Approaches" and Chapter 172 "Parking and Loading", Section 172.01(C)(5)(b)(1)(a-c) "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways and provide for a minimum curb radius, submitted by the City of Fayetteville, Planning Division.

COST TO CITY:

\$

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

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

by: J. J. Whitaker
City Attorney

5/18/01
Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommends approval and Planning Commission voted 7-2-0 to recommend to City Council.

[Signature]
Division Head

5-18-01

Date

Cross Reference

Department Director

Date

New Item: **Yes**

John W. [Signature]
Administrative Services Director

5/18/01
Date

Prev Ord/Res #: _____

Don Coody
Mayor

5/18/01
Date

Orig Contract Date: _____

Orig Contract Number: _____

Planning Commission
April 9, 2001
Page 102

AD 01-1.00: Administrative Item Amendment to Chapter 171 "Streets and Sidewalks", Section 171.13(B)(6) "Width of Driveway Approaches" and Chapter 172 "Parking and Loading" Section 172.01(C)(5)(b)(1)(a-c) "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways.

Estes: The next item of business to come before us is an administrative item AD 01-1.00 an Amendment to Chapter 171 "Streets and Sidewalks", Section 171.13(B)(6) "Width of Driveway Approaches" and Chapter 172 "Parking and Loading" Section 172.01(C)(5)(b)(1)(a-c) "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways. Tim, what is this about and why is this before us this evening?

Conklin: Staff has brought this forward to amend our driveway specifications. We've had some situations where the island that is required in a driveway that has a one way in and a left out and right out, with a ten foot island, has caused problems for motorists and delivery trucks, tractor trailers from entering and exiting these curb cuts. Staff has removed the requirement for the ten foot island and we do have a driveway that has an entrance lane and then two exit lanes, the left and right out. The proposal is to have a 15 foot entrance lane, a 12 foot exit lane, that's a 27 foot drive for one way in and one way out, then to have a 15 foot entrance lane and 12 foot exit lanes, right out and left out, for a total of 39 feet. Staff believes this will help bring traffic off our streets in a more efficient manner, cars are having to slow down. It will increase the capacity of our roadways and also comply with the Arkansas Highway Transportation Department standards for a maximum curb cut of 40 feet. That is why we have brought this forward to you. In an effort to help minimize the conflicts that are occurring with the automobile.

PUBLIC COMMENT:

Estes: Is there any member of the audience which would like to provide comment on administrative item 01-1.00?

COMMISSION DISCUSSION:

Estes: Seeing none, I'll close the floor to public comment and bring it back to the Commission for discussion, questions of staff, motions?

MOTION:

Planning Commission
April 9, 2001
Page 103

Hoffman: Now that I'm fully aware of what it is we are discussing and having seen quite a few of these projects go through with narrower driveways and broken down curbs being a problem, I would like to move for approval of AD 01-1.00 subject to staff comments.

Shackelford: I'll second

Marr: Just to communicate my position. I understand the widening issue. I have a concern about taking out the island. I know that the rationale behind it is flow off a street such as College to make the turn easier. I asked at agenda session to give me examples of places where we had islands in, I was given Denny's, Walgreen's and First Security Bank. I also have a safety concern that, I don't want people making speeding turns into parking lots either. So, while I understand the City position on getting traffic off of the main road, I also have a concern with safety. Islands serve the purpose to not let someone make a two wheel turn. I also believe that when properly planted, they are also adding an aesthetic to the community that is nice. Thirdly, I don't think the rationale of someone who can't drive by driving over one is a reason to remove it. For that reason, I won't support this.

Hoover: I think that maybe I'm not educated enough to understand this because I don't understand why we would be giving up the island. I would like to reiterate what Don said but maybe I'm missing something here.

Conklin: There are always two sides to every argument. The islands are slowing traffic down and they are causing it to be difficult for trucks to enter into the actual sites. One of the things that we've done a tremendous job doing is eliminating two curb cuts and only requiring one. When we do that, it sometimes requires like an "S" turn if they put it right in the middle of their project and those trucks aren't able to maneuver and are crossing the island. That's what you see at Denny's. That's why they have a concrete, mountable island because the trucks can't make that turning movement. At the most recent past two access management seminars, I've raised this question with regard to the concrete island or the landscaped island that we place in our curb cuts in Fayetteville. They recommended against doing that unless you had a wide enough drive and radius in order to get the cars efficiently off the roadways to maintain capacity. That's the other issue. When you drive down College Avenue and you have a very limited radius and you got almost a 90 degree turn, you have to almost slow down to a stop to make it into those driveways. What we've recommended is eliminate the landscaped island and that way cars are not inclined to slow down and stop which reduces your capacity in the roadway and also recommend that the radius should be about 25 feet. I put in the ordinance that it "should" be a requirement because in not all

Planning Commission
April 9, 2001
Page 104

situations will you want to have curb cuts designed in that manner. For example, in our downtown area most of the time you will have a driveway which has no radius, it's just a 90 degree turning movement that you make. On our major streets, this is why we are recommending it, is where trucks are having problems getting into the driveways, cars are having problems, cars are going in the wrong direction in some cases. Staff will encourage developers to do a boulevard type entry when they can but it's going to have to be wider and the Highway Department is going to have to grant variances for those types of things.

Hoover: Have we had any complaints from any of the business owners themselves or is this something that you've been observing?

Conklin: We have to force business owners to do this design most of the time. As staff, we tell them they have to do it and we bring it forward to you. Most of the time they do not want to put this island in their driveway.

Hoffman: As it goes forward maybe you can talk about the different uses of the buildings because if you have a smaller professional office building and won't need a delivery truck to service it typically. You can work with the individual developers in that. I do see a problem with, as pretty as they are, the islands that are being overrun and the inside curb is the particular one.

Conklin: I've asked the question at two different conferences now with regard to access management about our islands that we have in our ordinance. Once again, the negative is it does allow vehicles to access into the parking lots in a faster motion than slowing them down on the street in order for them to make a turning movement. They're recommendation was not to have the islands when I asked that question.

Hoover: Is there a way to formulate this that the whole entry is wider and you still have an island? I hate losing the island.

Conklin: I would say that's a possibility. Most of our major streets in Fayetteville are State highways and the Highway Department has already had to grant us a variance for a 48 foot drive with the island. Charles Venable and I went down to Fort Smith and actually got that approval just in order for the Highway Department to be able to deal with it. That was the other problem, the Highway Department wouldn't permit our driveway. The rationale was that if we limit the number of driveways they would consider allowing that to occur. If we go any wider, I'll have to go back down to Fort Smith and convince the District Engineer to allow an even increased island. What they assume is

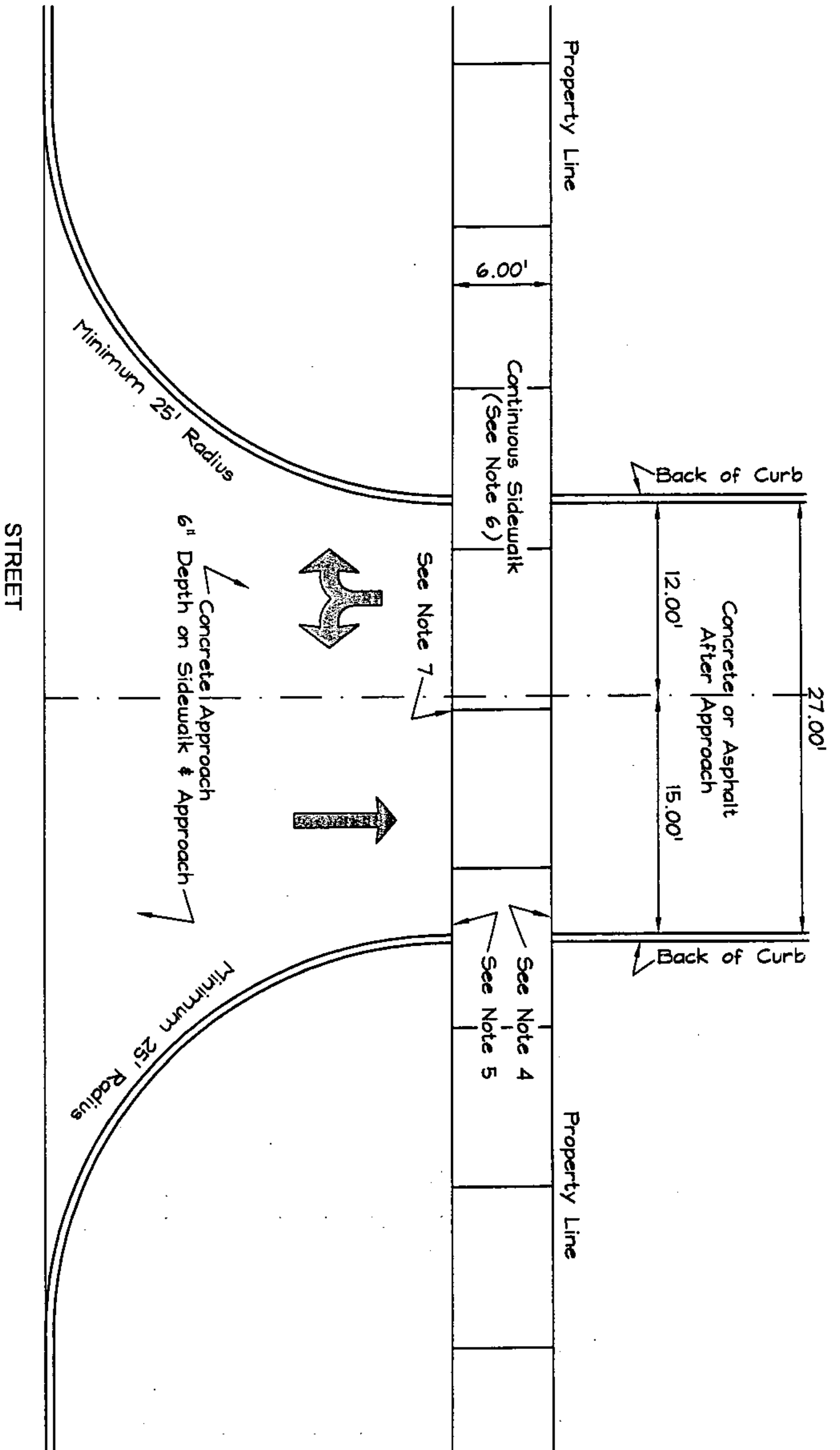
Planning Commission
April 9, 2001
Page 105

your driveway width is from curb to curb including the island. They assume that's a 48 foot curb cut.

Estes: We have a motion to approve AD 01-1.00 by Commission Hoffman and seconded by Commissioner Shackelford. Any other discussion or comment? Sheri, would you call the roll?

ROLL CALL:

Upon roll AD 01-1.00 is approved on a vote of 7-2-0 with Commissioners Hoover and Marr voting "no".



NOTES

NOTE 1: Please have all plans approved by the Sidewalk & Trails Coordinator at 575-8291 prior to installation.

NOTE 2: A permit is required by the AHTD prior to construction on all state highways.

NOTE 3: All sidewalks and curb cuts made for driveway approaches require an inspection prior to the concrete pour.

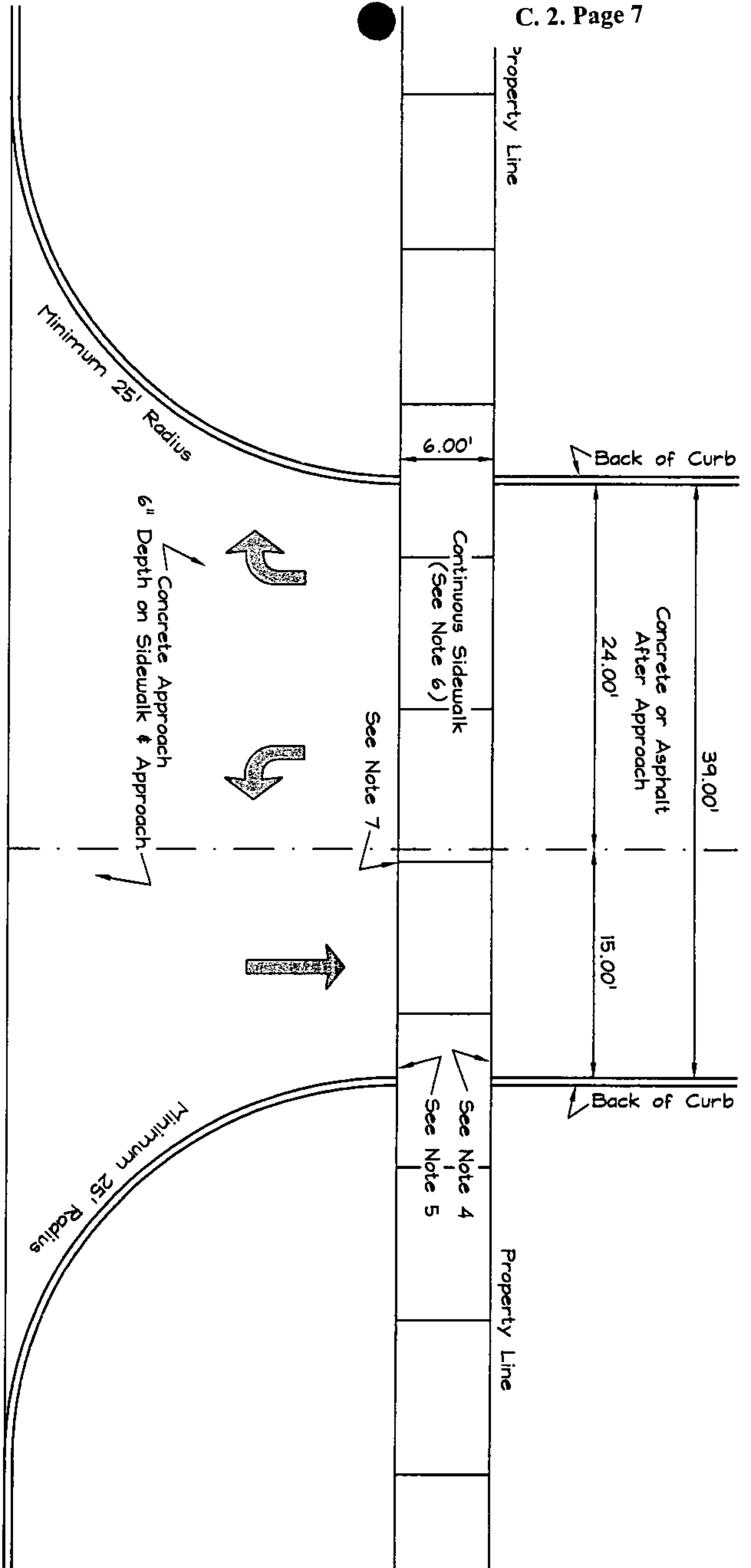
NOTE 4: Sidewalks shall be continuous through driveways with a cold joint or expansion joint at the edge of the sidewalk opposite the street.

NOTE 5: The sidewalk edge adjacent to the street shall have at least a one (1) inch deep groove joint mark (can be a cold joint) to clearly define the sidewalk through the driveway and approach.

NOTE 6: The sidewalk elevation shall be two percent above the top of the curb, sloping two percent towards the curb (one fourth inch in each foot). This elevation shall be continuous through the drive and approach.

NOTE 7: 1 1/2 inch deep control joints, spacing 10 feet or less.





NOTES

NOTE 1: Please have all plans approved by the Sidewalk & Trails Coordinator at 575-8291 prior to installation.

NOTE 2: A permit is required by the AHITD prior to construction on all state highways.

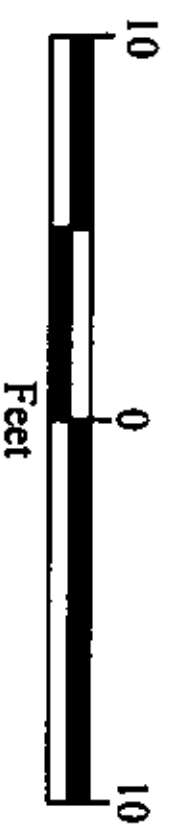
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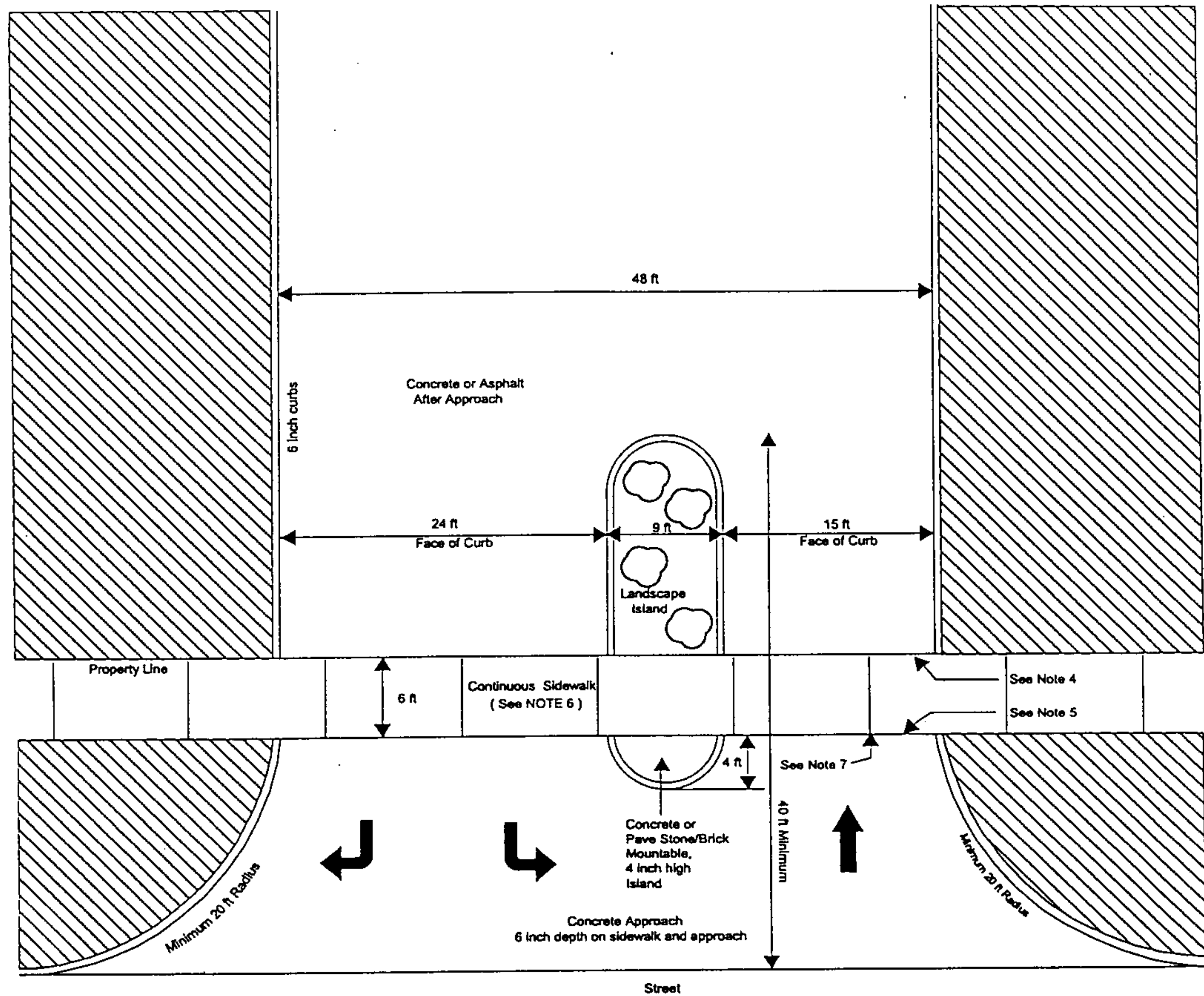
NOTE 6: The sidewalk elevation shall be two percent above the top of the curb, sloping two percent towards the curb (one fourth inch in each foot). This elevation shall be continuous through the drive and approach.

NOTE 7: 1 1/2 inch deep control joints, spacing 10 feet or less.



City of Fayetteville

Commercial Driveway Design



NOTE 1: Please have all plans approved by the Sidewalk and Trails Coordinator, at 575-8291, prior to installation.

NOTE 2: A permit is required by the AHTD prior to construction on all state highways.

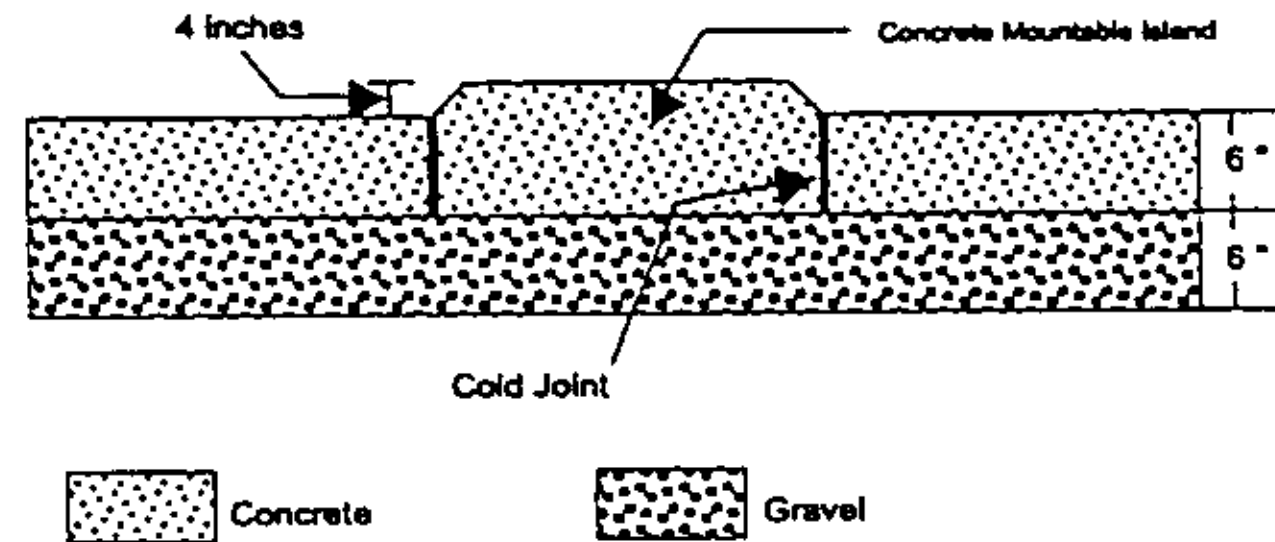
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4 inch Concrete Mountable Island Crosssection



STAFF REVIEW FORM

REI

Roll-Off Truck
C. 3. Page 1

MAY 26 2001

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of June 5, 2001

FROM:

W.A. Oestreich

Name

Fleet Operations

Division

Administrative Services

Department

ACTION REQUIRED:

APPROVAL OF AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF A USED DIESEL POWERED ROLL-OFF TRUCK TO BE UTILIZED BY THE FAYETTEVILLE SOLID WASTE DIVISION; ESTABLISHING A REVIEW AND RECOMMENDATION PROCEDURE FOR THE PURCHASE OF THE LISTED EQUIPMENT AND AUTHORIZING THE MAYOR TO APPROVE PURCHASE OF THE LISTED EQUIPMENT.

COST TO CITY:

\$ 94,700.00

Cost of this Request

\$ 783,211.00

Category/Project Budget

Sanitation Veh & Eq Repl/Exp

Category/Project Name

9700-1920-5802.00

Account Number

\$ -0-

Funds Used To Date

Vehicles & Equipment

Program Name

98067

Project Number

\$ 783,211.00

Remaining Balance

Shop

Fund

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached[Signature]

Budget Coordinator

[Signature]

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

[Signature]

Accounting Manager

5/23/01

Date

[Signature]

ADA Coordinator

[Signature]

Date

[Signature]

City Attorney

5/23/01

Date

[Signature]

Internal Auditor

5/23/01

Date

[Signature]

Purchasing Officer

5/24/01

Date

STAFF RECOMMENDATION

Approval of Bid Waiver Ordinance

[Signature]

Division Head

5-23-01

Date

Cross Reference

Department Director

[Signature]

Administrative Services Director

[Signature]5/24/01

Date

New Item: **Yes No**

Prev Ord/Res #:

Mayor

[Signature]5/25/01

Date

Orig Contract Date:

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF USED DIESEL POWERED ROLL OFF EQUIPMENT TO BE UTILIZED BY THE SOLID WASTE DIVISION; ESTABLISHING A REVIEW AND RECOMMENDATION PROCEDURE FOR THE PURCHASE OF THE LISTED EQUIPMENT AND AUTHORIZING THE MAYOR TO APPROVE PURCHASE OF THE LISTED EQUIPMENT.

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

Section 1. The City Council hereby waives the requirements of formal competitive bidding for the purchase of one (1) Used Diesel Powered Truck with mounted Roll-off equipment which will primarily be utilized by the Solid Waste Division. Said formal bidding requirements would prevent purchase of such units as dealers do not find it practical or feasible to hold units of this type for the time necessary to comply with those requirements.

Section 2. The City Council hereby establishes the following procedure for review and recommendation for the equipment listed in Section 1 above:

A. Representatives of the Fleet Operations Division and the Fayetteville Solid Waste Division shall evaluate, compare and finalize a recommendation to the Equipment Committee.

B. The Equipment Committee shall review the recommendation received and shall forward the recommendation along with their comments to the Mayor for consideration.

Section 3. The Mayor is hereby authorized to approve the purchase of one (1) Used Diesel Powered Truck with mounted Roll-off equipment for a total cost not to exceed \$94,700.00.

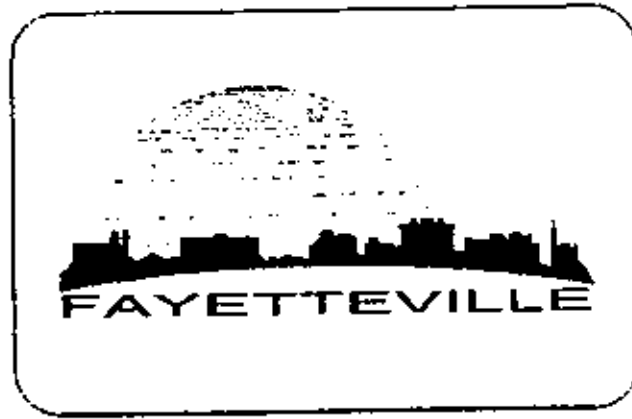
PASSED AND APPROVED this ____ day of _____, 2001

APPROVED

By: _____
Dan Coody, Mayor

ATTEST

By: _____
Heather Woodruff, City Clerk



CITY OF FAYETTEVILLE

FLEET OPERATIONS

INTER-OFFICE MEMORANDUM

TO: Mayor/City Council

THRU: John Maguire, Administrative Services Director

FROM: William Oestreich, Fleet Operations Superintendent 

DATE: May 22, 2001

SUBJECT: **Bid Waiver for Used Diesel Roll-Off Equipment**

Attached is a proposed Ordinance providing for a Bid Waiver to purchase one (1) Used Diesel Powered Roll-Off Truck from RDK Truck Sales & Service, Inc., 3214 Adamo Drive, Tampa, Florida 33605 at a cost not to exceed \$94,700.00.

A new unit of this type has a customer cost of \$102,000.00 to \$112,000.00. It is the intent to limit the cost to a maximum of \$94,700.00 for a former leased used unit in good condition with approximately 40,000 miles. This will be a 2000 Model year Mack equipped with a 60,000 lb. Gilbreath Roll-off.

An opportunity to save a substantial amount of money with the purchase of used units has proven to work out well in the past. We have been very fortunate in locating very serviceable units in the market. Therefore every effort will be made to continue this record with other economically priced used units.

Upon approval of a Bid Waiver, a purchase recommendation for this unit will be submitted to Mayor Coody.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

COPY

DEPARTMENTAL CORRESPONDENCE

TO: Gary Dumas, Utility Services Director

FROM: Ronnie Caudle, Solid Waste Operations Supervisor

DATE: May 23, 2001

SUBJECT: Diesel Roll-Off Equipment Requirements

I am requesting an additional roll-off vehicle be added to our operation, as current usage has exceeded the abilities of only one vehicle and operator. A used unit should provide adequate service in addition to saving the city the high initial cost of a new unit.

I have assisted the Fleet Operations Division by providing them with information as to our needs and they have a unit located that would fit our usage needs. A new unit of this type has a customer cost of approximately \$110,000. An opportunity to save a substantial amount of money with the purchase of used units has proven to work out well in the past. We have been very fortunate in locating very serviceable units in the market. Therefore, every effort will be made to continue this record with other economically priced used units.

DEPARTMENTAL CORRESPONDENCE

To: William Oestreich, Fleet Operations Superintendent

From: Gary Dumas, Utilities Service Director 

Date: May 23, 2001

Subject: Diesel Roll-Off Equipment Requirements

I concur with the attached statement of need and recommendation to pursue the purchase of a pre-owned vehicle.

AGENDA REQUEST FORM

Council Meeting of June 1, 2001

Mayor's Approval _____

FROM Don Bunn
Name

Public Works Admin
Division

Public Works
Department

ACTION REQUIRED Approval or denial of a request to provide sewer service outside of the City Limits.

COST TO CITY

\$ -0-
Cost of this Request

\$ _____
Category/Project Budget

Category/Project Name

Account Number

Funds Used to Date

Program Name

Project Number

\$ _____
Funds Remaining

Fund Category

BUDGET/CONTRACT REVIEW

_____ Budgeted Item _____ Budget Adj. Attached

Budget Coordinator

Date

Admin Services Director

Date

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Officer

Date

STAFF RECOMMENDATION No recommendation


Ass't Public Works Director

17 MAY '01
Date

Cross Reference

Department Director

Date

New Item: Yes No

Admin Services Director

Date

Prev Ord/Res # _____

Mayor

Date

Orig. Contract # _____

Orig. Contract Date _____

Orig. Contract Number _____

City of Fayetteville

DEPARTMENTAL CORRESPONDENCE

May 16, 2001

To: Fayetteville City Council

From: Donald Bunn, Asst. PW Director



Thru: Mayor Dan Coody

Subject: Request for Sewer Service Outside City Limits

Don and Donna Hendricks

2090 Sunshine Road

Attached is a letter from Don and Donna Hendricks requesting sewer service for their house and a house occupied by their grandson. The Hendricks property is located south of Sunshine Road and north of and adjacent to Bridgeport Subdivision, Phases 4, 5, and 6. The Bridgeport property is inside the City Limits, therefore, the Hendricks property is adjacent to the City Limits.

I have attached two plats showing the Hendricks property and their location with respect to the City Limits and the City's sewer mains. You will note that the larger scale plat clearly shows two existing sewer line crossing the property. The east-west sewer line crossing their property along the north side has been in place for over 30 years. The sewer line shown cross their property going south has just recently been installed by the developers of the Bridgeport Subdivision.

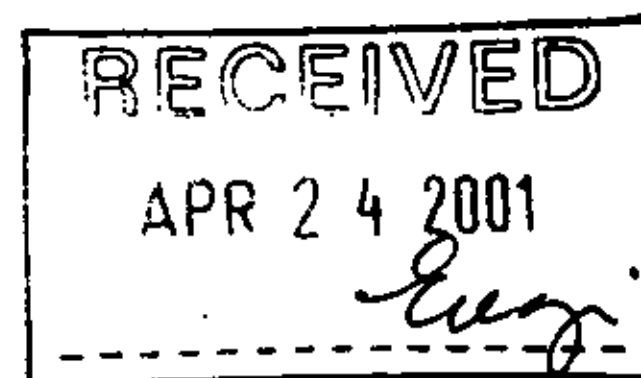
Some clarification items mentioned in the Hendricks letter is necessary. The contact mentioned in the letter is between the Mr. and Mrs. Hendricks and the developers of the Bridgeport Subdivision, the City is not a party to that contract. The contract requirements to provide water hookups, sewer taps, and a fire hydrant were commitments made by the developer to Mr. and Mrs. Hendricks in exchange for granting the City the necessary easements to serve the Subdivision. They were not commitments made by the City.

The two "sewer taps" issued by the Inspections Department in April were actually plumbing permits. The sewer taps are in place, having been put in by the developer at the time the sewer line was installed. The Inspection Department was aware at the time the plumbing permits were issued that they were for houses outside the City Limits, however, it was their understanding that City Council permission would be obtained before the taps would be utilized.

This request is specifically to allow the utilization of two sewer taps without having to annex into the City. The subject property is adjacent to the city limits and therefore could annex by petition.

It has been the policy of the City to not grant sewer taps outside of the City Limits, especially in cases where the property in question can be annexed. The purpose of the policy is to encourage annexation to the City whenever possible.

Don & Donna Hendricks
2090 Sunshine Road CR 877
Fayetteville AR 72704



Fayetteville City Council
City Administration Building
Fayetteville AR 72701

April 23, 2001

Dear Council Members:

We are applying to you for permission to tie on to the city sewer line running through our property at 2090-2096 Sunshine Road. Several months ago, we signed permission to Bridgeport Subdivision to cross our property with the necessary sewer lines for their Bridgeport project to proceed. This contract was submitted to the Planning Commission per their instructions and approved by that group.

The terms of the contract stipulated that two (2) water hookups, two (2) sewer taps and one (1) fire hydrant were items in the contract and also gave the city easement rights. Of the two (2) sewer taps, one is 30 feet from our house and the other is approximately 60 feet from our grandson's house.

We would like to point out that there is already a flow sewer line through to the pump station and a pressure sewer line sending these contents back to the disposal plant. There are also six (6) manholes on our property. It would be ludicrous to put in a septic tank and have the runoff eventually enter Hamestring Creek.

Now we are experiencing difficulty from the city in using these agreed upon taps. We were issued a sewer tap on April 5, 2001 by Jan. I made it very clear that we were NOT in the city and she sent me to Washington County 911 for an address verification. I obtained that verification and paid the \$40.00 and received my permit. The next day, Jan called my grandson's wife with a threat of "coming out to smoke your homes" and if we are hooked to the sewer the City would disconnect the sewer line and take out our water meters.

Our grandson's wife had also been issued a water tap permit on April 17, 2001. Now we are told that although there is a permit for the water tap, the City hasn't approved Phase 5 of Bridgeport and we cannot have water from the Bridgeport Addition. Needless to say, this is a very frustrating experience.

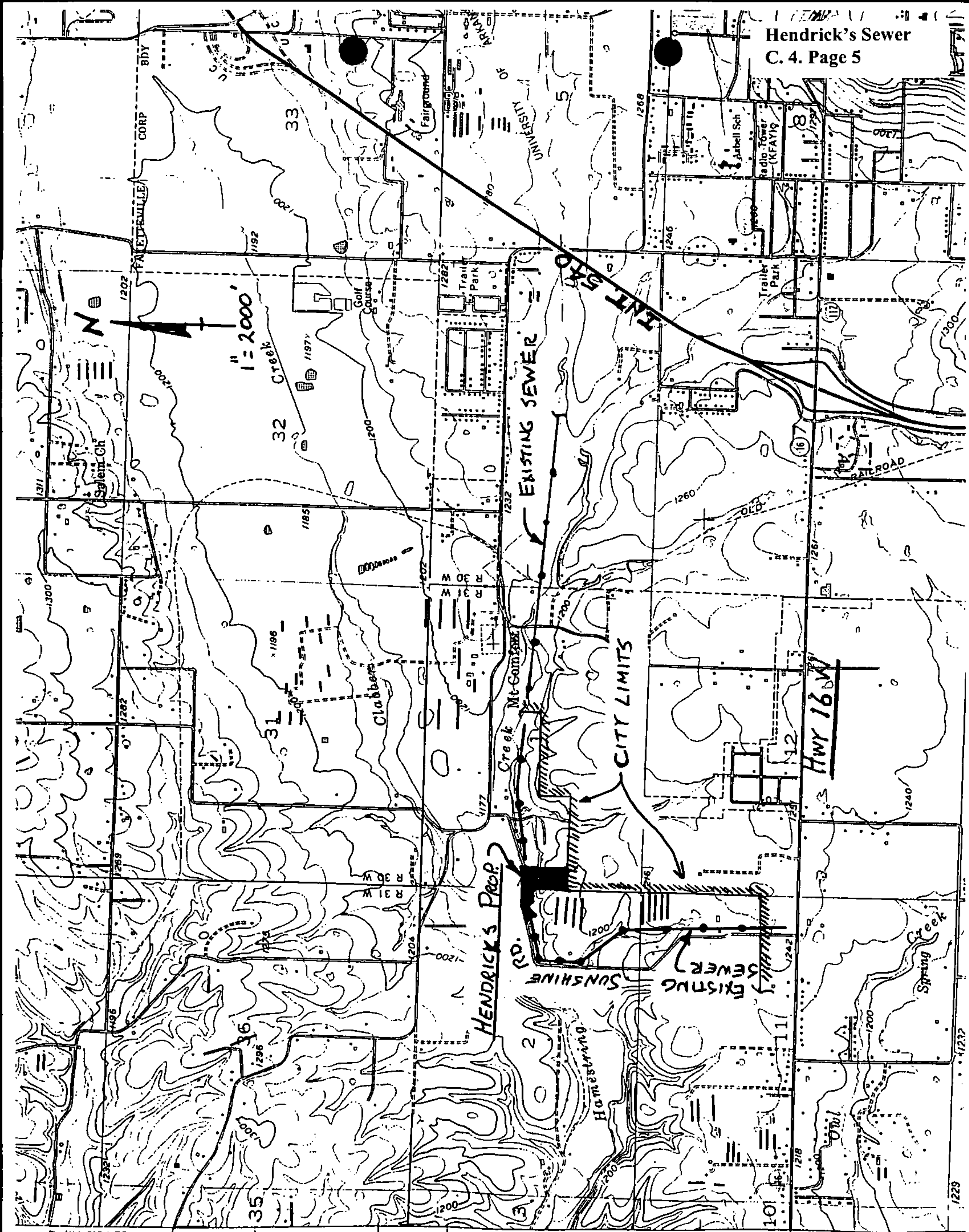
One suggestion has been that we apply for "coming into the city". While we realize that this is a possible and probably plausible route, Donna and I are nearly 70 years old and for many years planned to retire on our little country acreage, hopefully avoiding the property taxes that reached such outrageous proportions on our town home.

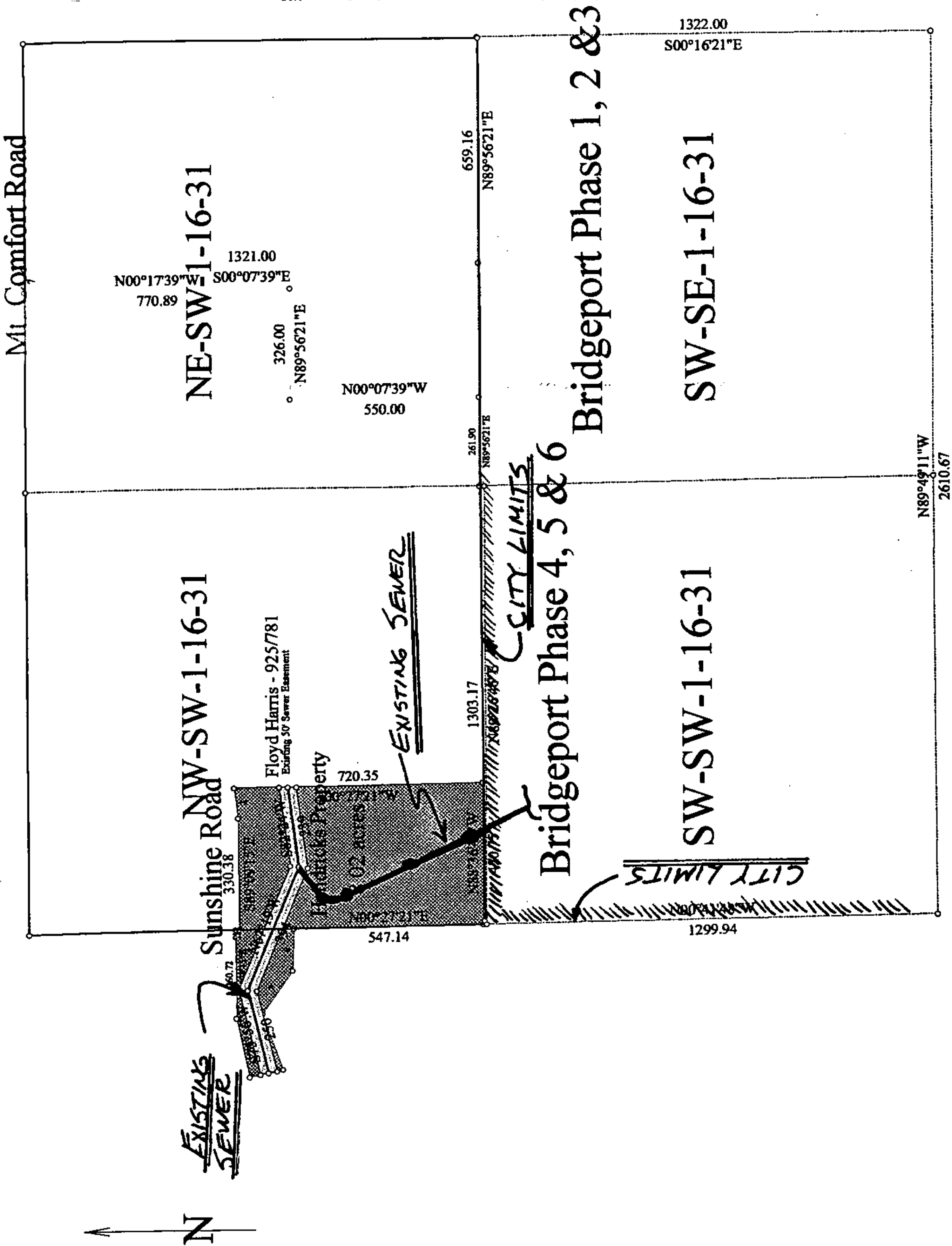
We feel that by allowing this sewer project, we have helped to provide the city of Fayetteville with a good deal of revenue from the additional homes this sewer project will afford. Your own city workers have pointed out that there are numerous homes outside the city limits with City sewer taps.

We will certainly appreciate your approval of our application.

Sincerely,


Don & Donna Hendricks





Disk: 2001-Misc

Title: Hendricks Property: 1-16-31		Date: 05-16-2001
Scale: 1 inch = 400 feet	File: Hendriv_PP360.dwg	

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF

MAYOR'S APPROVAL

FROM:

Kit Williams

Name

City Attorney
DivisionLegal
Department

ACTION REQUIRED:

A Resolution to approve an agreement with the Fayetteville Boys and Girls Club, Inc. to provide public recreation for the citizens of Fayetteville and an Ordinance to waive competitive bidding for the payment to the Fayetteville Boys and Girls Club, Inc. through the end of 2001 for the provision of public recreation.

COST TO CITY:

\$108,708.81 (already budgeted)

Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used to Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

_____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager	Date	Internal Auditor	Date
City Attorney	Date	ADA Coordinator	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:

CROSS REFERENCE

Division Head	Date
Department Director	Date
Administrative Services Director	Date
Mayor	Date

New Item: Yes No

Previous Ordinance/Resolution No.: _____

**DRAFT TENTATIVE
CITY COUNCIL
JUNE 5, 2001**

A meeting of the Fayetteville City Council will be held on June 5, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES:** Approval of the minutes.
2. **POLICE PHYSICAL FITNESS POLICY:** A resolution adopting a revision to the Police Department's Physical Fitness Policy.
3. **COPS FEDERAL GRANT:** A resolution accepting the \$225,000 COPS Universal Hiring Program Federal Grant and approval of a budget adjustment in the amount of \$37,617.00 from Use of Fund Balance.
4. **DHL WORLDWIDE EXPRESS:** A resolution approving a draft of a lease with DHL Worldwide Express.
5. **INTERLOCAL AGREEMENT:** A resolution approving an interlocal agreement between the City of Fayetteville and the City of Johnson for the installation and ownership of a traffic signal at Wilkerson and Joyce.

B. OLD BUSINESS

1. **TREE PROTECTION AND PRESERVATION:** An ordinance amending the Tree Protection and Preservation Ordinance to allow for a waiver, reduction or alteration in the requirements of the Tree Preservation Ordinance. The ordinance was left on the second reading as amended at the May 15, 2000 meeting.
2. **HMR TAX:** An ordinance amending § 35.20 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax. The ordinance was left on the first reading as amended at the May 15, 2001 meeting.
3. **PARKS HMR TAX:** An ordinance amending § 35.31 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax. The ordinance was left on the first reading as amended at the May 15, 2001 meeting.

4. **SPECIAL ELECTION:** An ordinance calling and setting a date for a special election for the adoption or rejection of ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel, and Restaurant Tax and the Parks Hotel, Motel, and Restaurant Tax. The ordinance was tabled at the May 15, 2001 meeting.

B. NEW BUSINESS

1. **IMPACT FEES:** A resolution approving a contract with Duncan and Associates to conduct Phase 2 of the Development Impact Fee Study for water, wastewater treatment and collection, roads, and parks.
2. **AD 01-1.00:** An ordinance approving an amendment to Chapter 171 "Streets and Sidewalks", Section 171.13 "Width of Driveway Approachs" and Chapter 172 "Parking and Loading", Section 172.01 "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways and provide for a minium curb radius.

3). *Hondix sewer connection - Don Burr.*

[Handwritten signature]

1:30 - 326

**DRAFT TENTATIVE
CITY COUNCIL
JUNE 5, 2001**

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~~3.~~ #2 amend. Garver Eng. (consent)
parking deck \$12,000.

~~4.~~ OM1/presentation. (at agenda session)
of rate check
for wastewater treatment plant services.

AGENDA REQUEST FORM

Council Meeting of June 1, 2001

Mayor's Approval _____

FROM Don Bunn
Name

Public Works Admin
Division

Public Works
Department

ACTION REQUIRED Approval or denial of a request to provide sewer service outside of the City Limits.

COST TO CITY

\$ -0-
Cost of this Request

\$ _____
Category/Project Budget

Category/Project Name

Account Number

Funds Used to Date

Program Name

Project Number

\$ _____
Funds Remaining

Fund Category

BUDGET/CONTRACT REVIEW

_____ Budgeted Item _____ Budget Adj. Attached

Budget Coordinator

Date

Admin Services Director

Date

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Officer

Date

STAFF RECOMMENDATION No recommendation


Ass't Public Works Director

17 MAY '01
Date

Cross Reference

Department Director

Date

New Item: Yes No

Admin Services Director

Date

Prev Ord/Res # _____

Mayor

Date

Orig. Contract #

Orig. Contract Date _____

Orig. Contract Number _____

City of Fayetteville

DEPARTMENTAL CORRESPONDENCE

May 16, 2001

To: Fayetteville City Council

From: Donald Bunn, Asst. PW Director
Thru: Mayor Dan Coody



Subject: Request for Sewer Service Outside City Limits
Don and Donna Hendricks
2090 Sunshine Road

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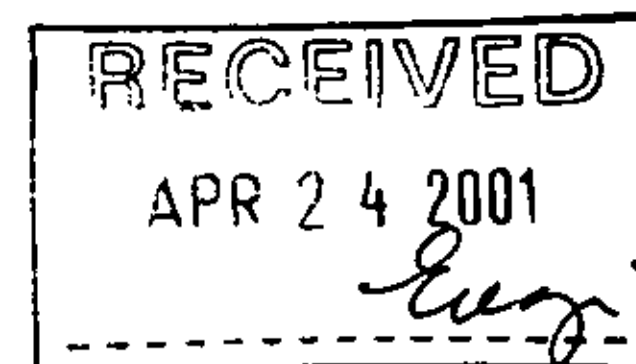
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Don & Donna Hendricks
2090 Sunshine Road CR 877
Fayetteville AR 72704



Fayetteville City Council
City Administration Building
Fayetteville AR 72701

April 23, 2001

APR 24 2001

Dear Council Members:

We are applying to you for permission to tie on to the city sewer line running through our property at 2090-2096 Sunshine Road. Several months ago, we signed permission to Bridgeport Subdivision to cross our property with the necessary sewer lines for their Bridgeport project to proceed. This contract was submitted to the Planning Commission per their instructions and approved by that group.

The terms of the contract stipulated that two (2) water hookups, two (2) sewer taps and one (1) fire hydrant were items in the contract and also gave the city easement rights. Of the two (2) sewer taps, one is 30 feet from our house and the other is approximately 60 feet from our grandson's house.

We would like to point out that there is already a flow sewer line through to the pump station and a pressure sewer line sending these contents back to the disposal plant. There are also six (6) manholes on our property. It would be ludicrous to put in a septic tank and have the runoff eventually enter Hamestring Creek.

Now we are experiencing difficulty from the city in using these agreed upon taps. We were issued a sewer tap on April 5, 2001 by Jan. I made it very clear that we were NOT in the city and she sent me to Washington County 911 for an address verification. I obtained that verification and paid the \$40.00 and received my permit. The next day, Jan called my grandson's wife with a threat of "coming out to smoke your homes" and if we are hooked to the sewer the City would disconnect the sewer line and take out our water meters.

Our grandson's wife had also been issued a water tap permit on April 17, 2001. Now we are told that although there is a permit for the water tap, the City hasn't approved Phase 5 of Bridgeport and we cannot have water from the Bridgeport Addition. Needless to say, this is a very frustrating experience.

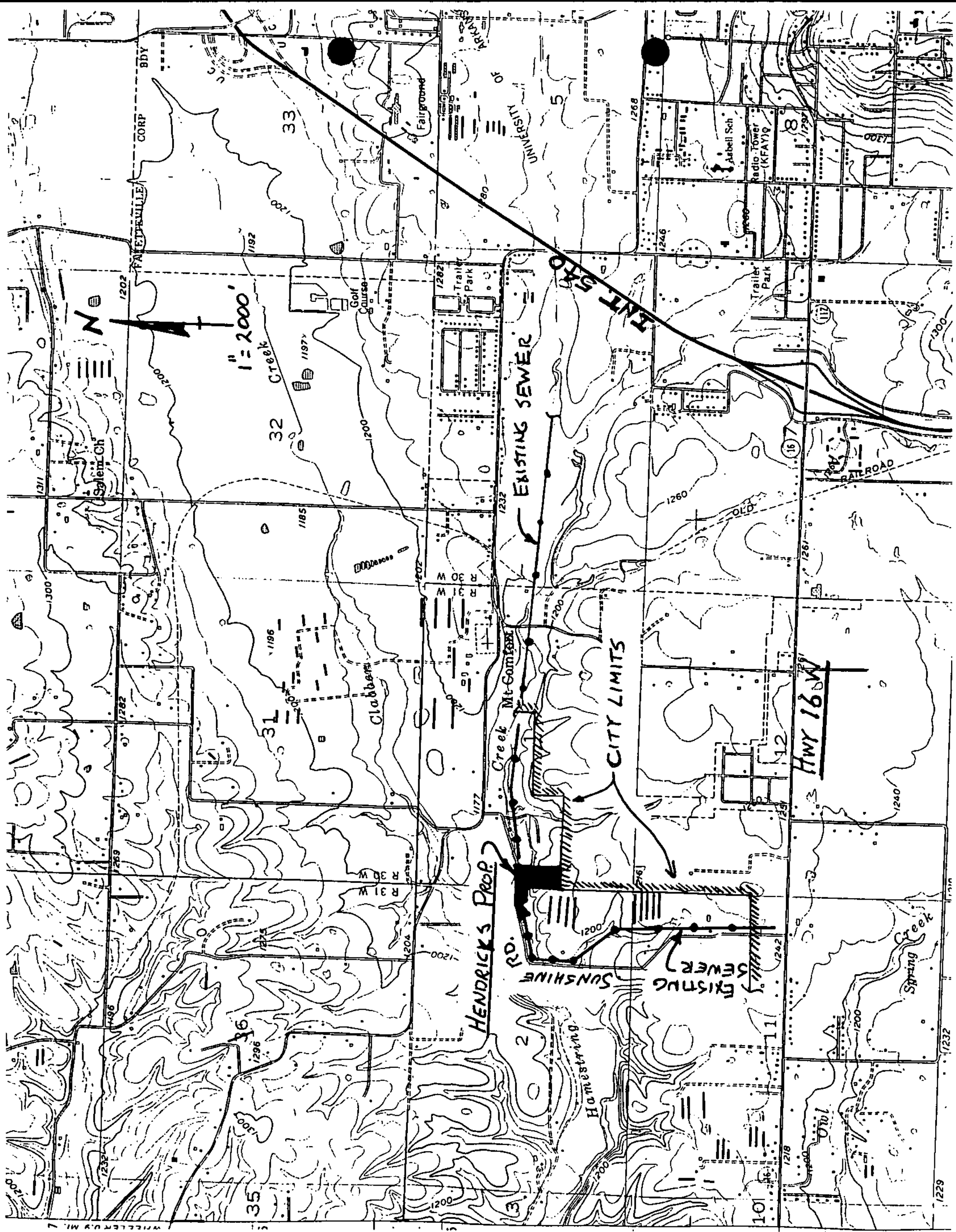
One suggestion has been that we apply for "coming into the city". While we realize that this is a possible and probably plausible route, Donna and I are nearly 70 years old and for many years planned to retire on our little country acreage, hopefully avoiding the property taxes that reached such outrageous proportions on our town home.

We feel that by allowing this sewer project, we have helped to provide the city of Fayetteville with a good deal of revenue from the additional homes this sewer project will afford. Your own city workers have pointed out that there are numerous homes outside the city limits with City sewer taps.

We will certainly appreciate your approval of our application.

Sincerely,


Don & Donna Hendricks



STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF

MAYOR'S APPROVAL

FROM:

Kit Williams

Name

City Attorney
Division

Legal
Department

ACTION REQUIRED:

A Resolution to approve an agreement with the Fayetteville Boys and Girls Club, Inc. to provide public recreation for the citizens of Fayetteville and an Ordinance to waive competitive bidding for the payment to the Fayetteville Boys and Girls Club, Inc. through the end of 2001 for the provision of public recreation.

COST TO CITY:

\$108,708.81 (already budgeted)

Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used to Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

_____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION:

CROSS REFERENCE

Division Head

Date

New Item:

Yes

No

Department Director

Date

Previous Ordinance/Resolution No.: _____

Administrative Services Director

Date

Mayor

Date

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF June 5, 2001

MAYOR'S APPROVAL

FROM:

Kit Williams
Name

City Attorney
Division

Legal
Department

ACTION REQUIRED:

A Resolution to approve a lease agreement with the Project for Victim's of Family Violence, Inc. to lease city land for the construction of a new Battered Women's Shelter.

COST TO CITY:

Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used to Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator _____ Administrative Services Director _____

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager _____ Date _____
[Signature] 5-23-01
City Attorney _____ Date _____

Internal Auditor _____ Date _____
ADA Coordinator _____ Date _____

Purchasing Officer _____ Date _____

STAFF RECOMMENDATION:

CROSS REFERENCE

Division Head _____ Date _____

New Item: Yes No

Department Director _____ Date _____
[Signature] 5/23/01
Administrative Services Director _____ Date _____
[Signature] 5/23/01
Mayor _____ Date _____

Previous Ordinance/Resolution No.: _____

REC CONNECTION

VOLUME 2, ISSUE 1

MARCH, 2001

From March Madness to Summer Fun...Let It Begin

When you think of madness during the month of March, you usually think of college basketball. But madness applies to more than just college basketball during the month of March. Those of us in the Parks and Recreation field live the life of March Madness.

March means it is time to begin thinking about outdoor recreational programs such as soccer, softball, tennis, swimming and special events. If any of those sound fun, the Fayetteville Parks and Recreation has a great Spring and Summer planned for you. Parks and Recreation offers each of these programs. As a matter of fact, Fayetteville offers the largest soccer and softball programs in Arkansas.

This Spring, approximately 250 new participants registered to play soccer with Fayetteville Parks and Recreation. This brings our total soccer enrollment to about 1,300 participants. Spring soccer games begin in March and will end in mid-April. If you missed registration, don't worry...you can register for Fall Soccer very soon. But in the meantime, there are many other recreation programs in which to participate.

It is not too late to participate in softball. Registration for Youth Slow Pitch, Youth Fast Pitch and Adult Slow Pitch Softball continues

through March 28. Registration for Youth Slow Pitch takes place at the Fayetteville Boys and Girls Club. Registration forms were sent out through the Fayetteville Public Schools. If you did not receive one, call 444-3471 x 471, and we will mail one to you.

The Youth Open Fast Pitch Registration and the Adult Softball registration takes place at the Parks and Recreation's Offices. Registration forms have been mailed to last year's participants. If you would like to receive any type of registration form, please call the Parks and Recreation Offices. Adult Softball games begin on April 9 and Youth Softball games begin on April 16.

Other outdoor recreation programs such as tennis, swimming and the 6th Annual Gulley Park Summer Concert Series have articles throughout this edition of *Rec Connection*.



6th Annual Gulley Park Concerts Schedule

You can argue the Gulley Park Concerts have become the most popular Summer Event in Fayetteville. This year's event promises to be even bigger and better than ever. In 2000, over 22,000 people visited Gulley Park for the popular series. In 2000, Ultra Suede broke an opening night attendance record by attracting over 3,000 people. Trout Fishing In America broke an overall attendance record, with approximately 6,000 people turning out on June 12. This year, Trout Fishing and Ultra Suede heads up another great line up in what promises to be the best Summer Concert

Series ever. Here is the 2001 Gulley Park Concert Series Line Up:

May 31...Oreo Blue
June 14...Trout Fishing In America
June 28...Jed Clampit
July 12...Cherry Brooks and TLC
July 19... Ultra Suede
August 2...Boom Shaka
August 16...Los Peos Viejos
August 30...Cate Brothers Band

INSIDE THIS ISSUE:

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2001 Tournaments	3
Director's Letter	4

FAYETTEVILLE PARKS & REC PROGRAMMING STAFF

Tracie Evans,
Receptionist...444-3471

Lindsay Waxler,
Soccer Specialist...575-8369

Billy D. Austin,
Athletic Specialist...
444-3474

David Wright,
Program Coordinator...
444-3481

**Wilson Park Swimming
Pool opens May 26th**

**FAYETTEVILLE PARKS AND RECREATION/Programs
and special events**

113 West Mountain
Fayetteville, Arkansas 72701

Phone: 501-444-3471

Fax: 501-521-7714

Email: programsandspecialevents@hotmail.com

**Email us at
[programsandspecialevents
@hotmail.com](mailto:programsandspecialevents@hotmail.com)**



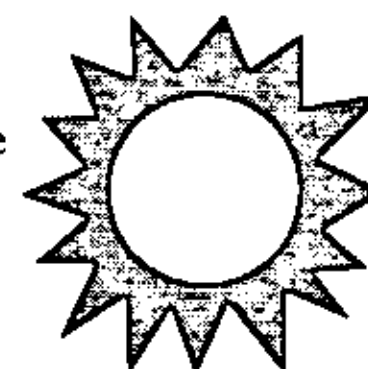
FROM THE PARKS AND REC SUPERINTENDENT

There are many great things in life. Parks are one of the good things that increases our quality of life in Fayetteville. Those of us in the Parks and Recreation Profession have a saying, "Parks and Recreation...the benefits are endless." This saying is so true in Fayetteville. Our park and recreation facilities and programs benefit the environment by preserving nature areas, trees, and wetlands. Parks benefit your family and personal time. Parks benefit your physical and mental health. Parks benefit the aesthetics of our community. Last, but not least, parks benefit the local economy.

The benefits are far more reaching and long lasting to our society. Recreation not only adds more life to our years, but it adds more years to our life. Investments in parks and recreation pays handsome dividends. The state of our health is largely determined by how we live each day. Incorporating recreation as part of your daily routine not only adds pleasure to life, but also helps ensure it.

Fayetteville Parks and Recreation has 55 parks comprised of over 3,200 acres of land and water for you to enjoy. Hiking, walking, jogging, biking, picnicking, playgrounds, softball, soccer, baseball, flag football, flower beds and gardens, swimming, fishing, boating, bird watching, model airplanes, horse-

shoes, sand volleyball, ultimate frisbee, social gatherings, and nature are just some of the things you will see in our parks. Our parks and recreation programs are provided with you in mind by the City of Fayetteville along with many devoted citizens in an effort to make your life better.



This summer, take advantage of our parks and recreational programs. There are many great things to do in the parks. The Wilson and Walker Park tennis and basketball courts will be renovated this summer to improve your play experience. Wilson Pool will offer swimming lessons, water aerobics and family swim time. There will be eight free concerts at Guley Park. Soccer, baseball and softball games play throughout the City, starting in March. There are trails to be hiked and fish to be caught. Let Fayetteville Parks and Recreation become a part of you life. Use and enjoy your parks!

Connie Edmonston,
Parks and Recreation Superintendent

Wilson Pool Offers new Aquatic Programs in 2001

Renovations at the Wilson Park Swimming Pool bring exciting changes to the pool's schedule. In the past, participants used to had to wait to register until after the pool opened on Memorial Day Weekend. However in January 2001, Fayetteville Parks and Recreation improved the registration process by allowing citizens to register at the Parks and Recreation Office as early as May 1.

For years, aquatic programs such as swimming lessons and lap swimming activities have been popular attractions to the pool. But in 2001 new aquatic programs will be offered. Fayetteville Parks and Recreation will add a water aerobics class to the weekday schedule. This class will take place from 9:30am - 10:15am. During the summer, there will be five, two-week sessions. A person can register for all five sessions, or may register for only one. The class features a certified Aqua Aerobics Instructor. The price for a two week session is \$25. Participants may begin registering May 1, at Fayetteville Parks and Recreation Offices located at 1455 Happy Hollow Road. We encourage you to



register early. Classes will fill up fast.

On weekdays, morning swim lessons begin at 10:30am, 11:00am and 11:30am, respectively. Evening classes are available at 5:00pm and 5:30pm. Each class is taught by a certified swimming instructor and lasts two weeks. Different skill levels are available for each session. The 2001 pool schedule is listed below:

9:30am-10:15am...Aqua Aerobics
10:30am-11:55am...Swimming Lessons
12:00pm-12:55pm...Adult Lap Swim
1:00pm-4:55pm...Open Swim
5:00pm-5:55pm...Swimming Lessons
6:00pm-8:00pm...Family Swim

In 2001, Wilson Pool's Weekend hours will remain the same as in the past. On Saturdays and Sundays, the pool will open at 1:00pm and will close at 6:00pm. **WE LOOK FORWARD TO ANOTHER GREAT POOL SEASON!**

Wilson Pool's Renovations are Underway

The Wilson Park Swimming Pool is undergoing major changes. Over the years, the pool has become a favorite park destination with over 20,000 participants utilizing the facility yearly.

In recent years, the Parks and Recreation Advisory Board has desired and approved upgrades and improvements for the facility. The latest renovations to the Wilson Park Pool began in December with the hiring of Heckathorn Construction Company. Heckathorn has been hired to install a new wood deck, place new surfacing over the existing concrete deck, install decorative fencing and make structural improvements to the facility. New diving

boards are also being installed.

"The pool has become a favorite park destination with over 20,000 participants utilizing the facility yearly."

WE LOOK FORWARD TO A GREAT SUMMER AT WILSON POOL!

Youth Sport Organizations Cooperate...So The Kids Can Win

During the past few years, Fayetteville has witnessed a lot of change and progress in the area of Youth Sport Programs. One of the biggest changes has been that Fayetteville Parks and Recreation has become a major player in Youth Sports. In 2000, Parks and Recreation started a Youth Fast Pitch Program and a new Youth Soccer Program. It also began a working arrangement with the Boys and Girls Club to operate the Youth Slow Pitch Softball Program.

When Parks and Recreation started working on these new youth programs, citizens and sport participants emphasized they would like to be able to participate in all sports. The fact that kids were having to choose between basketball and soccer and soccer and baseball, was unfortunate. Therefore, Parks and

Recreation and the Boys and Girls Club worked during the fall to eliminate overlap between youth sport programs. Specifically, between the Parks and Recreation's soccer program and the Boy's and Girls Club's football and basketball programs.

The number of conflicts between football and soccer were reduced dramatically and the conflicts between basketball and soccer will not exist. This Spring, Fayetteville Youth Baseball joined this planning process and will start their baseball season after the Parks and Recreation's Soccer Program concludes. Finally, kids in Fayetteville will not have to choose what sports they want to play, and will be afforded the opportunity to play every sport offered.

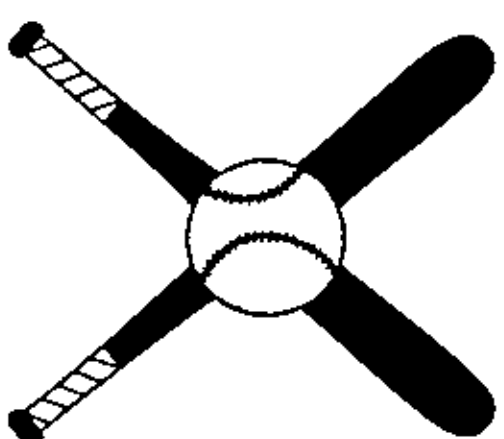


Fayetteville Softball joins Interstate 540 Fast Pitch League

The official beginning of the new millennium begins a new concept of Youth Fast Pitch Softball. The Interstate 540 League has been created to accommodate the growth of Fast Pitch Softball in Northwest Arkansas. Representatives from Fayetteville, Springdale, and Bentonville have been meeting since January to work out the details for the new program.

To many people, this new program may appear similar to one sponsored by Parks and Recreation and the Springdale Youth Center last year. However, the only thing similar to last year's program is the involvement of Fayetteville and Springdale. The Rogers Youth Center, who were not able to participate last season, chose to participate in 2001. Also, an entire new governing body is over the Bentonville Open League Program.

The difference between this fast pitch program and the traditional slow pitch program offered by Parks and Recreation and the Boys and Girls Club is that these teams are considered "open." In the slow pitch program, teams are school based, recreational teams. In this league, coaches are



able to put teams together with players of their choice.

The League is a dual sanctioned league, that will play under their own set of governing rules and by-laws. The League will sanction with the United States Specialty Sports Association (USSSA) and the Amateur Softball Association (ASA). Teams will be able to attend both association's qualifying, district, state and regional tournaments. Although teams may be required to qualify for some tournaments, all teams will be eligible to participate.

This new program shows how combining resources will benefit youth sport programs. Fayetteville League Coordinator, Billy D. Austin says, "I am extremely excited about this new program. This is not only great for the sport of Fast Pitch Softball, but it will benefit our youth in so many different ways. Our girls will really enjoy this new program." The decision of whether these communities will run a combined fall league, or if it will be a Fayetteville-Springdale League has not been made yet. However, this Spring/Summer league should prove to be very fun!

Parks & Recreation Staff Member Receives State/National Honor

Parks and Recreation Athletic Specialist, Billy Austin has been nominated to become a member of the Arkansas Softball Hall of Fame. Austin, who recently umpired the Men's Major's World Series, the highest honor possible for an umpire, is very humbled by the honor. "I don't know that I'm deserving of any Hall of Fame, but I sure do appreciate the nominating committee thinking that highly of me. I am a lucky person."

Austin, known to many as "Billy D." has worked for Parks and Recreation for approximately four years. The last year of those four,

Not only is our Department very lucky to have Billy D., but so is every citizen of our great City.

Austin served as the Umpire in Chief for the adult softball leagues. Austin currently heads up all the softball programs operated out of the Parks and Recreation Office. When asked about a staff member receiving two such honors, Parks and Recreation Superintendent, Connie Edmonston stated, "Not only is our Department very lucky to have Billy, but so is every citizen of our great City." CONGRATULATIONS, Billy D..... Keep up the GREAT WORK!

Fayetteville awarded 2001 National and World Tournaments

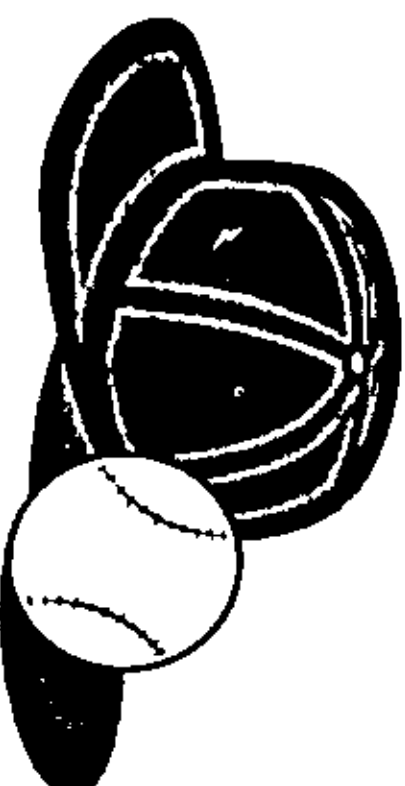
Parks and Recreation not only strives to offer quality recreational opportunities to the citizens of our community, we look to use our facilities to attract visitors to our great community. 2001 will be no exception.

At the 2001 National Softball Conference, Fayetteville Parks and Recreation was awarded the following events: 8 and Under World Tournament and the Men's D National Tournament. In addition, to these tournaments, Fayetteville's Don Glass tournament was awarded Men's AA/A, B and C National Invitational Tournament Status. Fayetteville Softball has hosted a Men's D National Tournament for several years and will continue to do so this year.

In a study compiled by Fayetteville Parks and Recreation, during the year 2000, Fayetteville Softball attracted over \$1,000,000 to the local economy. Fayetteville hosted five tour-

naments that attracted national attention. According to David Wright, Fayetteville's Program Coordinator, this year's tournaments should attract even more visitors to Fayetteville.

"Because of the 8 and Under World bringing participants and their parents to Fayetteville for a full week, the growth of the Don Glass Adult Tournament, and the fact that the Men's D is the largest classification of Adult Softball, we will certainly bring more tourist generated revenue to our community. At the same time, it provides our citizens with an opportunity to play on a national level."



From March Madness to Summer Fun...Let It Begin

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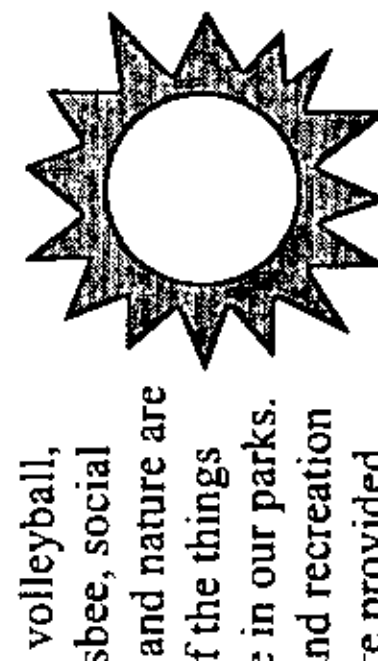
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SUPERINTENDENT



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FAYETTEVILLE PARKS & REC PROGRAMMING STAFF

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Athletic Specialist...
444-3474
David Wright,
Program Coordinator...
444-3481

Wilson Park Swimming
Pool opens May 26th

Jim Crider
521-1710
City of Fayetteville,
Arkansas

APPLICATION FOR GRANT ASSISTANCE

**From The
Economic Development of
Arkansas Fund**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

November 30, 2000

Ms. Joy Pennington
DFA Coordinator for the Commission
Economic Development of Arkansas Fund Commission
c/o DFA – Director's Office
P.O. Box 3278
Little Rock, AR 72203

SUBJECT: Grant Application for Infrastructure Improvements

Dear Ms. Pennington:

It is a pleasure to forward the attached "Application for Grant Assistance" from the Economic Development of Arkansas Fund. The Fayetteville City Council authorized participation in your grant program on April 21, 1998 (see Resolution No. 48-98 attached). Essentially, the City of Fayetteville seeks \$1,341,100 to aid in Phase I construction of the water and sewer lines and streets at the new Arkansas Research and Technology Park.

The approximate time necessary to complete Phase I will be about 12 months from the time funds are made available. In addition to Phase I, there remain Phases II thru V to be completed in subsequent years. Total estimated costs of infrastructure development for all phases are \$16,000,000.

Naturally, we hope to return to the Economic Development of Arkansas Fund Commission to meet the needs of Phases II thru V as park development advances. Thank you for your consideration of this most worthwhile project – the first of its kind in Arkansas. Should you have questions, or if I can be of any further assistance to you, please do not hesitate to call.

Sincerely,



Fred Hanna
Mayor

Enclosures

RESOLUTION NO. 48-98

A RESOLUTION AUTHORIZING THE CITY OF FAYETTEVILLE TO APPLY TO THE STATE OF ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION FOR A GRANT FROM THE ECONOMIC DEVELOPMENT OF ARKANSAS FUND FOR CONSTRUCTION OF WATER AND SEWER LINES AND STREETS NECESSARY TO DEVELOP THE RESEARCH AND TECHNOLOGY PARK.

WHEREAS, the City of Fayetteville, in conjunction with the University of Arkansas and the Fayetteville Chamber of Commerce, employed the firm of Hammer, Siler, George Associates to develop market potentials, site planning, and costs associated with the Research and Technology Park Development; and

WHEREAS, the study has been completed, and it is now time to improve the Research and Technology Park by constructing the required streets and water and sewer lines necessary for the development of the Park; and

WHEREAS, the cost of these developments are estimated at \$9,214,300; and

WHEREAS, the Arkansas Department of Finance and Administration has funds available through the Economic Development of Arkansas Fund Commission, to which we may apply for either a grant or loan; and

WHEREAS, Paragraph 7(a)3 of the Economic Development of Arkansas Fund Commission Regulations requires an ordinance, resolution, or other specific authorizing instrument or action reflecting the applicant's authority for making application to the Commission.

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

Section 1. Mayor Fred Hanna or his authorized representative is designated as the authority for making application on behalf of the City of Fayetteville, Arkansas, for a grant to aid in the construction of the water and sewer lines and streets at the Research and Technology Park.

PASSED AND APPROVED this 21st day of April, 1998.

APPROVED:

By: Fred Hanna

Fred Hanna, Mayor

ATTEST:

By: Heather Woodruff

Heather Woodruff, City Clerk



July 14, 1998

Economic Development of Arkansas Fund Commission
C/O DFA - Directors Office
P.O. Box 3278
Little Rock, AR 72203

RE: City of Fayetteville's Application for Assistance in the Ark. Research and
Technology Park

To The Commission:

As Mayor of the City of Bentonville, I wish to support this grant application. I believe it is imperative that a Research and Technology park be established in Arkansas. Since this type of facility is usually dependent on being close to a university, Fayetteville is the logical choice. The development of a Research and Technology park will ensure that most of the graduates in this area will remain in Arkansas and not go out of state. The location of the park site is ideal, since it is centrally located adjacent to Highway 71 and will be easy to reach by air or ground transportation.

I ask that you look favorably on the city's request for aid so that Phase I of the project can be undertaken.

Sincerely,

Terry Black Coberly,
Mayor

TBC/sg

cc: Mayor Fred Hanna, City of Fayetteville

RECEIVED

JUL 16 1998

**CITY OF FAYETTEVILLE
MAYOR'S OFFICE**

CITY OF SILOAM SPRINGS

P.O. Box 80
Siloam Springs, Arkansas 72761
501-524-5136

November 16, 2000

Economic Development of Arkansas Fund Commission
c/o DFA - Directors Office
PO Box 3278
Little Rock, Arkansas 72203

RE: City of Fayetteville's Application for Assistance in the Arkansas Research
and Technology Park

To the Commission:

As Mayor of the City of Siloam Springs, I wish to support this grant application.

I believe it is imperative that a Research and Technology Park be established in Arkansas. Since this type of facility is usually dependent on being close to a university, Fayetteville is the logical choice.

The development of a Research and Technology Park will ensure that most of the graduates in this area will remain in Arkansas and not go out of state. The location of the park site is ideal, since it is centrally located adjacent to Highway 540 and will be easy to reach by air or ground transportation.

I ask that you look favorably on the city's request for aid so that Phase II of the project can be undertaken.

Yours truly,



M. L. Van Poucke, Jr., Mayor

cc: Mayor Hanna, City of Fayetteville

NORTHWEST ARKANSAS COUNCIL



July 28, 1998

Partners in Progress

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John Lewis, Vice Chairperson
David Hausam,
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Steve Ward
Robert Weaver
Perry Webb
George Westmoreland
John A. White
Doyle Z. Williams

Uvalde Lindsey, Director

The Honorable Fred Hanna
Mayor
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Dear Mayor Hanna:

Since its inception, the Northwest Arkansas Council has advocated the establishment of public and private partnerships which enhance the region's economic well-being through the development of improved infrastructure, the creation of new job opportunities, and the implementation of programs which provide our people with the skills required to secure the higher paying jobs of the future.

The City of Fayetteville, in partnership with Southwestern Bell and the Fayetteville Chamber of Commerce, has taken the first major steps to create the Arkansas Research and Technology Park, thereby charting the course for development of what can be a premier research and technology center of mid-America. In a continuing and ever-expanding partnership with the University of Arkansas, the project can become a major research institution which creates new job opportunity for all Arkansas citizens.

The Council applauds the farsightedness of the City of Fayetteville, Southwestern Bell and the Chamber in moving this project toward fruition, and we strongly support the expansion of this public and private partnership to include the State of Arkansas. As Governor Huckabee recently said at the opening of his Summit on Economic Development, "Arkansas must find a way to replace manufacturing jobs that pay minimum wage - many of which are leaving for developing countries - with technology or knowledge-based jobs. We need to raise the standard of living instead of maintaining an inadequate one. We have not had the focus on technology that we intend to have".

We could not agree more, and we support the City's application for state grant funding for the Arkansas Research and Technology Park.

Sincerely,

John Paul Hammerschmidt
Chairman

3. Project Cost and Funding (Attach itemized budget.)

Amount requested from Commission \$ 1,147,640

Amount of loans or grants from other sources \$ 793,460

List other sources:

• Economic Development of Ar Fund (\$193,460)

• Southwestern Bell Telephone (\$600,000)

Amount of local funds contributed \$ 1,900,000

Other \$ _____

PROJECT TOTAL (Phase I) \$ 3,841,100

4. Type of participation requested from Commission

Economic Development Project: Grant ☒ Loan _____

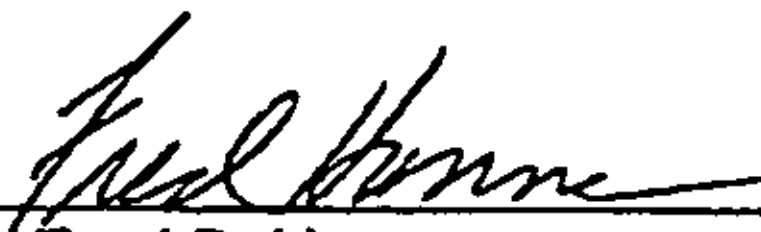
Other Loan (i.e. natural gas pipeline construction) _____

5. Proposed time schedule for completion of project. (List each phase, if applicable.)

Phase I – Approximately 1 year from the time funds are made available.

Applicant Statement:

To the best of my knowledge, all statements of fact contained herein are true and correct as of the date hereof.

Signature of Applicant  Date 7/20/99

Name (please type or print) Fred B. Hanna

Title Mayor

Please return application form to:
Economic Development of Arkansas Fund Commission
c/o DFA - Director's Office
P.O. Box 3278
Little Rock, AR 72203

Date of Submission to Reviewing Agency: _____

Reviewing Agency: _____

Reviewing Agency Recommendation Approve _____ Deny _____
by: _____

Date of Commission Review _____

Approved _____ Denied _____

by _____

name _____

title _____

NARRATIVE

ARKANSAS RESEARCH AND TECHNOLOGY PARK

This grant application seeks to fund development of Arkansas' first research and technology park. The need for the park is based on its close proximity to the University of Arkansas-Fayetteville. At the present time, there exists no site for high-technology and university-related industries in Arkansas. As the only such park in the state, the project will stimulate business, industrial and economic growth in all areas of Arkansas by creating employment opportunities not heretofore available.

Arkansas' first research and technology park is located on a 290-acre site that was purchased for \$1,300,000 by the City of Fayetteville in 1988. Essentially, the University of Arkansas' status as a major research institution is the critical linchpin to developing a new Arkansas Research and Technology Park. Engineering, agriculture and the sciences are particular strengths of the University's research program.

At the present time, job opportunities within Arkansas for many University of Arkansas graduates do not exist. The High Density Electronics Center (HiDEC) at the University of Arkansas-Fayetteville has lost over 50 graduates (approximately 95 percent of all graduates) to employment opportunities outside the state. The Arkansas Research and Technology Park will serve to further diversify the state's employment base. This phenomenon will level the playing field in the game of high-tech job retention in Arkansas.

In addition, it is also anticipated that the Arkansas Research and Technology Park will generate "spin-off" activity. Studies indicate that research parks attract other university, governmental and compatible private business uses. It is assumed that such additional floor space demand will be roughly equal to the research-based absorption.

In 1996, the City of Fayetteville hired the firm of Hammer, Siler, George, and Associates as the multidisciplinary team to verify the need for a research and technology park. The firm determined that the park's establishment in the vicinity of the University of Arkansas was essential. The team, then, devised a master plan for park development. The Executive Summary from this report is as follows:

- * 1. The purpose of the consultant work is to test the feasibility of research park development.**
- * 2. This requires research resource assessment, market analysis, site planning, site development costing and cash flow analysis.**

- * 14. Phase I site improvement costs will total \$4,500,000 in construction costs. A total of \$3,900,000 had previously been spent on the purchase of the land, water line main installation, master plan, economic development program endeavors, and fiber optics hub installation.
- * 15. The estimated total site improvement construction costs for the five phase will be \$16 million.
- * 16. The University, the City, the Chamber of Commerce and the State will make a strong partnership to make this project a success.

A copy of the report entitled "Market Potentials, Site Planning, Costing and Cash Flow For Arkansas Research and Technology Park Development" is enclosed.

Listed below are highlights from the master plan process:

Phase I – Market potentials & Development Program (completed);

A. Of the recommended alternative development programs, Fayetteville chose a research related park with total quality business focus, which offers –

1. Broader, traditional research park use mix
2. Critical University and private anchor facilities
3. Essential quality environment
4. Greater total and early project success
5. 160 acre project size (when fully developed)
 - 50 Acres of Research-Related
 - 70 Acres of Business Park Uses
 - 20 Acres of University, State and Federal
 - 20 Acres of Supporting Services

Phase II – Master Plan & Financial Analysis (completed – see enclosure);

A. The park's master plan calls for the following utilization scheme –

<u>Land Use</u>	<u>Acres</u>	<u>Square Feet</u>
Office	56	485,000
Retail	6	60,000
Light Industrial	<u>63</u>	<u>455,000</u>
Sub-Total	125	1,000,000
Future Expansion	<u>35</u>	
Grand Total	160 Acres	

ARKANSAS RESEARCH AND TECHNOLOGY PARK
Expenditures and Projected Costs

I. Expenditures through December, 2000:

Land Acquisition	\$1,300,000
Economic Development	200,000
Water and Sewer Construction	300,000
Master Plan	100,000
Environmental	<u>150,000</u>

Total Expended by City of Fayetteville	<u>\$2,050,000</u>
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Fiber Optics Hub Installation	\$ 600,000
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Total Expended by Southwestern Bell	<u>\$ 600,000</u>
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Total Expenses through December, 2000	<u>\$2,650,000</u>
--	---------------------------

Projected Funds:

Capital Improvements	\$1,250,000
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Total Funds Committed	<u>\$3,900,000</u>
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ARKANSAS RESEARCH AND TECHNOLOGY PARK

Expenditures and Project Costs

Phase II:

Complete street network within southern area of park and add water and sewer infrastructure.	\$2,500,000
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Phase III:

Construct Trucker's Drive and acquire property around the Hwy 112 entrance. Complete street network for northern area of park and add water and sewer infrastructure.	\$4,500,000
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Phase IV:

Improve Deane Solomon Road along park boundary. Acquire any necessary right of way.	\$1,500,000
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Phase V

Improve I-540 access. Relocate and widen Frontage Road. Acquire property along Shiloh Drive	\$3,000,000
Total Estimated Costs for Future Construction	<u>\$16,000,000</u>

LEGAL DESCRIPTION:

part of Section 33, Township 17 North, Range 30 West, being more particularly described as beginning at the NW Corner of said Section 33, Thence South 87°19'24" East - 2637.40 Feet to the NE Corner of the NE 1/4 of the NW 1/4 of said Section 33; Thence South 87°14'56" East - 247.50 Feet; Thence South 02°26'17" West - 630.76 Feet; Thence South 87°17'25" East - 1100.15 Feet to the West Right of Way of U.S. 1-540; Thence along said West Right of Way the following Bearings and Distances:
South 26°01'09" West - 74.14 Feet; Thence South 74°59'16" West - 100.11 Feet; Thence South 75°15'02" West - 117.54 Feet; Thence South 66°53'26" West - 127.62 Feet; Thence South 50°13'36" West - 191.54 Feet; Thence South 31°34'48" West - 190.36 Feet; Thence South 31°34'48" West - 126.58 Feet; Thence South 04°16'48" West - 188.26 Feet; Thence South 16°36'56" East - 37.67 Feet; Thence South 12°48'23" East - 100.11 Feet; Thence South 05°19'10" East - 250.77 Feet; Thence South 07°13'05" West - 170.41 Feet; Thence South 27°10'09" West - 171.37 Feet; Thence South 34°22'26" West - 449.12 Feet; Thence South 38°27'59" West - 150.76 Feet; Thence South 34°22'18" West - 922.60 Feet; Thence Leaving the West Right of Way of 1-540, North 87°11'53" West - 631.86 Feet; Thence South 02°26'44" West - 529.87 Feet; Thence North 87°21'18" West - 660.00 Feet; Thence North 2°25'44" East - 530 Feet; Thence North 87°21'18" West - 660.23 Feet; Thence North 02°28'11" East - 2480.65 Feet; Thence North 87°19'24" West - 530.00 Feet; Thence North 02°28'11" East - 1816.06 Feet to the Point of beginning, Containing 289.28 Acres, more or less, Located in Washington County in the State of Arkansas, being subject to any and all rights of way and easements of record or interest.

PHASE I LEGAL DESCRIPTION

Commencing at the Northwest Corner of Section 83, thence S 87°19'24"E 130.00 feet; thence S02°28'10"W 1816.05 feet; thence S02°28'11"W 2480.66' feet; thence S67°21'18"E 660.23 feet; thence S67°28'47"E 351.75 feet, to the True Point of Beginning, thence S67°28'47"E 308.25 feet, thence S67°11'53"E 631.86 feet to the West Right of Way of I-540, thence following said Right of Way, N34°22'18"E 922.60 feet; thence N38°27'59"E 50.76 feet; thence N34°22'25"E 161.92 feet; thence leaving said Right of Way, N55°37'26"W 1102.70 feet; thence S34°22'34"W 856.65 feet; thence S55°37'26"W 192.18 feet; thence along an Arc to the Left having a Length of 434.37 feet and a Radius of 775.00 feet and a Chord Length of 428.71 feet, bearing N71°40'49"W; thence N87°44'13"W 138.64 feet; thence S02°15'46"W 235.20 feet; thence along an Arc to the Left having a Length of 240.88 feet and a Radius of 550.00 feet and a Chord Length of 238.96 feet, bearing N01°17'02"E; thence S22°49'50"E 21.15 feet; thence along an Arc to the Right having a Length of 127.37 feet and a Radius of 700.00 feet and a Chord Length of 127.20 bearing S17°37'04"E; thence S12°24'18"E 95.57 feet; thence S12°13'27"E 228.67 feet; thence S 02°50'58"W 484.85 feet, containing 45.67 acres, more or less, and being subject to all Rights of Way and Easements of Record or Intent.

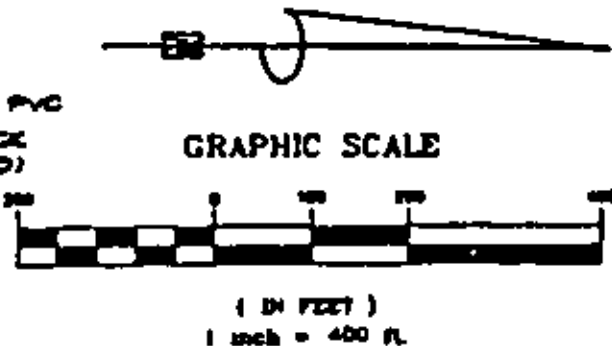
LEGEND

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- EXISTING BASEMENT
EXISTING ROAD
EXISTING FENCE
EXISTING BUSH EASTMENT
EXISTING POWER POLE
EXISTING WATER LINE
EXISTING RIGHT-OF-WAY
EXISTING OVERHEAD ELECTRIC
EXISTING GAS LINE
EXISTING BUSH FIBER OPTIC
EXISTING STORM SEWER
EXISTING SEWER
PROPOSED STORM SEWER
PROPOSED LOT LINES
PROPOSED BUILDING SETBACK
PROPOSED RIGHT-OF-WAY
PROPOSED STREET LIGHT
PROPOSED CONDUIT 4-6" x 4-6" PVC
PROPOSED BASEMENT + SETBACK
(UNLESS OTHERWISE DESIGNATED)
PROPOSED WATER LINE
PROPOSED SEWER
PROPOSED SIDEWALK
PROPOSED WALKING TRAIL
PROPOSED PORCELAN
FUTURE ROAD
BOUNDARY OF EXISTING WETLANDS IMPACTED
BLOODWAY
PROPOSED MITIGATION AREAS
CREATED/ENHANCED
EXISTING WETLANDS - IMPACTED
EXISTING WETLANDS PRESERVED
SANITARY SEWER MANHOLE
FIRE HYDRANT

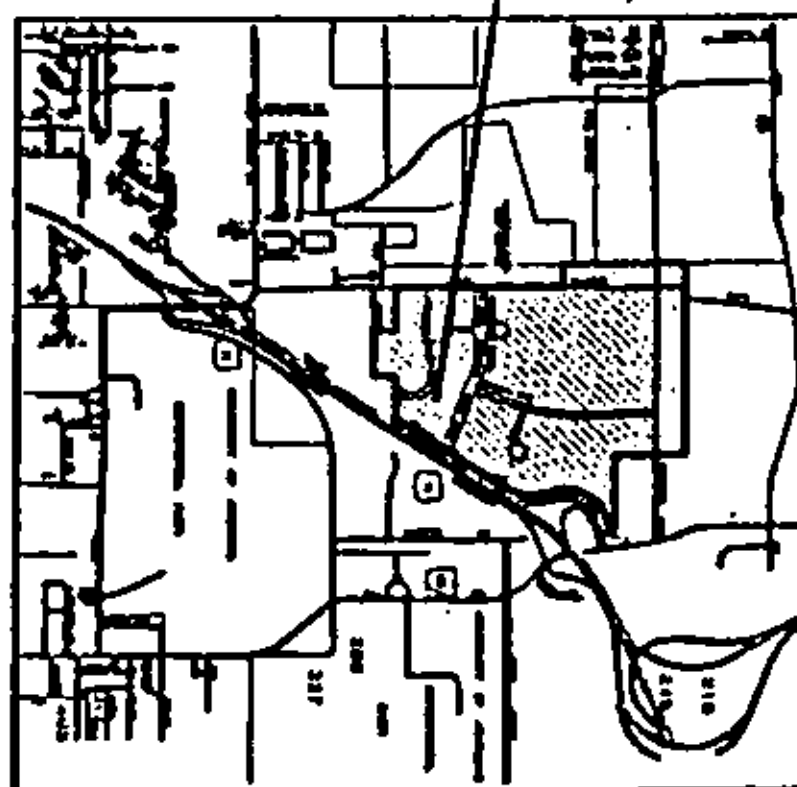
NOTES

1. SOME OF THIS PROPERTY IS LOCATED WITHIN THE DESIGN OVERLAY DISTRICT.
2. ALL NEW UTILITIES SHALL BE UNDERGROUND.

GRAPHIC SCALE



PROJECT LOCATION



VICINITY MAP

SCALE: 1" = 1/2" FILE

STREET NAME	R.O.	STREET WIDTH	GREEN SPACE	SIDEWALK
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SETBACKS

- 2' TYPICAL LOT/LOT
 5' TYPICAL FROM PROPOSED R/W
 5' TYPICAL FROM RESERVED PUBLIC LAND
 10' TYPICAL FROM EXISTING R/W, R-1 ZONING
 AND A-1 ZONING

SITE FIRM MAP NO.

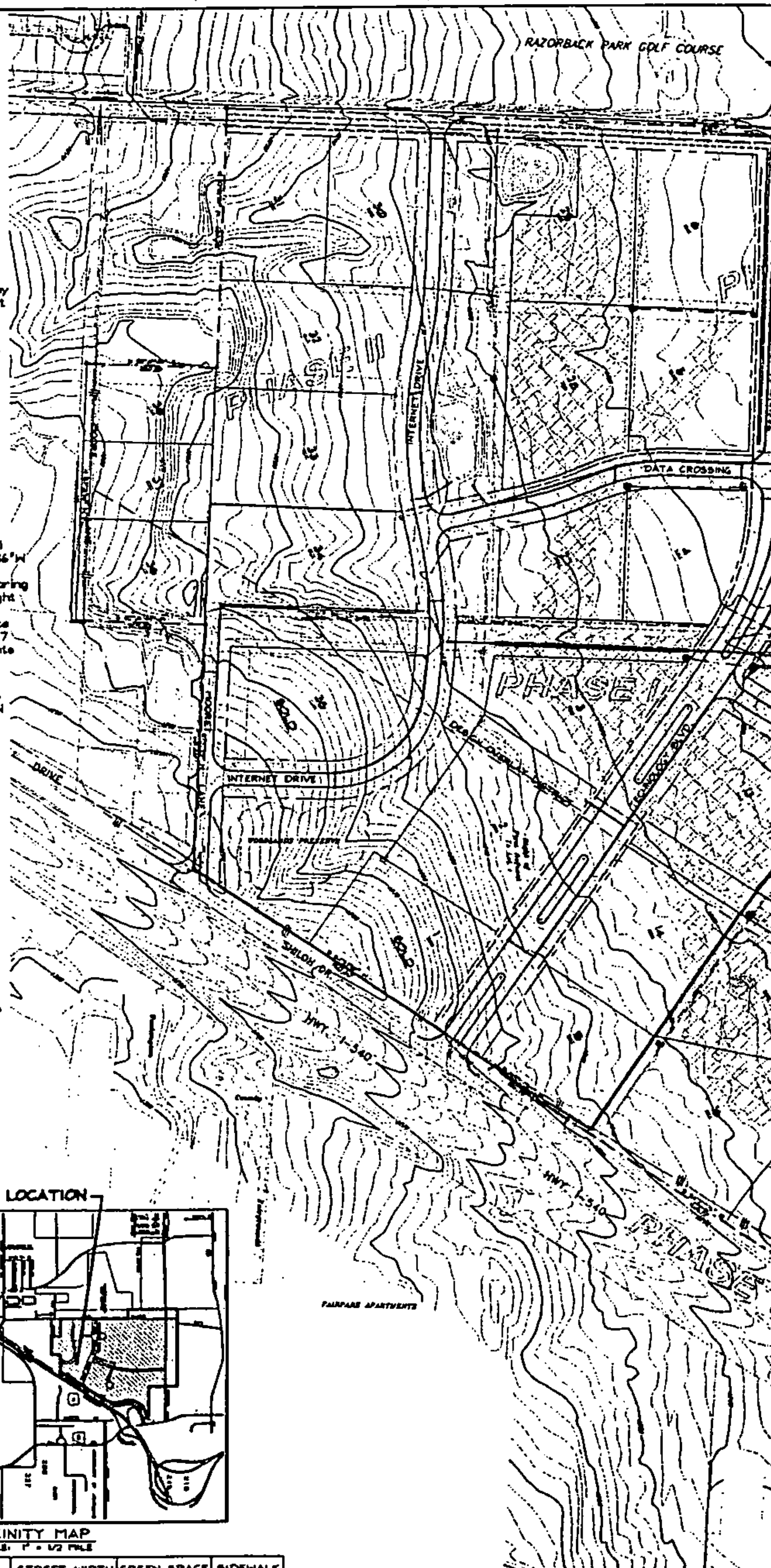
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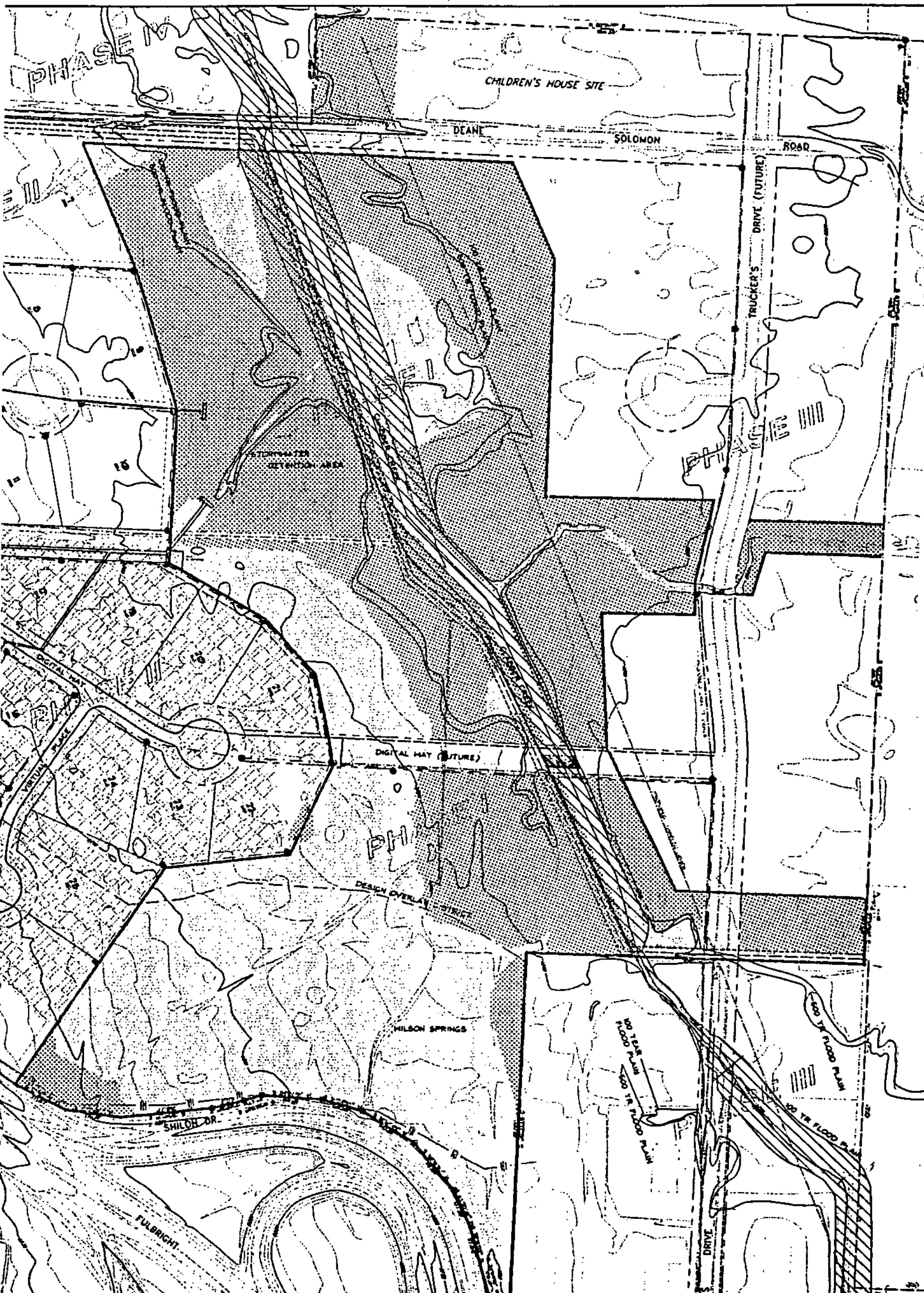
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JULY 21, 1999

PLAT CODE 17N-30W-0-33-000-72-1357

GENERAL INFORMATION





CITY ENGINEERING DEPARTMENT		TITLE:		DATE: 2/2000		SCALE: AS SHOWN	
113 W. MOUNTAIN STREET FAYETTEVILLE, ARKANSAS PHONE NO. (501) 875-8208 FAX NO. (501) 875-8257		REVISED		DRAWN BY: GCF		CHECKED BY:	
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				FILE NAME: PRKPLN2		DRAWING NO:	
				SIGNED:		P.E. NO.:	
ARKANSAS		RESEARCH & TECHNOLOGY PARK					
		SITE PLAN					

A D D E D N U M

This grant application request is being resubmitted for consideration by the Economic Development of Arkansas Fund Commission. The Commission was apprised about the new Arkansas Research and Technology Park at the December 12, 1999 meeting and declined to consider infrastructure funding of \$1,147,640 for development of Phase I. The project did not make the funding "short list" at that time.

Prior to December 1999, the project received an award of \$193,360 in June 1999 for infrastructure improvements in Phase I of park infrastructure development. That sum remains untouched in a state escrow account pending the outcome of litigation challenging two other projects in the batch of 10 successful applicants. In the meantime, Interface Computers purchased land in the park, but cannot begin development of their site until a road can be built to their site.

A letter of commitment is enclosed from Interface Computers is again included with this application. This company appeared before the Commission in June 1999. This fine firm is an information-based computer oriented company seeking to be the first firm in the new Arkansas Research & Technology Park.

The company is involved in developing and producing products and services oriented to internet and e-commerce. Their employment currently stands at 13 employees with an annual payroll of \$260,000. Within the next two years of operation the young firm expects growth to eclipse 20 employees with an annual payroll of \$500,000. The Arkansas Economic Development Commission (AEDC) has been made aware of this client because of the quality of jobs that would be created by its expanded investment in Arkansas.

In addition, Fayetteville is pursuing the investment of yet another company, which also has appeared before the Commission in December 1999. Computer Management Information Systems (CMIS) was incorporated in 1992 with three employees and has grown during the ensuing eight years from revenues of one-half million dollars to revenues of over five million dollars with twenty employees.

The company estimates they will add ten employees per year and during the first six months of 2000, they had created 8 new jobs. Their current location does not offer them enough space to access to the fiber optic lines they require for their business. The company is a prime example of the type of company which will be lost from our state, if appropriate locations are not available to enable their growth.

Funding from the Economic Development of Arkansas Fund Commission would literally pave the way toward introducing the first park of its kind in Arkansas and one of only about 75 in the world.

I N T E R F A C E
COMPUTER CENTER, L.L.C.

Leaders of Tomorrow's Technology

530 North College Avenue, Building C
Fayetteville, AR 72701
Telephone: 501-582-5100
Facsimile: 501-582-5599

April 23, 1999

Mr. James V. Crider, Director
Economic Development
FAYETTEVILLE CHAMBER OF COMMERCE
P.O. Box 4216
Fayetteville, AR 72702-4216

SUBJECT: Letter of Commitment

Dear Jim:

It is a pleasure to confirm the commitment of Interface Computer Center L.L.C. to locate in the new Arkansas Research and Technology Park. The SBA has chosen us for the 1999 Young Entrepreneur of the Year award for the State of Arkansas and for the five-state region. We are very excited about locating in the new Technology Park to help our business to continue to grow. Our company prides itself as a "leader in tomorrow's technology." In 1998, we had 13 employees (approx. annual payroll of \$260,000) and generated \$1.1 million in revenues. It is anticipated employment will eclipse 16 (annual payroll of \$350,000) by the end of 1999 with a revenue stream of \$1.7 million. Our projections over the next two years show a possibility of 20 employees (annual payroll of \$500,000) and revenues of \$3-4 million.

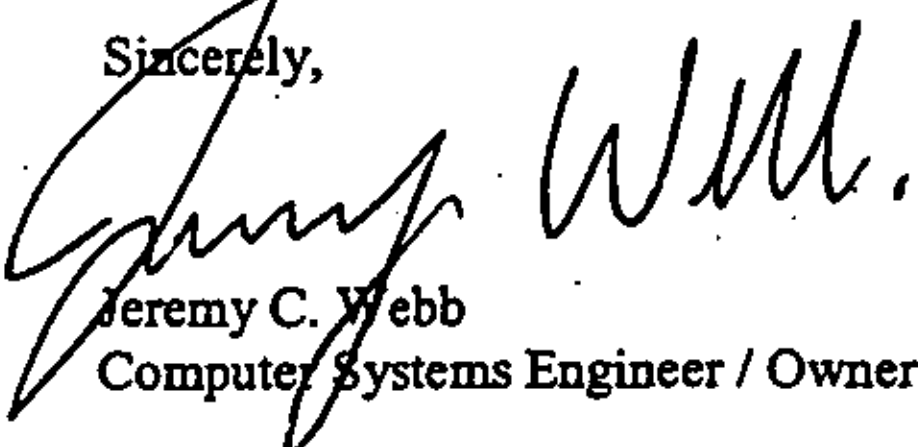
At the present time, our growing enterprise has four dynamic divisions. These entities include:

1. Interface Interactive Division- involved with internet web development and e-commerce (30 percent of revenues).
2. Interface Internet Division- sells "pipes" to internet companies (30 percent of revenues).
3. Interface Computers Division - network service contracts and MIS services for companies (30 percent of revenues).
4. Interface Research Division- new software package development. This department is a long-term goal for the three owners of Interface to develop internet-related software packages that we can sell to many. Right now, our Interface Interactive division is developing internet related software package that are sold once instead of packaging the product for many. Hopefully, the previous three departments will hopefully finance this department (currently 10 percent of revenues).

As you might expect, along with success come various challenges. The single most important obstacle facing Interface Computers Center today is available space. In short, we have long-since outgrown our present facility. We propose building a 7,500 square-foot facility (expandable to 15,000 square feet) on an excellent two-acre site in the Arkansas Research & Technology Park. At this point, no purchase price has been established. Our commitment is, therefore, contingent upon arriving at mutually acceptable purchase price for the site.

We look forward to moving our information-based company into a new building as the first occupants of the new Arkansas Research and Technology Park.

Sincerely,


Jeremy C. Webb
Computer Systems Engineer / Owner

LEGAL DESCRIPTION

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1. Introduction

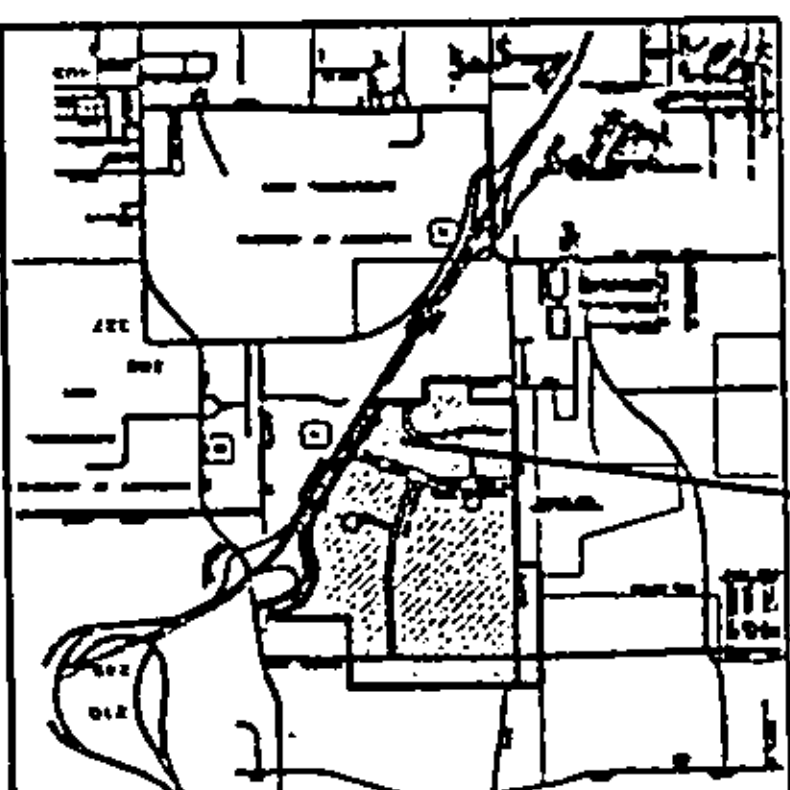
- NOTES
1. SOME OF THIS PROPERTY LOCATED WITHIN THE DESIGNATED DISTRICT.
 2. ALL NEW UTILITIES SHALL BE UNDERGROUND.

GRAPHIC SCALE

1 51127)
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	BOARDING OF EXISTING LIFTLANDS - REPACKAGED
	BLOODCURE
	PERFORMED INTENTIONAL ABUSE CREATED/DAMAGED
	EXISTING LIFTLANDS - REPACKAGED
	EXISTING LIFTLANDS - PRESERVED
	SUBSTANTIAL EVIDENCE FURNISHED
	PRIOR INVESTMENT

PROJECT LOCATION



VICINITY MAP

STREET NAME	R/M (FT.)	STREET WIDTH (FT.)	GREEN SPACE (FT.)	SIDEWALK (FT.)
TECHNOLOGY BLVD.	150	70	10	6
DIGITAL WAY	100	35	10	6
INTERNET DRIVE	100	35	10	6
DATA CROSSING	100	35	10	6
VIRTUAL PLACE	100	35	10	6
	70.00	35	10	6

CITY ENGINEERING DEPARTMENT

113 W. MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS

EXHIBIT NO. 001 875-A20

FAX NO. (901) 575-8757

ARKANSAS
RESEARCH & TECHNOLOGY PARK
SITE PLAN

DATE 11/2000

DRAWN BY EC

FIELD CHECKED

FILE NAME

11



Local Hispanic Programming

Exclusive to K20CT Television

All Programming Added

Since We Signed on as K20, Television Hispana

March 16th, 2001

- Hourly Newscasts featuring Elsa Hernández reporting on news of importance to Hispanics. This includes local, national, educational, and international news.
- Arkansas' only severe weather information in Spanish. When there are Thunderstorm Watches, Warnings or Tornado Watches or Warnings, K-20 is broadcasting the information as soon as it becomes available. K-20 also provides information about precautions to take in the event of serious weather. During this tornado season we are broadcasting information to help prepare Spanish and bilingual people on things they can do to prepare for bad weather.
- Special long form coverage of events involving the Hispanic community, i.e., Featherfest in Springdale, the National Council of Laraza \$25,000.00 grant to the Hispanic Women's Organization of Arkansas, and entertainment coverage involving local Salsa Funk artists, the "Barrio Band".
- Promotions encouraging young people to take advantage of opportunities available to them in the community. We have worked with the Northwest Arkansas Community College to publicize the "Paso a Paso – Step by Step" program that provides summer school tuition for high school students in Fayetteville, Springdale, and Rogers. We have also area high school "Project Graduation" programs and encourage Hispanic and bilingual students to take part in a safe post graduation celebration.
- Coming within the next 30-45 days:

"Que Pasa – Whats Up" featuring Papa Rap and the MCs (Masters of Communication)

This show will feature nationally known educator and musician Alvin Lopez "Papa Rap" hosting a children's show dealing with issues relevant to youngsters.

El Mercado – The Market

This hour long program will have news, sports, weather and community information. Also featured will be English as a Second Language (ESL) segments that will teach as well as entertain, and education segments devoted to helping people new to the area learn customs and laws that will affect them in their daily lives. El Mercado will air three times daily at 7-AM, 6-pm, and 11-pm.

And other programming of both short and long for nature that responds to the needs of the Hispanic community of Northwest Arkansas.



Paid Programming on K20CT

Iglesia Primitiva del Señor Jesucristo- Hosted by Pastor Miguel Ramirez, this hour long religious program runs Friday, Saturday, and Sunday at 10:30am on K20. Featuring everything from sermons to movies with a message, the Iglesia Primitiva del Señor Jesucristo programming serves the religious needs of many members of the community who don't speak English.

Local Sports Programming

Northwest Arkansas Soccer Featured Games of the Week-K20 Deportes (sports) is currently in the final stages of finalizing agreements to broadcast futbol (soccer) games from Fayetteville and Rogers on Sunday nights. There are more than 1000 Latino men in the two county area that play futbol and have requested that we carry games from the area.



Agua Y Chocolate

"Water & Chocolate" - Another HTVN original production hosted by a mother and daughter and featuring members of the entire family. Family members interact with each other and famous guests while sharing their favorite recipes. Everyday family issues are discussed while cooking. It's a combination sitcom, talk show and cooking show rolled into one!

Bandazo 2001

This program is pure sizzling Hispanic flavor with a fast-moving upbeat pace. Audiences have been increasing tremendously and appreciating this unique style of music for some time now. Bandazo Musical is a variety entertainment program that features the latest music videos, both in the Hispanic and the general market's musical charts, as well as interviews and events with the newest and hottest musical stars. This program is popular with younger viewers, but the whole family will enjoy!

CNI Noticias

A live full hour of the most important and relevant News from Mexico, and around the world. In depth analysis and interviews with news makers, and the people that shape public opinion in the Mexican and the U.S. Hispanic populations.

Monday through Friday 10:00pm-11:00pm

Tuesday through Saturday 6:00am-7:00am

El Emergente

Artists, politicians and intellectual individuals are the stars of this fast paced innovative program that not only makes you think, but makes you laugh!

Monday 9:00pm-10:00pm

Saturday 9:00pm-10:00pm



El Mañanero

Brozo, the anti-clown! Honest and open discussions and analysis about the latest national, international and sports News from all over the world in a unique and humorous way.

Monday through Friday 8:00am-10:am
Saturday 7:00am-10am "Best of" (CST)

Fe de Ratas

Strange and unimaginable propositions, a journey through reality where everything has a different value, a strange new experience in television. Watch and see!

Wednesday 9:00pm-10:00pm (CST)
Friday 9:00pm-10:00pm (CST)

Las Nueve y Sereno

A fun filled sexy hour with Victor Trujillo. A different kind of talk show that takes some chances and makes you think and laugh!

Wednesday 9:00pm-10:00pm (CST)
Saturday and Sunday 8:00pm- 9:00pm (CST)

Palco Deportivo

Alfredo Dominguez Muro, provides the most objective analysis of the most important News in the world of sports. A complete wrap up of all the sports events in the last 24 hours.

Monday through Friday 2:30pm-3:00pm "Live" (CST)
Monday through Friday 6:30pm-7:00pm "Tape" (CST)



Septimo Dia

A weekly show discussing the most important political, economical and financial topics, in a nimble and humorous way. We talk to the most influential opinion makers in politics and public office openly and honestly.

Sunday 9:00pm-10:00pm

Monday 6:00am-7:00am

**DRAFT TENTATIVE AGENDA
CITY COUNCIL
JUNE 19, 2001**

A meeting of the Fayetteville City Council will be held on June 19, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

- 1. APPROVAL OF THE MINUTES**
- 2. ROGERS DR. WATER TANK:** A resolution approving Amendment No. 1 to the Engineering Contract with McClelland Consulting Engineers for Rodgers Drive Water Tank Paint Project in the amount of \$20,158.07, and a project contingency amount of \$2,015.
- 3. RODGERS DR. WATER TANK:** A resolution approving the construction contract with Protective Linings and Coating, Inc. for Rodgers Drive Water Tank Paint Project in the amount of \$250,600 and a project contingency of \$37,590, and the related budget adjustment in the amount of \$72,741.
- 4. DHL WORLDWIDE:** Review of a draft lease with DHL Worldwide Express.
- 5. TED BELDEN:** A resolution approving a lease agreement with Ted Belden for one parking space in the Fayetteville Municipal Parking Lot 1.
- 6. PLAYGROUND EQUIPMENT:** A resolution approving a contract with John Barre Landscape Construction for new playground equipment and installation of equipment at the Lake Fayetteville Softball Complex.
- 7. SOCCER UNIFORMS:** A resolution approving the purchase of soccer uniforms for 2001-2002 soccer session.
- 8. SKATE PARK:** A resolution authorizing the Parks and Recreation Division to apply for up to \$200,000 in grant money for the development of a skate park.

B. OLD BUSINESS

C. NEW BUSINESS

1. **VA 01-4.00:** An ordinance approving vacation request VA 01-4 as submitted by Robert Brown for property located at 3430 W. Telluride Drive, lots 4A and 4B, Wedington Place Addition, Phase II. The request is to vacate a 20' wide drainage easement and a 20' wide utility easment.
2. **VA 01-5:** An ordinance approving vacation request VA 01-5 as submitted by Ed Connell, City Land Agent, for the property located at 10 N. Garland Ave. Lots 400-402, Oak Park Place Subdivision. The request is to vacate the undeveloped 40' wide right-of-way to the east and north of the above address and Lots 17-24 McIlroy's University Addition.
3. **AD 00-46.00:** An ordinance approving AD 00-46 to amend Chapter 151 "Definitions" of the UDO to change the definition of "Family" and to include the definition of "Single Housekeeping Unit", submitted by the Planning Division.
- 4.

May 29, 2001

**AGENDA SESSION
CITY COUNCIL
JUNE 5, 2001**

NEW ITEMS:

1. **SAGE HOUSE:** A resolution approving a long term lease with Economic Opportunity Agency of Washington Co. Inc. for Children's House and Sage House.
2. **GRANT:** Application for grant assistance.

ADDITIONAL INFORMATION:

1. Impact Fees
2. Tree Protection and Preservation amendment
3. HMR Tax Amendment
4. Parks HMR Tax Amendment

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

RECEIVED

04-12-01 11:01:08 RCVD

APR 10 2001

From the Fayetteville City Council meeting of May 1, 2001 **APR 12 2001**

ACCTG. DE.

FROM:

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICEJohn MaguireAdministrativeAdministrative Services

Name

Division

Department

ACTION REQUIRED: Approval of long term leases with the Economic Opportunity Agency of Washington Co., Inc. for Children's House & Sage House.

COST TO CITY:

\$ N/A
 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: _____

Masha Farkis 4/10/01
 Accounting Manager Date

ADA Coordinator

Date

W. J. White 4/10/01
 City Attorney Date

Jancy Smith
 Internal Auditor

4/10/01
 Date

W. J. White 4/12/01
 Purchasing Officer Date

STAFF RECOMMENDATION: Approval of the Resolution and Budget Adjustment

Division Head

Date

Cross Reference

Department Director

Date

New Item: Yes No

Administrative Services Director

Date

Prev Ord/Res #: _____

M

Date

Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor & City Council
From: John Maguire, Administrative Services Director
Date: April 9, 2001
Subject: Leases for Children's House & Sage House

The leases with the Economic Opportunity Agency of Washington County, Inc. for the benefit of Children's House and Sage House containing 4.132 acres and 2.715 acres respectively are recommended by Staff. The Council expressed their intent by resolution, dated March 21, 2000.

RESOLUTION NO. 40-00

MICROFILMED

A RESOLUTION EXPRESSING THE CITY'S INTENT AND COMMITMENT TO A LONG TERM LEASE AGREEMENT WITH THE ECONOMIC OPPORTUNITY AGENCY OF WASHINGTON COUNTY, INC., FOR THE BENEFIT OF CHILDREN'S HOUSE AND SAGE HOUSE.

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

Section 1. That the City Council hereby expresses its intent and commitment to a long term lease agreement with the Economic Opportunity Agency of Washington County, Inc., for the benefit of Children's House and Sage House. The subject real property located in Washington County is described more particularly as follows:

See Exhibit "A" attached hereto and made a part hereof.

PASSED AND APPROVED this 21st day of March, 2000.

APPROVED:

By:

Fred Hanna
Fred Hanna, Mayor

ATTEST:

By:

Heather Woodruff
Heather Woodruff, City Clerk



LEASE AGREEMENT

This Agreement, made and entered into this ____ day of _____, 2001, by and between the City of Fayetteville, Arkansas, hereinafter called "Lessor," and Sage House, hereinafter called "Lessee," Witnesseth:

WHEREAS, Sage House is a nonprofit agency established and dedicated to serve as a rent subsidized transitional housing facility; and,

WHEREAS, providing transitional housing is a valid public purpose; and,

WHEREAS, Sage House will provide such services within the City of Fayetteville.

NOW, THEREFORE, the parties hereto agree as follows:

1. Leased Premises. for and in consideration of the rents, covenants and agreements herein entered into and agreed upon by the Lessee as obligations to the Lessor, the Lessor lets, leases and demises unto Lessee, subject to the terms and conditions contained herein, the following described property situated in Washington County, Arkansas.

A part of the Northwest Quarter (NW1/4) of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of said Section 33; thence along the west line of said Section 33, South 02°28'11" West 1072.67 feet, to the Point of Beginning; thence leaving said West line of Section 33, South 87°22'27" East 329.47 feet, to a point on the existing centerline of Deane Solomon Road; thence with said centerline, South 02°29'56" West 395.06 feet to a PK nail; thence leaving said centerline, North 87°22'27" West 329.27 feet along the proposed north right of way of Crystal Springs Drive, to a set iron pin on the west line of said Section 33; thence along said West line, North 02°28'11" East 395.06 feet, to the Point of Beginning, containing 2.987 acres, more or less. LESS AND EXCEPT thirty (30) feet of equal and uniform width off the East side of the above described property, containing 0.272 acre, more or less, being within the existing west right of way of Deane Solomon Road. Containing a net acreage of 2.715 acres, more or less.

To have and to hold said premises unto the said Lessee for and during the term herein stated, subject to the covenants, terms and conditions herein contained.

2. Term. This lease shall commence on _____, _____, and shall extend for a term of ninety-nine (99) years, ending at midnight on _____.

3. Rent. In addition to other good and valuable consideration as set forth herein, Lessee agrees to pay to Lessor as rental the sum of One Dollar (\$1.00) to be paid annually, with the first payment due upon execution of this agreement and subsequent payments due on the first day of

each and every year thereafter during the term of this lease.

4. Use. Lessee agrees to use the lease premises for the purpose of constructing, operating and maintaining a rent subsidized transitional housing facility. If at any time the property ceases to be used for this purpose, the lease shall terminate. Lessee agrees to furnish rent subsidized transitional housing for Fayetteville Citizens and residents throughout this lease period. Lessee shall deliver quarterly reports to Mayor's office concerning the number of Fayetteville citizens/residents housed or otherwise assisted by Sage House.

5. Improvements. Lessee may make any such improvements as are necessary to carry out the service of providing rent subsidized transitional housing facilities. Design for any such improvements shall be approved by the City of Fayetteville. Upon termination of this lease, all improvements shall become the property of Lessor.

6. Taxes. Lessee shall pay any and all ad valorem taxes and special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

7. Notices. All notices, requests, demands and other communications required by or permitted hereunder shall be in writing and shall be directed to the following:

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Sage House
614 E. Emma, Suite M401
Springdale, AR 72764

8. Assignment. Lessee shall not assign this lease or sublet the lease premises without prior written consent of the Lessor. Any such assignment or subletting shall in no way relieve Lessee from liability for the obligation imposed by this lease. Lessee may only be released from liability for the obligation imposed by this lease by a specific written release executed by Lessor.

9. Insurance.

A. Lessee shall be solely responsible for maintaining insurance on its property, including movables, trade fixtures, furniture, furnishings and inventory, as well as improvements to the property.

B. Lessee shall, during the term of this lease, maintain public liability insurance. The limits of such public liability insurance shall not be less than \$500,000.00 per person and \$500,000.00 per accident. The policy shall contain a clause that the insurer will not cancel or change the insurance without giving Lessor, ten days prior written notice. A certificate of such insurance shall be delivered to Lessor.

10. Maintenance. Lessee shall be responsible for all maintenance, routine preventative or corrective, on any and all improvements made to the leased property.

11. Compliance with Laws. Lessee agrees not to violate any law, ordinance, rule or regulation of any governmental authority having jurisdiction of the leased premises. This agreement shall be governed by the laws of the State of Arkansas.

12. Waste/Nuisance. Lessee agrees not to commit waste, nor permit waste to result or to be done to or upon the aforesaid premises. Further, Lessee agrees not to operate, nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

13. Title and Quiet Enjoyment. Lessor covenants and warrants that it is the owner in fee simple absolute of the leased premises and may lease said premises as herein provided. Upon payment by Lessee of the rents herein provided and upon the observance and performance of all the covenants, terms and conditions upon Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under Lessor, subject to the terms and conditions of this lease.

14. Severability. Each paragraph of this lease agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

15. Entire Agreement. This lease agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. This lease agreement supersedes all prior agreements, contracts and understandings of any kind between the parties relating to the subject matter hereof.

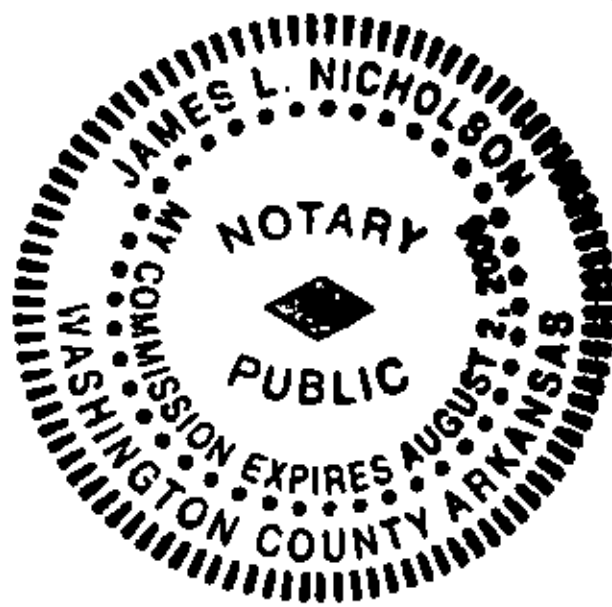
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on this ____ day of _____, 2001.

CITY OF FAYETTEVILLE
Lessor

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk



SAGE HOUSE
Lessee

By: Abpe Bradberry
Title: Board President

ATTEST:

By: Amy Nicholson
Title: Commission expires Aug 2, 2006

LEASE AGREEMENT

This Agreement, made and entered into this _____ day of _____, 2001, by and between the City of Fayetteville, Arkansas, hereinafter called "Lessor," and Economic Opportunity Agency of Washington County, hereinafter called "Lessee," Witnesseth:

WHEREAS, Economic Opportunity Agency of Washington County (EOA) is a nonprofit agency established to serve as a day care/treatment center for neglected and abused children; and,

WHEREAS, the care and treatment of neglected and abused children is a valid public purpose; and

WHEREAS, EOA will provide such services to neglected and abused children within the City of Fayetteville.

NOW, THEREFORE, the parties hereto agree as follows:

1. Leased Premises. For and in consideration of the rents, covenants and agreements herein entered into and agreed upon by the Lessee as obligations to the Lessor, the Lessor lets, leases and demises unto Lessee, subject to the terms and conditions contained herein, the following described property situated in Washington County, Arkansas.

A part of the Northwest Quarter (NW1/4) of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of said Section 33; thence along the west line of said Section 33, South 02°28'11" West 472.67 feet, to a set iron pin, said pin also being the Point of Beginning; thence South 87°04'43" East 332.64 feet along the proposed south right of way line of Trucker's Drive, to a PK nail on the existing centerline of Dean Solomon Road; thence with said centerline, South 03°00'40" West 319.88 feet; thence continuing with said centerline, South 02°29'56" West 278.41 feet, to a point; thence leaving said centerline, North 87°22'27" West 329.47 feet, to a point on the West line of said Section 33; thence along said West line, North 02°28'11" East 600.0 feet, to the Point of Beginning, containing 4.544 acres, more or less. LESS AND EXCEPT thirty (30) feet of equal and uniform width off the East side of the above described property, containing ~~0.132~~ acre, more or less, being within the existing west right of way of Deane Solomon Road. Containing a net acreage of 4.132 acres, more or less.

To have and to hold said premises unto the said Lessee for and during the term herein stated, subject to the covenants, terms and conditions herein contained.

2. Term. This lease shall commence on _____, _____, and shall extend for a term of ninety-nine (99) years, ending at midnight on _____.

1
3. Rent. In addition to other good and valuable consideration as set forth herein, Lessee agrees to pay to Lessor as rental the sum of One Dollar (\$1.00) to be paid annually, with the first payment due upon execution of this agreement and subsequent payments due on the first day of each and every year thereafter during the term of this lease.

4. Use. Lessee agrees to use the lease premises for the purpose of constructing, operating and maintaining a daycare/treatment center for neglected and abused children. If at any time the property ceases to be used for this purpose, the lease shall terminate. The Lessee agrees to provide day care facilities and treatment for neglected and abused Fayetteville children on the leased premises. The Lessee shall present quarterly written reports to the Mayor's office detailing the number of neglected or abused children, who are citizens or residents of Fayetteville, who were cared for or treated at this facility.

5. Improvements. Lessee may make any such improvements as are necessary to carry out the service of providing a daycare and treatment center for neglected and abused children. Design for any such improvements shall be approved by the City of Fayetteville. Upon termination of this lease, all improvements shall become the property of Lessor.

6. Taxes. Lessee shall pay any and all ad valorem taxes and special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

7. Notices. All notices, requests, demands and other communications required by or permitted hereunder shall be in writing and shall be directed to the following:

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Economic Opportunity Agency
614 E. Emma, Suite M401
Springdale, AR 72764

8. Assignment. Lessee shall not assign this lease or sublet the leased premises without prior written consent of the Lessor. Any such assignment or subletting shall in no way relieve Lessee from liability for the obligation imposed by this lease. Lessee may only be released from liability for the obligation imposed by this lease by a specific written release executed by Lessor.

9. Insurance.

A. Lessee shall be solely responsible for maintaining insurance on its property, including movables, trade fixtures, furniture, furnishings and inventory, as well as improvements to the property.

B. Lessee shall, during the term of this lease, maintain public liability insurance. The limits of such public liability insurance shall not be less than \$500,000.00 per person and \$500,000.00 per accident. the policy shall contain a clause that the insurer will not cancel or change the insurance without giving Lessor, ten days prior written notice. A certificate of such insurance shall be delivered to Lessor.

10. Maintenance. Lessee shall be responsible for all maintenance, routine preventative and corrective, on any and all improvements made to the leased property.

11. Compliance with Laws. Lessee agrees not to violate any law, ordinance, rule or regulation of any governmental authority having jurisdiction of the leased premises. This agreement shall be governed by the laws of the State of Arkansas.

12. Waste/Nuisance. Lessee agrees not to commit waste, nor permit waste to result or to be done to or upon the aforesaid premises. Further, Lessee agrees not to operate, nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

13. Title and Quiet Enjoyment. Lessor covenants and warrants that it is the owner in fee simple absolute of the leased premises and may lease said premises as herein provided. Upon payment by Lessee of the rents herein provided and upon the observance and performance of all the covenants, terms and conditions upon Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under Lessor, subject to the terms and conditions of this lease.

14. Severability. Each paragraph of this lease agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

15. Entire Agreement. This lease agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. This lease agreement supersedes all prior agreements, contracts and understandings of any kind between the parties relating to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on this ____ day of _____, 2001.

CITY OF FAYETTEVILLE

Lessor

By: _____
Dan Coody, Mayor

ATTEST:

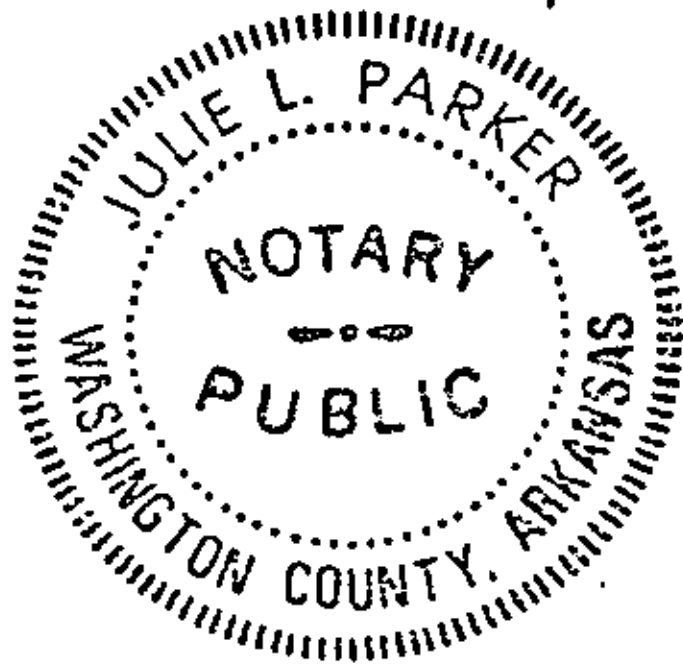
By: _____
Heather Woodruff, City Clerk

Economic Opportunity Agency of
Washington County
Lessee

By: Kathleen Randall
Title: Executive Director

ATTEST:

By: Julie L. Parker
Title: Bookkeeper, Notary Public



January 30, 2001

ORDINANCE NO. _____

AN ORDINANCE AMENDING §35.20 OF THE CODE OF FAYETTEVILLE (ORDINANCE NO. 2310, AS AMENDED), TRANSIENT OCCUPANCY TAX, LEVY OF TAX TO ADD DELIS, DRIVE-IN RESTAURANTS, CARRY-OUT RESTAURANTS, CONCESSION STANDS, CONVENIENCE STORES, GROCERY STORE RESTAURANTS, CATERERS AND SIMILAR BUSINESSES TO THE LIST OF BUSINESSES TO WHICH THE CITY'S GROSS RECEIPT TAX OF 1% (HOTEL, MOTEL AND RESTAURANT TAX) APPLIES (A.C.A. §26-75-601 ET SEQ.); ADDING OFF PREMISES CONSUMPTION BUSINESSES TO THE LIST OF BUSINESSES SO TAXED, EXCLUDING FROM TAXATION GROSS RECEIPTS OR GROSS PROCEEDS OF ORGANIZATIONS QUALIFIED UNDER 501(c) (3) OF THE FEDERAL INTERNAL REVENUE CODE

WHEREAS, the current gross receipts of tax of 1% on Hotel, Motel and Restaurants (A.C.A. §26-75-601 et seq.) established by Ordinance No. 2310, as amended (HMR tax) levies the tax only upon restaurants, cafes, cafeterias and all other establishments engaged in the business of selling prepared food for consumption on the premises of such establishment in the city, and;

WHEREAS, the City wishes to also apply the HMR tax to delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses selling prepared food or beverages for on or off premises consumption as allowed by A.C.A. §26-75-602 and;

WHEREAS, the City wishes to exclude from HMR taxation the gross receipts or gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

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

Section 1. That §35.20 of the Code of Fayetteville, Tax, Levy of Tax, is hereby repealed and the following inserted in its stead:

§35.20. Levy of Tax. There is hereby levied, a tax of 1% (the tax) upon the gross receipts or gross proceeds from the renting, leasing, or otherwise

furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501-(c)(3) of the Federal Internal Revenue Code.

Section 2. That §35.28 is hereby added as follows:

§35.28. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** – Delis shall include establishments selling prepared food or beverage as defined, however this tax shall not apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** – Stands owned by non-profit groups are excluded from this taxation, as well as stands operated on a short term basis, such as First Night, Springfest, Autumnfest and County fairs. Other stands operated on a recurring basis, such as for athletic events, barbecue stands and other on-going stands, whether mobile or stationary will collect the HMR tax.

C. **Convenience Stores** – All food and beverages prepared on site are taxable.

D. **Caterers** – Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** – These are included within the definitions of “similar businesses” of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** – Businesses that sell beverages prepared or dispensed at their business are included within the definition of “similar businesses” of this ordinance and are therefore subject to this tax.

G. Prepared Food or Beverage – Any food or beverage product prepared or altered in a food/beverage establishment for sale.

PASSED AND APPROVED this ____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING §35.31 OF THE CODE OF FAYETTEVILLE (ORDINANCE NO. 3900, AS AMENDED), ADDITIONAL OCCUPANCY TAX, LEVY OF TAX TO ADD DELIS, DRIVE-IN RESTAURANTS, CARRY-OUT RESTAURANTS, CONCESSION STANDS, CONVENIENCE STORES, GROCERY STORE RESTAURANTS, CATERERS AND SIMILAR BUSINESSES TO THE LIST OF BUSINESSES TO WHICH THE CITY'S GROSS RECEIPT TAX OF 1% (HOTEL, MOTEL AND RESTAURANT TAX) APPLIES (A.C.A. §26-75-601 ET SEQ.); ADDING OFF PREMISES CONSUMPTION BUSINESSES TO THE LIST OF BUSINESSES SO TAXED, EXCLUDING FROM TAXATION GROSS RECEIPTS OR GROSS PROCEEDS OF ORGANIZATIONS QUALIFIED UNDER 501(c) (3) OF THE FEDERAL INTERNAL REVENUE CODE

WHEREAS, the current gross receipts of tax of 1% for Parks, Hotel, Motel and Restaurants (A.C.A. §26-75-601 et seq.) established by Ordinance No. 3900, as amended (Parks HMR tax) levies the tax only upon restaurants, cafes, cafeterias and all other establishments engaged in the business of selling prepared food for consumption on the premises of such establishment in the city, and;

WHEREAS, the City wishes to also apply the Parks HMR tax to delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses selling prepared food or beverages for on or off premises consumption as allowed by A.C.A. §26-75-602 and;

WHEREAS, the City wishes to exclude from Parks HMR taxation the gross receipts or gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

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

Section 1. That §35.31 of the Code of Fayetteville, Levied; collection, is hereby repealed and the following inserted in its stead:

§35.31 Levy of Parks HMR Tax. There is hereby levied, a tax of 1% (the tax) upon the gross receipts or gross proceeds from the renting, leasing, or

otherwise furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

Section 2. That §35-36 is hereby added as follows:

§35.36. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** - Delis shall include establishments selling prepared food or beverage as defined, however this tax shall not apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** - Stands run by non-profit groups are excluded from this taxation, as well as stands operated on a short term basis, such as First Night, Springfest, Autumnfest and County fairs. Other stands operated on a recurring basis, such as for athletic events, barbecue stands and other on-going stands, whether mobile or stationary, will collect the Parks HMR tax.

C. **Convenience Stores** - All food and beverages prepared on site are taxable.

D. **Caterers** - Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** - These are included within the definitions of "similar businesses" of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** - Businesses that sell beverages prepared or dispensed at their business are included within the definition of "similar businesses" of this ordinance and are therefore subject to this tax.

G. Prepared Food or Beverage - Any food or beverage product prepared or altered in a food/beverage establishment for sale.

PASSED AND APPROVED this ____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

Exhibit C
CONSULTANT COMPENSATION

The total cost of the professional services described in the accompanying proposal for Phase Two is \$45,725. This lump-sum budget includes all direct and indirect expenses incurred by the consultant team in performing the services. The breakdown of project cost by task is presented below. The City will be billed monthly based on percent completion of individual tasks.

<u>Task</u>	<u>Amount</u>
Task 2.1: Draft Impact Fee Study	
Task 2.1a: Roads	\$9,785
Task 2.1b: Water	\$9,025
Task 2.1c: Wastewater	\$9,025
Task 2.1d: Park Land Dedication	\$3,655
Task 2.1 Subtotal	\$31,490
Task 2.2: Local Review Meeting	\$1,260
Task 2.3: Final Impact Fee Study	\$9,975
Task 2.4: Public Participation	\$3,000
Total, Phase Two	\$45,725

Additional services beyond those specified in the accompanying Scope of Services may be negotiated or billed on a time and expense basis at the hourly rates provided on the Schedule of Professional Fees and Expenses. Extra meetings attended by one professional will be billed on a fixed-fee basis of \$1,500 each, which includes all travel expenses.

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES

Principal	\$125
Land Use Attorney	\$150
Senior Associates	\$95
Associates	\$75
Billable Expenses: Overnight Mail Only	

Job # 0604\$767

CITY OF FAYETTEVILLE

FINAL AGENDA

JUNE 5, 2001

Tuesday, June 5, 2001 - 6:30 p.m.

City Administration Building, Room 219

113 West Mountain Fayetteville, Arkansas

A. CONSENT

1. APPROVAL OF THE MINUTES: Approval of the minutes from April and May 1, 2001.
2. POLICE PHYSICAL FITNESS POLICY: A resolution adopting a revision to the Police Department's Physical Fitness Policy.
3. COPS FEDERAL GRANT: A resolution accepting the \$225,000 COPS Universal Hiring Program Federal Grant and approval of a budget adjustment in the amount of \$37,617.00 from Use of Fund Balance.
4. INTERLOCAL AGREEMENT: A resolution approving an interlocal agreement between the City of Fayetteville and the City of Johnson for the installation and ownership of a traffic signal at Wilkerson and Joyce.
5. SIDEWALKS AND TRAILS COMMITTEE: A resolution establishing an advisory committee to be known as the Sidewalks and Trails Advisory Committee, setting forth the selection process for membership and the responsibilities of the Sidewalks and Trails Committee.
6. SAGE HOUSE: A resolution approving a long term lease with Economic Opportunity Agency of Washington Co. Inc. for Sage House.
7. COX COMMUNICATION: A resolution approving an amendment to the present franchise agreement with Cox Communication to release them from their obligation to carry a Little Rock, Arkansas, network affiliate broadcast station.
8. PARKING DECK: A resolution approving Amendment No. 2 in the amount of \$12,000 to the contract with Jarver Engineers for additional geotechnical study regarding the proposed parking deck for the downtown area.
9. ARKANSAS BUSINESS TECHNOLOGY PARK: A resolution approving a grant application for assistance from the Economic Development of Arkansas Fund.

B. OLD BUSINESS

1. TREE PROTECTION AND PRESERVATION: An ordinance amending the Tree Protection and Preservation Ordinance to allow for a variance, reduction or alteration in the requirements of the Tree Preservation Ordinance. The ordinance was left on the second reading as amended at the May 15, 2000 meeting.
2. HMR TAX: An ordinance amending § 35.20 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax. The ordinance was left on the first reading as amended at the May 15, 2001 meeting.
3. PARKS HMR TAX: An ordinance amending § 35.31 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax. The ordinance was left on the first reading as amended at the May 15, 2001 meeting.
4. SPECIAL ELECTION: An ordinance calling and setting a date for a special election for the adoption or rejection of ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel, and Restaurant Tax and the Parks Hotel, Motel, and Restaurant Tax. The ordinance was tabled at the May 15, 2001 meeting.

C. NEW BUSINESS

1. IMPACT FEES: A resolution approving a contract with Duncan and Associates to conduct Phase 2 of the Development Impact Fee Study for water, wastewater treatment and collection, roads, and parks.
2. AD 01-1.00: An ordinance approving an amendment to Chapter 171 "Streets and Sidewalks", Section 171.13 "Width of Driveway Approaches" and Chapter 172 "Parking and Loading", Section 172.01 "Parking Lot Entrances" of the Unified Development Ordinance to change the width of a curb cut allowed for commercial driveways and provide for a minimum curb radius.
3. ROLL-OFF TRUCK: An ordinance approving a bid waiver for the purchase of a used diesel powered roll-off truck to be utilized by the Fayetteville Solid Waste Division.
4. HENDRICKS SEWER SERVICE: Consideration of a request to provide sewer service outside of the City limits.

**CITY OF FAYETTEVILLE
FINAL AGENDA
JUNE 5, 2001
Tuesday, June 5, 2001 - 6:30 p.m.
City Administration Building, Room 219
113 West Mountain Fayetteville, Arkansas**

A. CONSENT

1. **APPROVAL OF THE MINUTES:** Approval of the minutes from April and May 1, 2001.
2. **POLICE PHYSICAL FITNESS POLICY:** A resolution adopting a revision to the Police Department's Physical Fitness Policy.
3. **COPS FEDERAL GRANT:** A resolution accepting the \$225,000 COPS Universal Hiring Program Federal Grant and approval of a budget adjustment in the amount of \$37,617.00 from Use of Fund Balance.
4. **INTERLOCAL AGREEMENT:** A resolution approving an interlocal agreement between the City of Fayetteville and the City of Johnson for the installation and ownership of a traffic signal at Wilkerson and Joyce.
5. **SIDEWALKS AND TRAILS COMMITTEE:** A resolution establishing an advisory committee to be known as the Sidewalks and Trails Advisory Committee, setting forth the selection process for membership and the responsibilities of the Sidewalks and Trails Committee.
6. **SAGE HOUSE:** A resolution approving a long term lease with Economic Opportunity Agency of Washington Co. Inc. for Sage House.
7. **COX COMMUNICATION:** A resolution approving an amendment to the present franchise agreement with Cox Communication to release them from their obligation to carry a Little Rock, Arkansas, network affiliate broadcast station.
8. **PARKING DECK:** A resolution approving Amendment No. 2 in the amount of \$12,000 to the contract with Garver Engineers for additional geotechnical study regarding the proposed parking deck for the downtown area.
9. **ARKANSAS BUSINESS TECHNOLOGY PARK:** A resolution approving a grant application for assistance from the Economic Development of Arkansas Fund.

B. OLD BUSINESS

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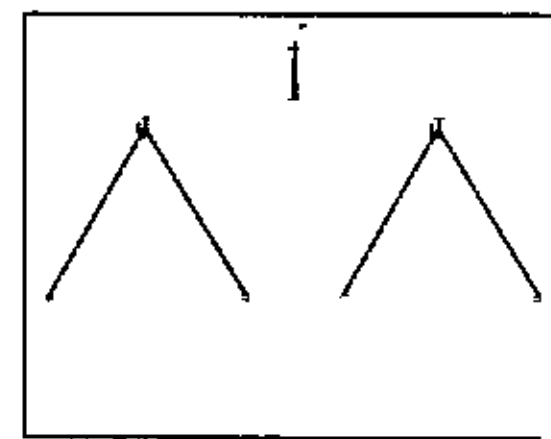
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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Heather Woodruff, City Clerk

FROM: Kit Williams

A handwritten signature, likely of Kit Williams, is written over the printed name. The signature is in cursive and appears to read "Kit Williams".

DATE: June 4, 2001

RE: Consent Agenda Item #7

Attached is a letter from Ms. Karen Wavering of 1204 E. Elm in Fayetteville concerning Consent Agent Item #7 - Cox Communication Contract Amendment. Please furnish this letter to the Aldermen for their consideration.

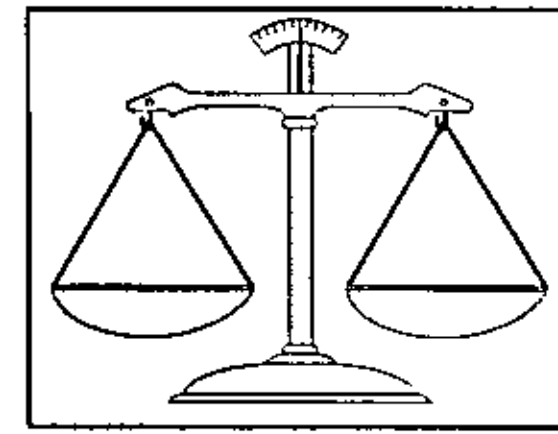
1. The first part of the document is a list of the names of the persons who were present at the meeting.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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Karen Wavering
1204 E. Elm Street
Fayetteville, AR 72703-2909

Kit Williams, Esq.
Fayetteville City Attorney
113 W. Mountain, Suite 302
Fayetteville, AR 72701

Dear Mr. Williams:

I am writing to you because I have several concerns regarding the local NBC affiliate KPOM-KFAA TV and Fayetteville's cable provider, Cox Communications. I feel both have not been entirely honest with the citizens of Fayetteville.

I don't think the wording on the darken Little Rock NBC affiliate, our channel 4, is accurate. It is not a FCC regulation so much as an option the station manager of KPOM-KFAA TV has decided to exercise. A more precise wording would be something to the effect that, "The local NBC affiliate KPOM-KFAA TV has decided to exercise it's option to block the broadcast of another Arkansas NBC affiliate when there is a duplication in programming."

I, however, do not feel there is a duplication in programming. For instance, KPOM-KFAA TV was on and off the air yesterday evening for at least a three-hour period. None of the other Cox channels were.

Sunday May 6's presentation of *The Judge* was a fiasco. Randy Spears repeatedly interrupted the movie with weather forecasts. He belabored each point to the extent that at least one-half of the movie was not aired. As a consequence, I did not watch the second episode on Monday. The two CBS and two ABC stations on Cox Cable also provided this much needed public service, but each of their presentations was much shorter. And, several of these stations announced that unless it was an emergency, they would only do their weather updates during commercials. They also elected to run trailers at the bottom of the screen instead of interrupting the programming.

It would have been nice for those of us not as concerned about the weather to have been able to switch to Little Rock's NBC station to view the movie. I sent a letter to KPOM-KFAA TV's station manager complaining. Apparently others also complained because they have adopted a policy similar to the other stations.

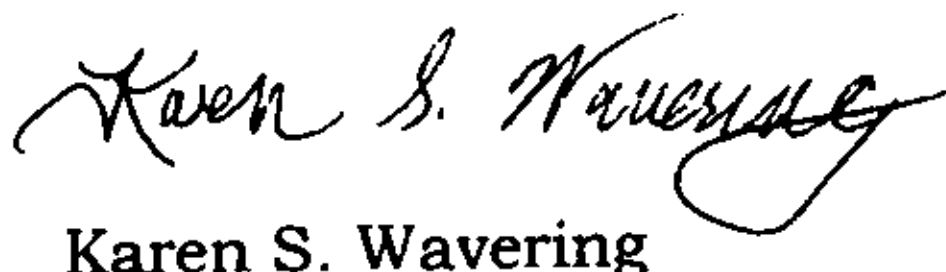
Please don't misunderstand me. I appreciate this public service. But I would like the option to switch to another affiliate if I am not as concerned about a storm approaching Poteau, OK.

I also did not appreciate the wording on what Dennis Yokum at Cox Communication calls their recent *survey*. I don't know what I would call it, but it was definitely not a survey. Mr. Yokum told the cable board that 91% of the responders said they wanted the Little Rock affiliate removed from the line-up. I am amazed it wasn't 100% because the letter opened with a comment that Cox Communications was being forced by the FCC to remove the NBC affiliate. Again, a simple explanation of the truth would have served the Fayetteville citizens better.

The letter provided three alternatives and the opportunity to write-in another station. What the communication did not provide was the new line-up as well as a listing of the stations that would be dropped. An employee of Cox Communications told me that the line-up was fairly established before the letter was mailed. I am incredulous that MSNBC was dropped. If I had known that, I would not have wasted my vote on a station that was already slated in the new line-up. Not only was this not a survey, I feel it was duplicitous.

I understand that the board will approve Cox Communications proposal (including a basic rate increase from \$9.00 to \$15.85 or over 75%). I also understand that the station manager of KPOM-KFAA will never grasp the concept of community public relations. And I, like many of my friends and acquaintances, will continue boycotting all local KPOM-KFAA programming. However, I thank you for your time and attention reading about my concerns.

Sincerely,

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Karen S. Wavering

FAYETTEVILLE



THE CITY OF FAYETTEVILLE, ARKANSAS

Kit Williams
CITY ATTORNEY

CITY ATTORNEY DIVISION
113 WEST MOUNTAIN, 72701
PHONE: 501-575-8313
FAX: 501-575-8315

June 4, 2001

Ms. Karen Wavering
1204 E. Elm Street
Fayetteville, AR 72703-2909

Dear Ms. Wavering:

I have shared your letter with the eight aldermen for their consideration. I have also sent it to Marvin Hilton, Fayetteville Cable Administrator. Thank you for telling me your concerns on the Cox Communication contract amendment.

With kindest regards,

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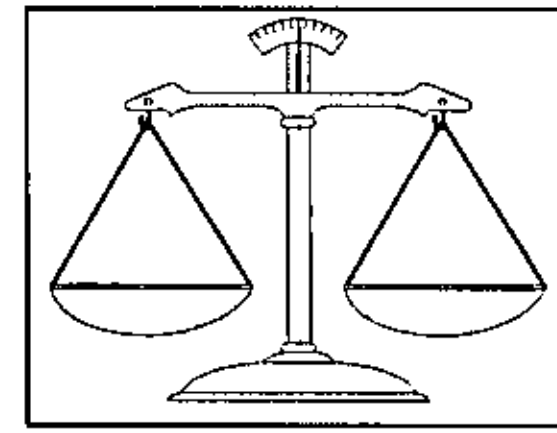
KW/jh
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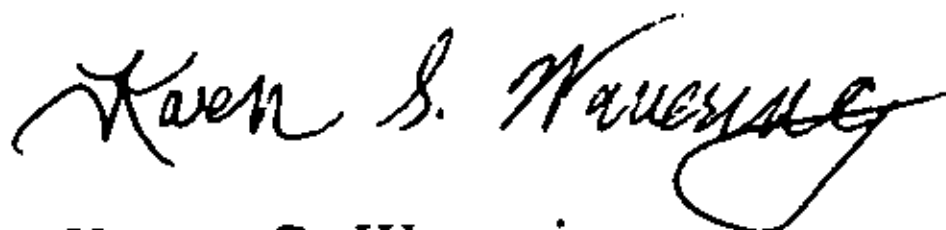
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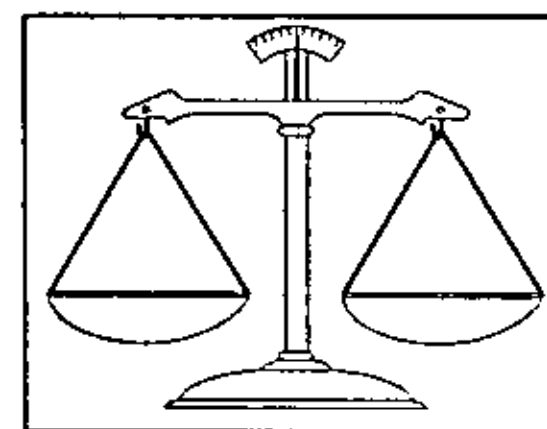
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LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Heather Woodruff, City Clerk

FROM: Kit Williams, City Attorney 

DATE: June 6, 2001

RE: Passed Ordinances and Resolutions from June 5, 2001 meeting

The following Ordinances and Resolutions were passed at last night's City Council meeting.

Enclosed are:

1. Police Physical Fitness Policy Resolution
2. Cops Federal Grant Resolution
3. Interlocal Agreement with City of Johnson Resolution
4. Sidewalks and Trails Committee Resolution
5. Resolution Accepting Lease Agreement with Sage House
6. Cox Communication Resolution
7. Parking Deck Resolution
8. Tree Protection & Preservation Ordinance
9. HMR Tax Ordinance
10. Parks HMR Tax Ordinance
11. Impact Fees Resolution

12. AD 01-1.00 Ordinance approving Amendment to Chapter 171, 171.13, 172, 172.01 of Unified Development Ordinance
13. Roll-Off Truck Ordinance with Emergency Clause
14. Hendricks Sewer Service Resolution for two water taps

We are still waiting for back-up material so we can write up the resolution on the Arkansas Business Technology Park. As soon as I receive the information and get the resolution written, I will get it to you.