Final Agenda
City Council Meeting
March 16, 2004

A meeting of the Fayetteville City Council will be held on March 16, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Nominating Committee Report: Approved.

Fire Department Certificates of Appreciation

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the March 2, 2004 meeting minutes. Approval of the April 30, 2002, June 6, 2002, June 11, 2002 and October 1, 2002 meeting minutes.

   APPROVED.

2. **Construction Contract for Fire Station 7:** A resolution to approve a construction contract with VEI General Contractors, Inc. to build the West Fayetteville Fire Station on Rupple Road in the amount of $1,340,100.00 with a contingency of $38,000.00 and approval of a budget adjustment of $274,637.00.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 36-04.

3. **MISSCO Corporation Contract:** A resolution approving the purchase of shelving in the New Fayetteville Public Library from MISSCO Corporation in the amount of $151,185.00; and approving a contingency in the amount of $7,559.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 37-04.

4. **AEP/Swepco Contract for Utility Burial, School Avenue:** A resolution to approve a contract with AEP/Swepco, Inc. to bury utility lines along School Avenue at the New Library for the amount of $186,395.41 plus a contingency of $6,000.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 38-04.

5. **Mayor Dan Coody and Stephen Davis Signatory Authority:** A resolution delegating signatory authority in connection with State Revolving Loan Fund Assistance.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 39-04.

B. OLD BUSINESS:

1. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.
   This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.
   This resolution was tabled at the January 20, 2004 City Council meeting until the March 2, 2004 City Council meeting.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 40-04.

2. **R-PZD 04-02.00 (Cross Keys):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-02.00) located south of Wedington Drive at the corner of N. 46th and Persimmon Street containing 38.48 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
   This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4548.

3. **R-PZD 04-05.00 (Hickory Park):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-5.00) located north of 2730 E. Township Street, containing 4.429 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
   This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4549.

C. NEW BUSINESS:

1. **Fayetteville Senior Activity Center Additional Funds:** A resolution to approve a budget adjustment in the amount of $9,864.19 for additional expenses incurred by the Council on Aging, Inc. for operation of the New Fayetteville Senior Activity Center.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 41-04.

2. **VAC 04-2.00 Rodgers Subdivision:** An ordinance approving VAC 04-2.00 to vacate and abandon a 20' portion of a platted alley, retaining a utility easement within subject property as depicted on the attached map and legal description.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4550.

3. **McClinton Anchor Bulk Purchase Contract:** A resolution approving a bulk purchase contract with APAC-Arkansas/McClinton Anchor in an amount not to exceed $1,240,811.00 for asphalt and aggregate materials.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 42-04.

4. **Rules of Order and Procedure, Public Notification and Participation:** A resolution amending the Rules of Order and Procedure for the Fayetteville Mayor/City Council, Section A. City Council Meetings, Subsection 6. Public Notification and Participation.

TABLED TO APRIL 6, 2004 MEETING.

5. **Firemen's Pension and Relief Fund Board of Trustees Resolution 02-03, Increasing the DROP from Five to Ten Years:** A resolution to approve the extension of the current five year Deferred Retirement Option Plan to a ten year Deferred Retirement Option Plan for all eligible employees of the Fayetteville Fire Department.

FAILED.

6. **Firemen's Pension and Relief Fund Board of Trustees Resolution 04-03, Working after DROP:** A resolution to make continuing employment available to all eligible employees of the Fayetteville Fire Department after their five or ten year Deferred Retirement Option Plan has been completed.

FAILED.

Meeting adjourned at 7:55 p.m.

Fayetteville City Council Meeting March 16, 2004

Meeting Adjourned 7:55 pm.

Subject:	Roll				
Motion To:					
Motion By: Seconded:					
	Cook	Absent			
	Marr	Absent			
	Rhoads	✓			
Alderman Davis absent during roll arrived at 6:05 pm.	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Mayor Coody	✓			

Subject:	Nominating Committe Report				
Motion To:		approve			
Motion By: Seconded:		Lucas Jordan			
	Cook	—			
	Marr	—			
	Rhoads	✓			
Approved 6/0	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Mayor Coody	—			

Subject:	Consent				
Motion To:		Approve			
Motion By: Seconded:		Davis / Jordan			
	Cook	—			
	Marr	—			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Mayor Coody	—			

Res. 36-04 To 39-04 passed 6/0

Subject:	Council on Aging, Inc. Lease Senior Center,				
Motion To:		Approve			Walker Park
Motion By: Seconded:		Lucas / Davis			
	Cook	—			
	Marr	—			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Mayor Coody	—			

B. 1. old Business Passed 6/0 40-04

Subject:	R-PZD-04-2.00 (Cross Keys)			
Motion To:		2nd read	3rd read	Pass
Motion By: Seconded:		Davis / Jordan	Jordan / Reynolds	Pass
Cook		—	—	—
Marr		—	—	—
Rhoads		✓	✓	✓
Davis		✓	✓	✓
Lucas		✓	✓	✓
Jordan		✓	✓	✓
Reynolds		✓	✓	✓
Thiel		✓	✓	✓
Mayor Coody		—	—	—

B.2. old Business

Passed

6-0

4548

Subject:	R-PZD-04-5.00 (Hickory Park) ([redacted])			
Motion To:		2nd read	3rd read	Pass
Motion By: Seconded:		Davis / Reynold	Davis / Reynold	
Cook		—	—	—
Marr		—	—	—
Rhoads		✓	✓	✓
Davis		✓	✓	✓
Lucas		✓	✓	✓
Jordan		✓	✓	N
Reynolds		✓	✓	✓
Thiel		✓	✓	✓
Mayor Coody		—	—	—

Mel Millwhel? Engineer?
Bob Sigfoos
Kathryn Sigfoos
Doug Hemingway
Karen Vaughn
2795 E Hardy Hardy
Kerry Lavery
Developer
Florence Smith

B.3. old Business

5/1

passed

4549

Subject:		Fayetteville Senior Activity Center			
Motion To:		Amend	Resolution	to $50,000 for	additional
Motion By: **Seconded:**		Lucas Thiel			Funding.
	Cook	—			
	Marr	—			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	Absent during Vote			
	Mayor Coody	—			

C.I. New Business Passed 5/0 Amendment passed alderman Thiel absent

Subject:		Fayetteville Senior Activity Center			
Motion To:		Approve the Resolution			
Motion By: **Seconded:**		Reynolds Davis			
	Cook	—			
	Marr	—			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	Absent during Vote			
	Mayor Coody	—			

C.I. New Business Passed 5/0 4-1-04

Subject:		VAC. 04-2.00 Rodgers Subdivisa			
Motion To:		2nd read	3rd read	Pass	
Motion By: Seconded:		Davis Jordan	Jordan Davis		
	Cook	—	—	—	
	Marr	—	—	—	
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	Absent Vote during Yes		✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Mayor Coody	✓ yes	—	—	
		5/0 Mayor Coody	6/0	6/0	

C. 2. New Business

Passed 6/0 4553

Subject:		McClinton Anchor Bulk Purchase Contract			
Motion To:		Approve			
Motion By: Seconded:		Reynolds Lucas			
	Cook	—			
	Marr	—			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Mayor Coody	—			

C. 3. New Business

Passed 6/0 4554

Subject:	Rules of Order and Procedure				
Motion To:		Table		Public Notification & Participa	
Motion By: Seconded:		Thiel / Rhoads			
	Cook	—			
	Marr	—			
	Rhoads ✓	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel ✓	✓			
	Mayor Coody	—			

C.H. New Business

6/0 Tabled until the next City Council meeting

Subject:	Firemen's Pension Resolution 02-03 Increasing				
Motion To:		Approve		the DROP from 5 to 10	
Motion By: Seconded:		Jordan / Davis		years.	
	Cook	—			
	Marr	—			
	Rhoads	N			
	Davis	N			
	Lucas	N			
	Jordan	Y			
	Reynolds	N			
	Thiel	N			
	Mayor Coody	—			

C.5. New Business

1/5 Failed

Subject:	Firemans Pension & Relief Fund			
Motion To:		Approve		Working after DROP.
Motion By:		Jordan		
Seconded:		~~Rhoads~~ Reynolds		
Cook		—		
Marr		—		
Rhoads		N		
Davis		N		
Lucas		N		
Jordan		Y		
Reynolds		N		
Thiel		N		
Mayor Coody				

C.6. New Business

1/5 failed

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

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6. **Firemen's Pension and Relief Fund Board of Trustees Resolution 04-03, Working after DROP:** A resolution to make continuing employment available to all eligible employees of the Fayetteville Fire Department after their five or ten year Deferred Retirement Option Plan has been completed.

TO: **Alderman Lioneld Jordan**

FROM: **Sondra Smith**
Secretary
Fireman's Pension and Relief Fund Board of Trustees

DATE: **03/10/04**

SUBJECT: **Firemen's Pension Resolutions**

I am responding to your question about why I voted to approve the Firemen's Pension resolutions that will be before the City Council on March 16.

Until recently the law permitted firemen to sign up for the DROP plan for a period of five years. The law changed in 2003 to allow an extension to ten years. The Fireman's Pension Board passed a resolution to allow the ten year extension. The City Council has to approve the resolution that was passed by the Firemen's Pension Board.

Signing up for a Five Year DROP

- A fireman is stating he will be retiring sometime in the next five years.
- 90% of the amount he is earning **when he elected DROP** is set aside during the DROP period.
- Retirement funds that were set aside are paid in a lump sum distribution from the Pension Fund when he leaves employment.

Signing up for a Ten Year DROP

- A fireman is stating he will be retiring sometime in the next ten years.
- 90% of the amount he was earning **when he elected DROP** is set aside during years 1-5 of the DROP period.
- 75% of the amount he was earning **when he elected DROP** is set aside during years 6-10 of the DROP period.
- Retirement funds that were set aside are paid in a lump sum distribution from the Pension Fund when he leaves employment.

Extending the DROP from 5 to 10 years had to be approved by an actuary firm that is selected by the State. This also had to be approved by the Arkansas Fire and Police Pension Review Board before it could be presented to the City Council. A copy of all of this is in the tentative agenda.

Before I made a decision on the resolution I wanted to see the affect this would have on the Firemen's Pension Plan and the City. Accounting did the attached calculations. Page 1 shows the estimated pay out of lump sum distributions from the pension plan at the end of the DROP period for a five year DROP and a ten year DROP. Page 2 shows the decrease the employee would receive in funds if they extend their DROP period from 5 to 10 years. Page 3 shows the cost the city would incur in yearly cost for the City's portion of retirement funds for a veteran fire fighter versus a new hire. These numbers are hypothetical numbers based on estimated salaries at different pay levels.

There would not be a negative affect on the Fire Pension Fund and the cost to the City would be minimal based on the numbers I received from accounting.

City of Fayetteville
Fire Department
303 W Center
Fayetteville, AR 72701

Thursday, March 11, 2004

To: Fayetteville City Council

From: Marion Doss, Trustee Firemen's Pension & Relief Board

Subject: Clarification of 3/10/04 memo

Reference the memo of 3/10/04 concerning the Deferred Retirement Option Plan and listing dates and ages of employees at end of D.R.O.P. period.

This was meant as an informational item only. Any opinions expressed or implied are my personal opinions as a Trustee of the Firemen's Pension and Relief Board and do not reflect the opinion of the Fire Department or Fire Department Administration.

Thank You,

Copies: Mayor Dan Coody
Fire Chief Chris Bosch
City Clerk Sondra Smith

City of Fayetteville
Fire Department
303 W Center
Fayetteville, AR 72701

Wednesday, March 10, 2004

To: Fayetteville City Council

From: Marion Doss

Subject: Deferred Retirement Option Plan (D.R.O.P.)

The "old" Firemen's Pension and Relief Fund currently has a 5 year D.R.O.P. We have nine Firefighters now working who are covered under this "old" plan. The plan was closed in 1982.

Of these nine Firefighters, eight have signed up for the D.R.O.P. program:

NAME	SIGNED	END 5 YR.	AGE	END 10 YR.	AGE
Ed Bachman	5/1/99	5/1/04	48	5/1/09	53
Lonnie Napier	4/1/00	4/1/05	50	4/1/10	55
Pete Reagan	7/1/00	7/1/05	49	7/1/10	54
Marion Doss	1/1/01	1/1/06	63	Retiring at end of 5 year DROP	
Marshall Mahan	3/1/03	3/1/08	55	3/1/13	60
Joey Pierce	3/1/03	3 1/08	49	3/1/13	54
Glen Shackelford	3/1/03	3/1/08	50	3/1/13	55
Ted O'Neal	4/1/03	4/1/08	48	4/1/13	53

As you can see most of these Firefighters are retiring at a fairly young age. I realize there will be a slight saving in salaries as these people retire and people move into their positions at a lower salary however what price can we put on their experience?

The Firefighters hired since 1983 under the LOFPI can work until age 62.

Thank You,

13714 Bethel Blacktop Rd.
Farmington, AR 72730
March 8, 2004

Fayetteville City Board of Directors
Fayetteville, AR 72701

Board Members:

In regards to the deferred retirement option plan for the firemen's pension and relief fund for Ed Bachman, I respectfully request a five-year extension as approved through Arkansas's ACT 1369 of 2003, HOUSE BILL 1218, and which is currently being considered for approval by the City of Fayetteville.

Five years ago, I found myself in the position of working for a salary that was significantly below the national average. Under the administration at the time, the future did not hold much hope for improving, and I was faced with a difficult decision of what was best for my family. I made the decision to sign up for the drop, work the five years, and then get another job to supplement my retirement. However, in the last year, and under new administration, my salary has been increased by 28%, and the level of professionalism with the administration as well as the Fire Department as a whole has increased significantly. With this new administration, our department has seen great improvements in working conditions, equipment, apparatus, leadership, and, most importantly, the moral of the men.

I have enjoyed being a fireman, and I am thankful for the opportunity to have touched the lives of so many in my work for the Fire Department and the City of Fayetteville. The Fayetteville Fire Department is progressing forward, and I would like to continue to be part of the team that has meant so much to me throughout the years. I would appreciate an opportunity to extend my career with the Fayetteville Fire Department.

Respectfully,

Ed Bachman

Ed Bachman
Engineer/Driver
Fayetteville Fire Dept.

Fayetteville Fire Fighters Association

International Association of Fire Fighters Local 2866
P.O. Box 638 Fayetteville AR 72702
www.iafflocal2866.org

To : City of Fayetteville Alderman

From : Peter Reagan, Trustee, Fayetteville Fireman's Pension and Relief Fund
President, Fayetteville Fire Fighters Association
IAFF Local 2866

Date : 3/6/04

Ref : Enacting Arkansas Acts 1369 and 1372 of 2003

As per the above mentioned Acts, the Fayetteville Fireman's Pension and Relief Fund voted unanimously to allow these acts as part of our benefits package. The actuary firm of Osborn, Carreiro & Associates Inc., which is the actuary firm for the Arkansas Pension Review Board, has opined that these benefit increases will not significantly impact the actuary soundness of the plan and have given their blessing on this benefit increase.

The Arkansas Pension Review Board Executive Director David Clark, has given his blessing on this benefit, pending the approval of you, the City Council, City of Fayetteville Arkansas.

Mayor Dan Coody and Fire Chief Chris Bosch have stated they are opposed to the implementation of both Acts, for financial reasons. I disagree with both of their stances and ask you to consider the time and money that have been invested by the City of Fayetteville in these eight (8) Fire Fighters, who are eligible to receive this benefit.

Fire ground expertise comes with knowledge and experience.

I would hope that you will study these documents, as we have, and vote to pass this issue for your Fire Fighters.

If you have any questions regarding these issues, please contact me at
Cell - 479-841-0320
Email - apfffay@aol.com

RECEIVED
MAR 05 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Current Payroll for Participating and Eligible Drop Plan Members

Rank	Current Salary	Longevity Pay	Total Current Annual Salary	Step
Driver/Operator/Firefighter	$41,502	$3,000	$ 44,502	H-20
Fire Captain	$48,230		$ 48,230	G
Fire Captain	$48,230	$2,000	$ 50,230	H-15
Asst Fire Chief	$75,321		$ 75,321	
Fire Captain	$48,230	$1,000	$ 49,230	H-10
Driver/Operator/Firefighter	$41,502	$3,000	$ 44,502	H-20
Driver/Operator/Firefighter	$41,502	$3,000	$ 44,502	H-20
Fire Captain	$48,230	$1,000	$ 49,230	H-10
Fire Captain	$48,230	$1,000	$ 49,230	G
Total:	**$440,977**	**$14,000**	**$454,977**	

Rank	Current Salary	Replacement Fire Fighter Salary	Expenditure for Promotions to Replace Rank *	Expenditure for Additional Promotions to Replace Rank **	Total Replacement Salary	Total Current Annual Salary	Total Projected Salary Savings
Driver/Operator/Firefighter	$41,502	$ 29,240	1,533.0	$ -	$ 30,773	$ 44,502	$ 13,729
Fire Captain	$48,230	$ 29,240	3,029.0	$ 1,533	$ 33,802	$ 48,230	$ 14,428
Fire Captain	$48,230	$ 29,240	3,029.0	$ 1,533	$ 33,802	$ 50,230	$ 16,428
Asst Fire Chief	**$75,321**	**$ 29,240**	**6,499.0**	**$ 12,895**	**$ 48,634**	**$ 75,321**	**$ 26,687**
Fire Captain	$48,230	$ 29,240	3,029.0	$ 1,533	$ 33,802	$ 49,230	$ 15,428
Driver/Operator/Firefighter	$41,502	$ 29,240	1,533.0	$ -	$ 30,773	$ 44,502	$ 13,729
Driver/Operator/Firefighter	$41,502	$ 29,240	1,533.0	$ -	$ 30,773	$ 44,502	$ 13,729
Fire Captain	$48,230	$ 29,240	3,029.0	$ 1,533	$ 33,802	$ 49,230	$ 15,428
Fire Captain	$48,230	$ 29,240	3,029.0	$ 1,533	$ 33,802	$ 49,230	$ 15,428
Totals:	**$440,977**	**$263,160**	**$26,243**	**$ 20,560**	**$309,963**	**$454,977**	**145,014**

* This number represents the cost of promotion for existing personnel to move to the next rank step.

** This number represents the cost of additional promotions for existing personnel to fill vacancies created by promotion.

Nominating Committee Report
Meeting: Monday, March 8, 2004
Room 326, City Hall 3:30 p.m.
&
Wednesday, March 10, 2004
Room 111, City Hall 3:30 p.m.
Members Present – Kyle Cook, Shirley Lucas, Don Marr, Robert Rhoads

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The Nominating Committee meetings were called to order at 3:30 p.m.

The following is being submitted to the entire City Council for consideration. The nominations are being submitted by the Nominating Committee, Mayor Coody and the Advertising and Promotion Commission for recommendation.

Advertising and Promotion Commission
The Advertising and Promotion Commission recommends the following candidate for reappointment:

- ***David McGeady – re-appointment,*** One term ending 04/01/08

Civil Service Commission
The Committee recommends the following candidate for appointment:

- ***William Brown*** - One term ending 03/31/10

Construction Board of Adjustments
The Committee recommends the following candidates for re-appointment:

- ***William Green – re-appointment,*** One term ending 03/31/09
- ***Kit Schmelzle – re-appointment,*** One Alternate Member term ending 03/31/05

Environmental Concerns Committee
The Committee recommends the following candidates for appointment:

- ***Marti Benedict – re-appointment,*** One Local Industry term ending 12/31/06
- ***Mina Marsh*** – One Community Citizen at Large term ending12/31/06

Fayetteville Board of Health
Mayor Coody recommends the following candidates for appointment:

- ***Dr. Anthony Hui*** – One Chairman term ending 12/31/04
- ***Don Moore*** – One term ending 12/31/04
- ***Jim Huffman*** – One term ending 12/31/04
- ***Rick Johnson*** – One term ending 12/31/04
- ***Dr. David Crittenden*** – One term ending 12/31/04

Planning Commission
The Committee recommends the following candidates for appointment:

- ***Candy Clark*** – One term ending 03/31/07
- ***Christine Myres*** – One term ending 03/31/07
- ***Sean Trumbo*** – One term ending 03/31/07

Public Library Board of Trustees
Mayor Coody recommends the following candidate for re-appointment:

- ***Steve Singleton – re-appointment,*** One term ending 04/01/09

Sidewalk and Trails Task Force
The Committee recommends the following candidate for appointment:

- ***Surrendra Singh*** – One Community Citizen at Large term ending 12/31/05

Tree and Landscape Advisory Committee
The Committee does not wish to make any recommendations at this time.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: The Mayor and City Council

FROM: Sondra Smith
City Clerk

DATE: 03/09/04

SUBJECT: Meeting Minutes 2002

We have finished transcribing the 2002 meeting minutes that were found incomplete. I have attached a copy of the minutes for four meetings in 2002 that will need to be approved. I have also found some 2001 minutes that have not yet been completed. We are in the process of transcribing them and should have them to you for approval in April. All 2003 minutes have been completed and approved.

I will ensure that all minutes in the future are completed in a timely manner.

Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
479-575-8323

Special City Council
Meeting Minutes
April 30, 2002

A special meeting of the Fayetteville City Council was held on April 30, 2002 at 4:20 p.m. in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

New Business:

Waste Management: A resolution to approve an interim agreement with Waste Management, Inc. to allow them to temporarily expand the hours of operation of the Solid Waste Transfer Station and pay for replacement of the lip edge guard on the dumping platform, to declare an emergency and for other purposes.

Mayor Coody: We're here today to discuss a contract with Waste Management to kind of get us through this emergency period. Do you have the agreements in front of you?

Kit Williams: It's called the Interim Agreement.

Mayor Coody: Kit do you want to let us read it and then you can explain the agreement and answer any questions that we may have.

Kit Williams: As you may remember Mayor, yourself, myself, and the members of the Solid Waste Division of the city met with representatives of Waste Management Monday morning. We discussed their need to use our transfer station in order to properly service the cities of Springdale, Rogers and other customers in Northwest Arkansas since their landfill has been closed. If they do not use our transfer station they will have to try to truck their garbage in garbage trucks to distance landfills which is simply not feasible. This would cause major problems for the citizens of Rogers and Springdale and other people. We negotiated with them; they were very forthcoming and helpful. We have worked out this proposed interim agreement through our city staff, my understanding is that the city staff is in favor of this and they endorse this.

I did provide several safeguards for the citizens including requiring the garbage trucks to follow designated routes on major highways and not use city streets in order to get to the transfer station. There are other particular safety guards for liability potentials which are not substantial but I thought that we should still cover them. We are now presenting this to you along with the resolution to adopt it so that you can go ahead and go forward with this. They certainly need to use our transfer station and I think this is a good agreement to allow them to use it. You should note also that it has a 30 day notice provision that if we or they want to cancel this agreement we/they can with a 30 day notice. This agreement would end if the Tontitown landfill is reopened for regular business because at that point they would not need our transfer station.

Mayor Coody: I might note that the first whereas says if **suddenly and expectedly closed** it should read **unexpectedly.**

Kit Williams: I think you're right.

Mayor Coody: Other than that do you want me to read this or do you want to read this resolution?

Kit Williams: It's your choice Mayor.

Mayor Coody reads the resolution in its entirety.

Kit Williams: I should note that actually on the emergency clause we're not going to take a separate vote on that, as you are aware it requires six votes from the Council members. We only have five members here. However, I think this resolution is effective immediately anyway. It had not been in the past before the legislature changed the law. I do think that the resolution is effective immediately. Let's strike Section 2 out; we'll just leave Section 1. I think that everything else is okay because there is an emergency situation, that's why we're having this special meeting.

Alderman Davis: The second Section 1.

Kit Williams: Yes. The second Section 1.

Alderman Santos: A resolution wouldn't require an emergency clause like an ordinance would.

Kit Williams: I think you are correct, I think despite the fact that the legislature has changed the law somewhat and made it a little bit unclear I still think the rule is that resolutions take effect immediately.

Mayor Coody: Waste Management and us have agreed that they would use a designated route which would come down south on I-540 to the intersection of I-540 on Business 71 and then head east on Highway 16?

Kit Williams: Highway 16 East.

Mayor Coody: That would go all the way to the transfer station. So it's entirely on the heavy use state highways and it stays away from our lesser city streets and lesser state highways. They will be required to use this route coming and going all their trucks will use it. We will be collecting a 5% franchise fee that we normally collect in a circumstance like this, which will help cover some of our costs that we might have although we don't anticipate any cost. They're going to be covering our overtime costs, administrative costs; they've agreed to cover all that. This is a good way that we can help out our sister cities and it's not going to put us in a bind at all.

Kit Williams: We did also provide for free overflow parking at our airport for the numerous semi-trailer trucks that they're going to have, that was requested by Mr. Dumas because we didn't want them at the transfer station where they'd get in each other's way. There's will be some overflow parking as long as the trucks and trailers are clean and sanitary when they are parked at our airport.

Alderman Davis: Where does this place the city as far as additional liability?

Kit Williams: I really don't think we have too much. One thing that did concern me about liability was the fact that our municipal waste would be mixed with waste from Springdale, Rogers and other places and that's why I put Section 8 in there, since the City of Fayetteville's solid waste will be co-mingled by Waste Management with about twice the volume of other municipal and solid waste brought in by Waste Management during this emergency period, paragraph 10.01 of the General Specifications of our current contract with them is modified so that title and liability for any hazardous waste and non-acceptable waste is presumed not to generated or delivered by the City of Fayetteville during this period. That changes slightly our other contract with them where it left the liability with us but at that point in time most of waste going to the transfer stations was coming from Fayetteville, now most of the waste will be coming from other cities, in addition the waste is being shipped to several different landfills. We don't want to assume any liability for any of these other landfills if we don't have to, therefore I included that in the contract and they agreed with that portion.

Alderman Reynolds: How long are we going to give them to correct their problem with Tontitown?

Alderman Santos: If there is a problem.

Kit Williams: It's not us giving them any time, that is up to the State. If we are dissatisfied with this interim agreement and it begins to go on longer than what the City Council wants, then the City Council has the right, according to the last paragraph, to give 30 day's notice to terminate this agreement. We would want to make sure that whatever we did would not leave them in a situation that the sister cities to the north would have too much garbage that wasn't being picked up, because that could effect the health and safety of our entire region.

Alderman Davis: Kit I'm still concerned about No. 8, if we get in a situation where something is a pollutant its going to be possibly the argument that it was the City of Fayetteville waste and not Springdale, Rogers, etc. and that's a concern. I feel we will have the he said, she said type of situation. Is there anyway that we could be named on their liability policies as additional insured with waiver of the situation?

Kit Williams: In our original agreement with them they are required to have liability coverage if they are operating a transfer station. I think this probably protects us about as well as can be expected in an interim sort of agreement.

Alderman Davis: We can tighten that up some can't we?

Kit Williams: It takes two parties to contract. If you read their contract with us that we have right now, that is for another almost five years, it was redone in '99 but effective for a five year renewal on April 1, 2001. They arguably have the right to use our transfer station without this agreement. They have chosen and we have chosen to enter into an interim agreement to be good neighbors and to work together on this. I think we have some good provisions in here that was not in our other agreement. I think they have a strong arguable right, if they are operating as our transfer station there is a provision in there saying that they will not only handle Fayetteville's waste but they will handle waste that is not Fayetteville's waste and there's even some provisions about fees.

Alderman Davis: That is what concerns me, waste that is not Fayetteville's.

Kit Williams: That's right. Under the current contract that we have with them that runs another four years, they have a right to have this waste go through our transfer station.

Alderman Davis: You can be added on to a policy for an additional charge of little to nothing, they may charge you $100, and it depends on the carrier. Most carriers will go ahead if it's requested through labor determination, which will extend or limit the city's obligations where they could come back and take us to court at some point in time. I would like to see that added to this agreement. That way we're putting further distance between us and anything that may happen in the future that could happen to the transfer station.

Alderman Santos: I don't think we need to have any insurance to help them make money either. I think we're perfectly well covered here.

Mayor Coody: Waste Management do you all have an answer to Alderman Davis's concerns regarding insurance?

Mr. Wheatley with Waste Management: We would refer to the original contract. We think that there is substantial coverage in that original contract. This is just an interim agreement based upon the original contract.

Alderman Davis: I don't have the original contract in hand to see what it says.

Alderman Santos: The additional modifications that any liability for any hazardous waste and non-acceptable waste is presumed not to have been generated or delivered by the City of Fayetteville.

Kit Williams: Obviously that's what carries the liability is the solid waste, that's how you could trace it back and provide liability to a city or to another entity, if it's your solid waste that causes the problem. That's why I put the presumption in this contract which is almost impossible to rebut because all this trash is being co-mingled that it did not come from the City of Fayetteville. I think that would be a very strong legal defense and that's why I wanted it in there. I appreciate Waste Management agreeing to that, because by doing that they basically have cut us off if there is some allegation in the future that the solid waste that is coming out of the transfer station and going to another landfill where we usually don't put it that there is presumption that it did not come from Fayetteville and therefore it came from Waste Management's other clients. Because of the fact that the waste is being co-mingled that presumption would almost be impossible to rebut in a case. I don't know how they would be able to rebut that.

Alderman Davis: Why are we arguing over something that maybe as little as a $100 bucks or zero? Why don't we go ahead and ask them to add that in there and that way it takes care of it.

Mayor Coody: Would you guys be willing to add in this insurance carrier clause that Alderman Davis is asking about.

Alderman Davis: To add the city to be named as an additional insurer?

Mr. Wheatley with Waste Management: Mayor I'm sure we would. I can't say for sure in a public meeting because I don't know the exact cost.

Mayor Coody: I know you need to get it cleared by your superiors and your legal representatives. What we could do is go ahead and make the assumption that we will do this, by this approach we can go ahead and get this passed and deal with this tomorrow morning first thing.

Mr. Wheatley with Waste Management: We agree to that.

Alderman Davis: I'm going to add an amendment on here to add a waiver of subrogation with the City of Fayetteville to be named as additional insured.

Kit Williams: Is that exactly how you want this to state?

Alderman Davis: However you think it needs to be written. I'm just trying to protect the city to the best of our ability and trying to make it that much broader for somebody to come back and sue the city.

Kit Williams: A waiver of subrogation doesn't protect the city in that we can get sued. It doesn't stop us from getting sued. How do you want that to read?

Alderman Davis: I would say we want to be named as individual insurer to the current pollution policy, general liability policy, and also give the City of Fayetteville waiver of subrogation.

Alderman Reynolds: We need to set a time limit.

Mayor Coody: If this goes on more than 30 days I would be surprised.

Alderman Reynolds: I think we need to set a time to bring it back and look at it in case it does.

Alderman Davis: Do you want to add something to this?

Alderman Reynolds: I'd say we bring it back if it lasts longer than 60 days.

Kit Williams: We've have a 30 day notice on this, you can bring it back anytime you want to so I don't think you need to put anything in the contract because there's already a 30 day notice in the contract that all you'd have to do as a Council is say we want to end this contract.

Alderman Reynolds: After May the 30th it comes back to us again?

Kit Williams: No. What I'm saying is that if you get dissatisfied with this contract at anytime, then you just agree we want to terminate this interim agreement. However, I must advise you as stated here in, the underlying agreement, Waste Management of Arkansas, Inc. would argue that they have the right, without this interim agreement to do exactly what they are doing at our landfill without following our restrictions and without paying us for the replacement of the lip edge guard, without any of these other provisions in here, without giving us any presumption that this is not our trash going somewhere else if its hazardous waste. They would argue that they don't have to do anything that the current four year contract that they're on right now gives them the absolute right to do this

without any of these other provisions. My advice to you is that we've worked out a pretty good contract with them where they have gone beyond what might be absolutely required and they have signed it. Mr. Chuck Dees, the group vice president out of Houston has already approved the one that is in front of you, my advice as your attorney is this is a good interim agreement.

Mayor Coody: So if this was approved in 1999 it had to come before the City Council to be approved, is that right?

Kit Williams: It was. It was essentially approved in 1999, effective April 1, 2001 for another five year renewal.

Mayor Coody: Was the subrogation insurance brought up at that point?

Kit Williams: I don't know.

Mayor Coody: We'll talk about the insurance tomorrow morning bright and early.

Kit Williams: I probably can't do this tomorrow, I've got oral arguments in Little Rock before the Supreme Court that I have to leave tomorrow and go to. We need to try to win that case and I need to be prepared for that. I also have to appear and give my opinion on a $9,000,000.00 bond issue that's being closed tomorrow at Stephens.

Alderman Davis: Can David take over and finish it?

Kit Williams: I don't know. I can ask David to try to do that. It's your pleasure as to whether you want to accept this as presented by administration or if you want to try to get amendments done as Mr. Davis has suggested.

Alderman Thiel: I thought we were going to go ahead and accept it like this, but you were going to make this proposal that we get this done within a certain amount of time.

Alderman Davis: Also can we have this added on to this particular proposal?

Mayor Coody: You can make a motion.

Alderman Davis: That is my motion.

Mayor Coody: Your motion is that we have the insurance before we vote on it or is your motion that we talk about it first thing tomorrow.

Alderman Davis: You can talk about it first thing in the morning but that's what the city would like to have.

Alderman Davis moved to amend the Resolution by adding the City of Fayetteville as an additional insured to the contract and insurance policy. Alderman Santos seconded the amendment. Upon roll call the motion passed 5-0. Alderman Young was absent.

Alderman Santos moved to approve the Resolution as amended. Alderman Jordan seconded. Upon roll call the Resolution passed 5-0. Alderman Young was absent.

RESOLUTION 66-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

John Sampier with Waste Management: I am a municipal marketing manager for Northwest Arkansas for Waste Management. The City of Fayetteville's trash goes through their transfer station. We didn't discuss about whether or not we had the right under our present contract to use the transfer station. I called Mayor Coody and asked him if we could meet and given our situation would it be possible to consolidate our rates for the Fayetteville transfer station and serve our customers in an expeditious manner. We appreciate Mayor Coody, City Attorney Kit Williams, Carol Hill, and the department heads that have been involved in this; we've talked for a considerable period of time about it. Here's the practical aspect of what you've done. When I called the mayors of other cities and communities today and asked them if there are any problems they said no. Most residential customers and commercial customers if they hadn't read the paper they would not have noticed that anything was different. That was our goal, to keep the streets picked up and the cities clean is a health and safety issue and with Mayor Coody's leadership this has happened and I hope the other cities and other communities in Northwest Arkansas notices what Fayetteville has done. This is a very important public/private partnership for the citizens as Mayor Coody said. Gary Dumas has been more than helpful. I simply want to thank the Council and especially Mayor Coody for what you've done. It's a good thing.

Mayor Coody: Thank you. I'm glad we could help. This meeting is adjourned.

Meeting adjourned at 4:50 p.m.

Special
City Council
Meeting Minutes
June 6, 2002

A meeting of the Special Meeting of the Fayetteville City Council was held on June 6, 2002 at 7:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A meeting to select a Ward 3 Alderman to replace Trent Trumbo.

PRESENT: Alderman Santos, Jordan, Reynolds, Thiel, Young, Marr, Davis, Mayor Coody, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press, and Audience

Mayor Coody called the meeting to order.

Mayor Coody introduced the applicants:

Tom Bechard
Betty Martin
Robert Rhoads
Jana Britton
Ken Myers
Chet Caldwell

Mayor Coody: We are going to draw numbers, you will pick a number 1 – 6, you will sit in order and that is how you will answer the questions. You will be asked to come to the podium to answer each question. We will start with Alderman Santos asking the first question, the first question will be answered by applicant number 1, followed by applicant number two until all applicants have had a chance to respond. Alderman Brenda Thiel will then ask her question which will be answered first by applicant number two until all applicants have had a chance to respond. There will be seven questions and a final opportunity to make a statement so everyone will go first at least once and applicant's number one and two will go first twice. Each answer by an applicant is limited to not more than two minutes. City Clerk Heather Woodruff will operate a devise in which an amber light will go on when you have 30 seconds remaining and a red light will be activated when your time is up. You may finish your sentence when the red light goes on but you must stop at the end of your sentence. The Mayor may also hold up a stop sign if you fail to notice the red light. Following all of the applicants final statements the City Council may discuss the applicants, but further questioning is not anticipated. The City Council may then vote to select the new Alderman for Ward 3.

The applicants began answering the questions in the following order:

Jana Britton
Betty Martin
Robert Rhoads
Chet Caldwell
Ken Meyers
Tom Bechard

The applicants gave their closing statements.

Mayor Coody: I would like to say this has been a good experience for all of us; I am going to speak for the City Council. I would have to say in my experience we have not seen such a high quality cast of candidates. Every one of you would be excellent up here. You are well reasoned, thoughtful, your ideas are clear and your speech is succinct. We appreciate all of your involvement and I hope you won't mind, the five of you that don't get up here, if we call on your expertise in the future. We would ask you to stay involved in the local government here. There will be other elections coming up this November and other elections every two years following that, plus other opportunities for involvement. I think you have shown yourselves to be such good quality candidates. We would welcome working with each and every one of you and every one of you would bring something really wonderful to the table. I wish we could appoint all of you. Thank you for applying for this position.

We have two options, we can discuss the applicants in public or someone can make a motion if they so desire to go into executive session, this would take a second and a majority vote of four to approve going into executive session or we could discuss them here in public. What is the wish of the Council?

Alderman Reynolds moved to go into executive session. Alderman Young seconded. Upon roll call the motion to go into executive session failed 3-4. Alderman Reynolds, Young and Davis voting yes. Alderman Santos, Jordan, Thiel and Marr voting no.

Alderman Santos: We are all really feeling like we are in a tight spot here. This is one of the hardest decisions we are going to have to make. We are replacing Trent Trumbo and I have seen examples of his intelligence, wit and compassion. I wish you could all serve a month each. This is really hard for me.

I have worked with Jana Britton through the years when I worked on the Planning staff, through her campaigns and I read an endorsement for her that she has collected votes in Ward 3 before that makes me lean towards her. All of you have been so impressive; I sure want to see more of all of you. Just in the hour and a half that we have spent here tonight I feel like I have gotten to know you all a lot better which makes it even more difficult to make a decision.

Alderman Reynolds: We have six good candidates. I think they are all great and I know them well. Trent Trumbo was a well loved fellow and I know that he had a lot of love for his fellow Alderman Bob Davis, he thought a lot of him and I said after his passing that I would support

Bob Davis on who he recommended for this job to be his running mate. I hope that everyone else here tonight if you are not selected, I hope in the fall you will get involved and we will see you in the spring. Thanks to all of you.

Mayor Coody: When we start voting do we start with Mr. Santos?

Heather Woodruff: He would be the first in the roll call.

Alderman Thiel: I certainly agree that all the people here are wonderful and they certainly should take the opportunity to run in the fall if they are interested in this position. I think there are two things that are really critical. One fact is that being on the City Council takes an incredible amount of time, I had no idea. I know some of the others that are newly elected had no idea. I think Mayor Coody has had a lot of new ideas, good ideas and we have been doing a lot on the Council, it takes a lot of time. I am concerned that whoever we consider has the time. That is really in my opinion the number one thing. One of the greatest assets that Alderman Trumbo gave to this Council was his financial expertise and we need that. That is one area that whoever is chosen here is going to deal with very quickly. I think it is important that we find someone that has very good financial expertise. I think we need someone that loves Fayetteville and is willing to work with others in the community as well as the Alderman. I think all of you answered a lot of things very much alike in that respect. It will be hard to pick one person above another in regard to that.

I probably know Jana better than anyone that has applied and she has the time. I guess I have to look toward a couple of the other candidates for their financial expertise. Some of the statements that Mr. Rhoads said, he has the financial back ground that I think we really need. He really emphasized listening to Ward 3 and the Council, he would be prepared and he has the time. I think that is the real key to it, he has the time and the financial expertise. Based on that criteria, I feel like he is probably the strongest in my opinion.

Alderman Marr: I agree with Alderman Reynolds that it is important that we hear from Bob and hear some of the things that he thinks are important for representation of a person for Ward 3. The reason I think that is important is that we are not here to change the dynamic of the Council.

I thought I knew Trent very well; Trent was someone that advocated me applying for the Planning Commission. I don't think we ever know exactly every thing that a person thinks and the process that they go through. I would like to here from Bob's prospective. When I think of Trent, I think of financial expertise, I think of the ability to sell ideas and to not only have his vote but to try to convince others of a vote, so salesmanship I think is important and leadership, I certainly think he was probably seen as leader within this Council, so that is something else that is important. I certainly have thoughts on candidates. My expertise is in the human resource field and I interview all day that is my job. I have opinions but I would like to hear from Bob as a Ward 3 representative who knocked on all the doors and some of the things that he sees are important and to see if what I think are the qualifications are in line.

Alderman Davis: Don, I appreciate that and I will but I would like to give everyone else an opportunity first to make their comments and then at that point I will follow up.

Alderman Jordan: This is one of the more difficult things I have done as a Councilman. There are several things I look for in a Councilperson. I look at experience, the number of years they have lived in the City and do they have a real love for the City. Their ability to handle finances, leadership ability, courage and compassion. It takes all of those to sit in this chair. I can tell you from experience that you are going to make decisions that people are not going to like. It is a tough job. It takes heart and courage to do this job. It is always the people first and you are always second and you have to have a servant's heart. When I make my selection that is the way I will vote.

Alderman Young: This is very difficult all of you are good candidates and you answered the questions correctly. It's difficult to decide. I don't know how I am going to decide in the end. It has been mentioned about financial and that is important, I think that balancing a check book is just as important as million dollar budgets. Congress deals in trillion dollar budgets and they can't balance a check book. We are mandated by the State Constitution to a balanced budget, we don't have the luxury of spending money we don't have.

Alderman Davis: As a Ward 3 Alderman Representative I have had a lot of phone calls and they have told me who they would like for us to consider. There were three names that continually came up and after listening to the candidates tonight I agree they all three deserve merit. I believe they all showed the ability to listen, compassion, financial support and have a business presence. We need to go ahead with the same perspective that Trent had. No offense to the three that I leave out when I mention the three. These are in no particular order, but since people began to apply I have had calls, emails and people have talked to my family. Those three that have been suggested are Tom Bechard, Robert Rhoads and Chet Caldwell. Those are the three candidates that I have had calls on because those are the ones that would fill Trent's dreams and thoughts the best. This evening I am going to have to sit here and think a little and review all the questions and answers but I can assure you that one of those three will be where I will go.

Alderman Marr: We have heard a lot of answers to questions that have been published; my experience in an interview process is typically that leads you to other questions or things that you think about. Did anything generate a question in anyone's mind that might help them differentiate between someone that we didn't get an opportunity to ask.

Alderman Young: Normally I would generate those kinds of questions but these questions pretty well covered it for me.

Alderman Thiel: I think each person had at least one thing that I thought that they said was good. I keep coming back to Mr. Rhoads; he said one thing that no one else said that I know has been mentioned several times during meetings and by constituents. He specifically said he would not make a decision before he entered this room, in other words he would not come in with a predetermined idea of how he was going to vote, he would come in and listen. I felt that was something that made him stand out. Tom Bechard also said some things that stood out, they all did.

Alderman Reynolds: Mr. Bechard said all he wanted to do was complete the term and he will not run in the fall. The people that I talked to thought the fair thing to do would be to appoint Mr. Bechard and let all the other applicants run in the fall and no one would be an incumbent and no one would have an advantage in the election.

Alderman Davis: I also received a lot of calls from prominent people in the community. The name they kept throwing out, it is hard, I don't mean to hurt anyone's feelings but the one they kept pointing out was Tom Bechard. I think a lot of that went back to Tom coming in and trying to put people together that had different views inside the city and pulling them to a common connection. He tried to find a way to get the schools, Chamber of Commerce and the businesses all to communicate. He tried to make the web sites better so when someone goes to the Chambers web site they see that Fayetteville has one of the prominent school systems and all the merit scholars.

Alderman Thiel: I received probably the same calls you did and they did highly recommend Mr. Bechard. To me it does not matter whether a person is going to run or not in November. To some extent it lends a certain amount of accountability if they were to run. We didn't ask the other candidates whether or not they were going to run. I still have reservations because I realize he is a very busy person. He has a very important job, my concerns still go back to him having time to spend on this Council and the budget meetings we are going to have, hopefully we are going to have a retreat and we have committees that each one of us is required to serve a certain amount of time on. This is still my biggest reservation.

Alderman Davis: Brenda I have no problem with that, when you talk about busy I understand. Having your own business, having to go out and sell every day to make a living I understand what busy is. I understand Mr. Trumbo was busy but yet he found time. I don't think that is a draw back for Tom. If it is something he wants to do I think he is quite capable of handling it. He has probably talked to people to find out what the time requirements are. I think if he couldn't handle the time requirements he wouldn't have put in an application. A lot of us are busy and if it is something we want to do make a commitment to we find a way to bring the City in and take care of it. I am one of the first ones and I'm like Trent in this aspect when it comes to family they are going to take precedence.

Alderman Young: As far as running in November the other candidates, if one of those is appointed they may have second thoughts and may decide not to run.

Alderman Marr: I actually received calls on three people, Ms. Martin, Mr. Rhoads and Mr. Bechard. I came into this looking at the qualifications of all of them, luckily I didn't really know any of them, I look at that as a positive for me because it gave me a very objective view. While I will say I have had experiences with a couple, one moderated a forum for me and I am familiar with two that are in the business community. I have had some exposure but personally and professionally not on a direct basis. I came into this thinking how would I look at the qualifications of this job, not only having had to go through that decision myself recently but then putting on top of that the Ward 3 characteristics of it. If we were asked who do we represent, we represent our Ward and the view of our Ward otherwise we wouldn't be sitting up

here today. I do think Trent brought a financial expertise; his business was in a financial arena, I think that is extremely important in his replacement. I think people elect people off of their professional back ground as one criteria I think people elect people because of salesmanship, their ability to sell an idea because the reality is as much as we want to stroke our own ego we are only one vote and we have to convince three or four other people to vote with us. So I think that is extremely important in a characteristic. We heard a lot about passion, someone who has a love of Fayetteville and the quality of life of Fayetteville and a length of time in Fayetteville. I actually did feel like for me not running again did make somewhat of a difference. It made a difference because I am not sure that I feel comfortable that there should be any competitive advantage in November from any candidate and yet how I dealt with that is just because you serve doesn't mean you necessarily get a competitive advantage if there happens to be really tough issues that you vote. Having been a Planning Commissioner I saw that that wasn't always seen as an advantage. As I look at these I really believe that the people with the strongest business experience of managing million dollar budgets and I do think there is a difference between managing a check book personally in a family and managing a hundred million dollar business. There have been times I would much rather be managing my check book. I think leadership is important. One of the things that stood out for me on Mr. Bechard was his comments about a mutual respect for people that may have different views. I think that is extremely important on this Council, we are not always going to agree. I think we have to have someone that comes in with a very cooperative spirit. I don't want someone having a personal conflict with me as a Council member simply because we believe something different. I am looking for that in style even though idealistically we may be different relative to representing our Wards. When I look at that criteria I come down to Mr. Bechard probably as my first choice and Mr. Rhoads as my second based on their business back ground, their experience in finance and their leadership within their own organizations. I think they both have had major experience in having to sell ideas within their own company. I would encourage everyone who truly thought that they wanted to be an alderman to run. I think that is the best way, as much as we want to try to do what is right the people have the ultimate choice. I think that we will find out who should be the alderman in November we are just trying to do a temporary assignment.

Mayor Coody: Is there any other discussion? We can go ahead and vote. I would like to reiterate that any of you applying for this position if you had been appointed tonight you would have elevated the dialogue and you would have elevated the personality of the Council. We appreciate all your applications and your sincere efforts to make Fayetteville even a better place to live. We sincerely hope that you will take this vast experience you have gotten tonight and apply it in the next November's election. We really appreciate your involvement.

Kit Williams: Mr. Mayor just for the audience we probably should read our Rules of Procedure on how this works.

All positions shall be decided by a majority vote of the City Council. In an instance where there is more than one nominee for a position each Council member shall vote by naming his or her choice for that position.

The Council member's will simply state a name and that will be their vote for that particular person.

Alderman Santos: Tom Bechard
Alderman Jordan: Betty Martin
Alderman Reynolds: Tom Bechard
Alderman Thiel: Robert Rhoads
Alderman Young: Robert Rhoads
Alderman Marr: Tom Bechard
Alderman Davis: Tom Bechard

Kit Williams: According to the statue four votes is what is required to be elected. Tom Bechard has been selected and will be appointed to the City Council.

Meeting adjourned.

Special City Council
Meeting Minutes
June 11, 2002

A special meeting of the Fayetteville City Council was held on June 11, 2002 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Mayor Coody called the meeting to order.

PLANNING COMMISSION APPEAL: An appeal of a Planning Commission decision regarding Conditional Use 02-14 for the Fayetteville School District to allow an additional 18 parking spaces.

Dr. Bobby New, Fayetteville School District Superintendent: Thank you for hearing this appeal on short notice. I think you all are aware of issues in general. Let me point out a little bit of history, on May 28th the Fayetteville Planning Commission approved by a vote of 5 to 1 a large scale development request made by the Fayetteville School District. The request was made due to changes necessary to accommodate the University of Arkansas' move to widen Garland from North Street to Maple. I looked back on my calendar and the history of this project began on January 27, 1999 when the school district was invited to a meeting with the City, State Highway Department, and University of Arkansas to discuss the widening project. We are here to appeal the Planning Commissions' decision denying the conditional use request 02-14. The City of Fayetteville Planning Staff recommended approval of this conditional use to the Fayetteville Planning Commission and noted that the Fayetteville School District had complied with the specific rules governing this individual conditional use request. Granting the conditional use will not adversely affect the public's interest. The Planning Department also found that the additional parking requested is generally compatible with adjacent properties and with other property in the district. This is a net decrease and a better organization of parking areas as a result of the changes that will occur as a result of the development. Specifically, the school district is asking for your approval to reduce our current number of parking spaces from 71 to 61. The Commission wants us to reduce the 61 by 18 more spaces giving us a total of only 43 spaces at Leverett. However, we have 50 faculty and staff members assigned to the Leverett Elementary School, so you can see we would have to initiate a parking deck. It would be impractical for us to move forward with this project knowing on the front end that we had a limited amount of parking space, in fact a number less than the faculty over there. We absolutely project that the School is going to grow and it will add faculty and parking. What we are asking you to do is agree with us to reduce from 71 to 61 and not any further because of the necessity of faculty and staff and not to mention parents. What I would like to do tonight with your permission is call Mike Gray up here. He is the current Superintendent of Farmington on loan tonight to the Fayetteville School District. He will answer technical questions that you might

have about the parking spaces, how we arrived at 61 where the 71 are, and exactly what other questions you might have in a technical nature. We also have our engineer here. Mr. Gray will be followed by Ms. Jenny Davis who is currently President of our PTO at Leverett.

Mike Gray, Superintendent of Farmington Schools: I was not involved on the planning process of this project. I have spent several hours with the school people, the engineer, and Roy Carr in going over this plan, how it was developed and the lengthy process that they went through in coming about with the plan that was presented before the Planning Commission. The need for parking spaces, it is just obvious that we need to be able to let our faculty and staff park. We have active parent volunteer programs, we have special need students that have outside professionals come in and sometimes work with students on special needs, and we just need parking. I'll be glad to answer any question that I can, if not, our School Maintenance Supervisor is here who was very active in the Development of this plan and our engineer is here.

Alderman Marr: On the plan that you have there are 70 spaces prior to this change and you are going to 61. You might understand that 52 are in this bottom lot to get to the 61 and 9 are in this lot off of Cleveland Street. There are two handicap spaces that are shown in an existing parking lot.

Mike Gray: I think there are 50 in the bottom and the two that you mentioned the handicap parking.

Alderman Marr: How many additional spaces are in the lot where the handicap spaces are shown that are not marked on this particular plan?

Mike Gray: During the School day, my understanding is that it is not a parking area, that is a play area and it's not used as parking.

Alderman Marr: Are there marked parking spaces in that lot and how many?

Mike Gray: 26.

Alderman Marr: What was the rational for not using that lot? The reason I'm asking is there are 50 in the bottom lot, 9 on the new lot off of Cleveland, and then there are these two that are shown in here, but a total of 27 spaces in there. What was the rational of eliminating the 27 lot and adding the 9 lot? Why did you do that when this will still be there?

Mike Gray: My understanding is that is a play area. It is not used for parking during a school day at all.

Alderman Marr: Even currently?

Mike Gray: Well, during school hours.

Alderman Young: Is it used as a drop off area first thing in the morning?

Jenny Davis, PTO President: First I would like to clarify exactly where we are talking about. That is a play area and it is also a delivery area because it is connected to the cafeteria where our milk is dropped off in the morning along with cereal.

Alderman Marr: That parking area is only used during precinct voting?

Jenny Davis: We do try to rope it off on those days so it can be used for parking on voting days so that it can be available for voters when they drive up. There is not any other parking available so we keep the children off of that area, on other days it is used for a playground area.

Alderman Marr: I guess my question is back to your original plan design when you looked at this, was there a reason that in your design rather than build a new 9 space lot off of Cleveland, was there any consideration given to using those 27 spaces or however many are marked in there and not having the new 9 space lot built in this plan? In essence it would allow you to have more parking without more concrete.

Jenny Davis: My understanding is with the building of the Boulevard coming up and the space that it would take up in coming over into that area that would affect that.

Fred Turrentine, Director of Maintenance for Fayetteville Schools: The parking lot in question has not been used for daytime parking in the last six years. It is a playground we are landlocked and anytime we have rather wet grounds, our kids play basketball in that area and that is one of the few areas. We rope off just a tiny little end of it on the Garland side so a milk truck and food service can be delivered. That marked off area stays that way all of the school day. Now when we have PTA, Halloween Carnivals, or things at night, we do use that occasionally but never in the daytime. That is a recess, play area, and a P.E. area and it's one of the few we have. If we give up the 19 spaces on Garland we will lose our lower playground to have to make parking. It is detrimental to the playground area.

Alderman Marr: You are getting a new parking lot area on the Hall Street side to be used as playground area and not parking?

Fred Turrentine: The small parking lot on Hall Street is coming out and that will be a soccer area since we are losing the soccer field to that lower parking lot so all of what was Mrs. Browns' property becomes a green area for kids to play in. The current lot that's on Hall Street, we're going to take the asphalt out of and that is the only place we have for a soccer area for kids.

Alderman Young: Right now it looks like you are just matching the existing pavement is that correct or is this the new alignment or new road at Garland?

Fred Turrentine: No we weren't trying to match, that is a new design. By improving esthetically and putting a boulevard and our ten foot walking trail that can certainly be utilized by our kids. That is a new design and we are not utilizing any of the old. Those are taken directly off of the highway departments drawings to enter the parking area.

Speaker: Not exactly, right now we're matching the existing pavement. I just received some cross sections from the Highway Department because I haven't received their plans yet. They are the ones who are going to fix all that.

Alderman Young: Your detention pond down here, I guess it's releasing on to somebody else, is that correct?

Speaker: Yes that is correct.

Alderman Young: It's not going to be detrimental or anything like that?

Speaker: No we have a letter from the downstream property owner accepting it.

Alderman Young: I only have one other question at this time. Originally the staff recommended the approval of the condition based on the following conditions and in particular the ADA. I was wondering if you were still in agreement with these conditions for approval of the extra parking lot.

Dr. Bobby New: Mr. Young, we met this afternoon with City Staff; Mr. Conklin and Hugh Earnest; and I'm assuming that we are all in accord with those agreements. I did not hear a problem or haven't heard a conflict between us and the City on those.

Alderman Davis: Right now you have two curb cuts for the new parking area. Then it appears where the old curb cut was, which was kind of at the northern end of the building, is that going to be a continuous curb cut there?

Dr. Bobby New: Yes, we discussed that at length this afternoon in a subsequent meeting with the City and the Mayor earlier. Let me call back the engineer and make sure that he can explain that in technical terms.

Speaker: One is considered by the Highway Department as one opening, it's just one curb cut with a landscape island. We had to do it that way in order to get the buses in because they take such a large radius to turn.

Alderman Santos: Go south a little bit here. I think Bob is asking about where the existing curb cut is to access that rectangular blacktop playground parking area, what's that cut going to be like? It's not shown on the plan.

Speaker: That is going to be the Highway Departments' decision on what they do.

Alderman Davis: That would be the intersection of Cleveland and Garland right up here by the stop light. Right now you have the curb cut, that's what I'm talking about.

Speaker: The pull off area?

Alderman Davis: Yes.

Speaker: That will all be a street, that's gone.

A discussion followed on where the curb cut would be made.

Mayor Coody: What other questions does the Council have?

Alderman Marr: I think that one of my biggest concerns was 3 curb cuts across a trail. Quite frankly, as soon as the Planning Commission approved the LSD I think they took out of our hands an issue of addressing a curb cut. You are only looking at a parking number count. I think I do remember from the meetings with the Highway Department that there was a lot of discussion that the reason the trail was important was for safety for bicyclers and pedestrians. Obviously I don't personally like seeing three automotive curb cuts across a trail, but since that's not something that we can really address in this appeal that's on the number of parking spaces; I think it's kind of out of our hands.

Mayor Coody: Everything has been approved except the number of parking spaces right?

Alderman Santos: People have asked me to appeal the Large Scale Development and the mistake the Planning Commission made was approving Large Scale Development with those parking spaces and not the additional parking spaces which is actually a reduction in parking spaces. I've spent a lot of time over the last week; I've met with a lot of people and the Planning Commissioners who voted against it. We tried to come up with the best solution that we could. Tearing up the Hall Avenue lot is kind of an expensive solution to pacify a few noisy neighbors and really it's a big waste of the Schools money to replace that lot. We looked at changing the Cleveland bus pull in, rather than have an island to protect the buses where they pull in on the south side of the school, and we tried to come up with a way to redesign that with pedestrian peninsulas coming out at the crosswalks in a protected kind of cove there for the sick child pick up. The three common complaints that I heard was that the school was not treated the same as a private developer would have been treated. I think the way that I feel about that is the school isn't the same as a private developer, this is not a proposal that is being proposed by a private developer, this is the schools response to unavoidable circumstances of not only the Highway Department widening the highway but the City wanting to have a landscape median in that highway and 10 foot bicycle trail which cuts the school back with even less room to work with. The project is probably as good as we can get it. The other complaint of the Planning Commissioners who voted against it was the loss of the trees on the south side for that Cleveland pull in; I think that's just unavoidable. The big complaint that the Planning Commissioners had was those 3 curb cuts across that sidewalk. I spent some time with Tim Conklin and we both looked at the idea of trying to funnel the one way in, circle one way out parking lot drive through to funnel them into one. Then what you get is a great big giant curb cut instead of two smaller curb cuts which I think is more unsafe. The idea for putting that tree line median aside for esthetics is that gives you a little pedestrian haven out there. You make it across two lanes of traffic and it's a safe place to stand before you go again so the two separate curb cuts kind of give you the same effect. Another response to the tree issue is the Council got copies of plans for the University's Northwest Quad Project, which the Board of Trustees has already approved, the sale of bonds for it will be proceeding soon and you can see we are going to be adding a lot

more trees and a lot more green space to this area. I know we worked on this plan and I really wanted to try to come up with some way to improve this but I really just can't do it. I think we should just approve the parking waiver which is after all a reduction in the amount of parking that is there now, and it will be an increase in the amount of green space that's there now and the amount of play space for the kids. I wish I could come up with some suggestions, if I had a reason to appeal the large scale development that was legitimate I would, but I don't think I have a legitimate reason to appeal that and I think we should approve the parking waiver.

Mayor Coody: What other comments do we have from the Council?

Alderman Santos moved to approve the parking waiver. Robert Reynolds seconded.

Alderman Young: Would you entertain a little more to that motion and also include the staff recommendations and the original proposals, especially for the ADA requirements?

Alderman Santos moved to amend the motion to adhere to the three conditions requested by the Planning Staff. Alderman Reynolds seconded.

Alderman Santos: Another thing we discussed was handicap access. Leverett does not have an elevator and its two levels. You access the lower level from the lower parking lot and that's handicap accessible. The new parking lot on Cleveland Street will have direct Handicap access to a ramp to what's going to be the new main entrance at the south of the school. I think that will be taken care of.

Mayor Coody: We have a motion and a second to approve this with the addition of the handicap spaces. Is anyone from the public who would like to speak? Seeing none I'll bring it back to the Council. We have a motion and a second, shall the motion pass?

Upon roll call the motion passed unanimously.

Resolution 92-02 As Recorded In The Office Of The City Clerk.

Meeting Adjourned at 6:00 p.m.

City Council
Meeting Minutes
October 1, 2002

A meeting of the Fayetteville City Council was held on October 1, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Alderman Reynolds, Thiel, Young, Marr, Bechard, Davis, Santos, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press, and members of the audience

Mayor Coody called the meeting to order.

PUBLIC WORKS REPORT:

Mayor Coody: I want to start off this evening with a quick over view of our Public Works Department.

We have 132 employees. We have over 1,300 miles of infrastructure to take care of including 40 pumping stations, 511 fleet vehicles that register almost 3,000,000 fleet miles a year. The annual revenue for this department is about $11.5 million in water revenues and almost $10 million in annual sewer revenues. We have an annual budget of almost $23 million.

It takes roughly two years from the time we identify the need to the time that we can actually complete a project.

Mayor Coody gave an overview of the Capital Projects and their status. He said we have approximately $41 million in capital improvement projects in process. Mayor Coody stated that we're basically spending 23 cents per person per day for the Fayetteville residents on our streets, public works, and engineering.

The Public Works Department has been able to take the capital improvement projects that the City Council has approved for this year and complete them. We have also been able to take a lot of the capital improvement projects that have been rolled forward year after year and we're getting those completed too.

I wanted to let everyone know what a good job our public works department is doing, especially Mr. Boettcher who has been able to bring us forward quite a bit.

Alderman Santos: Good report.

CONSENT:

APPROVAL OF THE MINUTES

MOTOROLA: A resolution awarding a contract to Motorola in the amount of $52,118.05 to add a radio console in the 9-1-1 Dispatch Center.

RESOLUTION 148-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ARKANSAS FORESTRY GRANT: A resolution approving a 50/50 matching grant for $20,000 to install Structural Soil for the Dickson Street Enhancement project. The grant is through the Arkansas Forestry Commission. In addition, approval of a budget adjustment.

RESOLUTION 149-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

WALKER PARK: A resolution awarding RFP 02-13 for Walker Park north playground to Arkoma Playgrounds and Supply, LLC in the amount of $60,000.

RESOLUTION 150-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SKATE PARK: A resolution awarding Bid 02-42 and approval of a contract with C-TEC, Inc. in the amount of $325,884 plus a project contingency of $32,588 for a total cost of $358,472, and approval of a budget adjustment for construction of a skate park at Walker Park.

RESOLUTION 151-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Young moved to approve the Consent Agenda as read. Alderman Davis seconded. Upon roll call the Consent Agenda was approved.

OLD BUSINESS:

RZN 02-23.00: An ordinance approving rezoning request RZN 02-23.00 as submitted by Jerry Kelso of Crafton Tull and Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential. The ordinance was tabled on the first reading at the September 17, 2002 meeting.

Alderman Davis: Mayor I spoke with Kim Kopeck today at Lindsey's and he requested that we once again leave this tabled this evening until the 15th.

Mayor Coody: Do you want to make it date certain for the 15th?

Alderman Davis: Yes, sir.

Mayor Coody: We'll go ahead and table this until the next meeting on the 15th please. Thank you.

This Ordinance was tabled until the October 15, 2002 City Council meeting.

TRAFFIC STUDY: A resolution awarding the engineering and planning services contract for the City of Fayetteville's traffic study to the firm of Bucher, Willis, and Ratliff Corporation in the not-to-exceed amount of $198,408; approval of an engineering contract contingency in the amount of $20,000 and approval of a budget adjustment. The item was tabled at the September 17, 2002 meeting.

Mayor Coody: We have amended this to put more emphasis on alternative transportation. We can approve the original contract as was presented or we can approve the original contract with the added scope of work.

Greg Boettcher: It took sometime to prepare the changed scope. We reviewed that in-house to make sure we addressed the multi-module issues and that we made it comprehensive to all issues that were important to the Council, or at least as best that we could interpret. We sent it to the consultant and they reviewed it. We just received a response from the consultant for the optional Task 30 which is to study issues of our transportation routes, areas that could be used as alternative transportation modes. The cost would be $20,980 I believe. We did not ask the consultant to be here tonight because obviously it would be inappropriate for you to try to read that and ask questions. If the Council is comfortable with it we can proceed with accepting the contract with this optional task. If the original is acceptable and you wish to deliberate this optional task I assume that you could authorize the base work that we originally presented and review this at the next Council meeting. We were not able to get this out in advance so as far as this optional task I'm sure that needs to be reviewed.

Alderman Reynolds: My constituents called me and they're upset because in 1992 we paid for a traffic study through the City Council and never got any results of that study in 1992. Are you aware of a study in 1992 or the results of it?

Greg Boettcher: Yes. I don't have the information with me but I recall sometime ago we went through that study with Perry Franklin and I think a large number of the improvements that were set out in that as I recall were completed. There are a number of activities that have to do with State Highways or some very large projects that were not completed. The study is some ten years old and it was used. Over 10 years of traffic volumes, development patterns have changed which means we need to rethink that.

Obviously, some of the projects that weren't built in 1992 need to be reevaluated. Are they truly the priority now for our transportation system or are there other routes that we should be looking at. I think it has aged quite a bit through that period of time with rapid development.

Mayor Coody: Mr. Boettcher, since Mr. Beavers was here during that time period and for the last 10 years, could you please address Mr. Reynolds concern?

Jim Beavers: Yes sir, I'll try. I don't think I can do as good a job as Mr. Boettcher just did. We did the study in 1992 with a firm out of Dallas. The study was published. They set our priorities for our CIP. We did go through that recently and looked at the projects that we've completed and we've completed several of those projects. The land use patterns in Fayetteville have changed and we need to proceed with a new study to reflect both the current and projected traffic flows in Fayetteville.

Mayor Coody: So Mr. Reynolds I think that if your constituents are concerned that we haven't done anything with the traffic study I hope that you will be able to correct them and say the traffic study was the basis if I understand correctly for the priorities in the work we've done for the last 10 years to solve a lot of the problems that we addressed in that study. Is that right?

Jim Beavers: Yes there was a basis and it was true in 1992 and true now. We would use the traffic study that set the priorities for the CIP program.

Alderman Reynolds: How many results did we have from that '92 study that we completed?

Mr. Beavers: Sir I've not reviewed it, it would take some period of time if you would like to do that.

Alderman Davis: I was the alderperson last week that asked for the 1992 traffic study because I just wanted to make sure it wasn't on the shelf somewhere collecting dust. I appreciate you all putting it in my box for me to look at. On the first page there were 12 items listed and seven of them were not able to be completed due to the fact that they are State Highways.

My concern for the traffic study is that I can see a lot of it is going to the exact same things. I wonder what we're really gaining out of this if we're basically going to get the same information that we had before and find out without the State's cooperation we really can't go anywhere, except for some minor streets. I am not sure where we're going with this and how beneficial it's going to be for the citizen and if we're not just throwing money out the door to get the same results. I think we can go ahead and add the additional feeder beside the road to make a bike lane without having an additional study to pay for that cost once again. Every road should have a sidewalk close to it so the people can get around the community.

We have a master trails program that we're bringing forward through the proper channels and hopefully the first of next year it will be adopted. So I don't really know that we really need to spend the additional dollars for a bike lane study if we know what roads we need to expand to give bicyclist another opportunity to ride their bikes without having vehicular interference. I question if we need to spend the additional $20,000 and I

question if we need to go ahead and spend the other money for the simple reason a lot of these streets are State Highways.

Mayor Coody: Do you all have a response to the State Highway argument versus this new study we're considering and how the State Highways would play into that?

Jim Beavers: That's only one component of the study; you've left out the intersections, the traffic calming, and the neighborhood concerns. They will look at the arterials again but with the change in land use. This new traffic study is looking at 100 intersections for intersection improvements; we've added smart growth, the neighborhood concerns and traffic calming. The scope of the proposed 2002 study is far beyond that of the 1992 study.

Mayor Coody: The thing that concerns me, if we don't want to spend money now for a traffic study that could help us alleviate some of these problems and forecast where our major problems are going to be down the road, then I don't want to be in a position of basically saying yes traffic congestion in 2002 is a primary concern and we fail to address the needs which we know we will see in 2010 and 2020. That's the thing that concerns me. I don't want to waste money either but again I think we need to have some kind of planning document to know where we're headed. We need to try to alleviate traffic congestion before it starts. I think that if we could do that I think the citizens would be a lot better off.

Alderman Davis: I concur with what you are saying but you will find turn lanes that haven't been completed that were mentioned in this '92 study. You have a document that says that they need to be done but they haven't. I'm not sure how we're really improving this. We would be better off to take those dollars today and do what has not been completed in-house versus paying an expert.

Alderman Santos: There's no way it's possible that priorities haven't changed since 1991 when they started this study. As far as Bob's concern about all the projects not being finished, of course we don't have all of them completed; we've got a 500 year plan here not a 10 year plan. All the projects aren't going to be built but we need to know what priority we need them in and how we can get state and federal money to work on the State Highways. The Northwest Arkansas Regional Transportation Study is a process where we go up there with the representatives from the other communities in Northwest Arkansas and pretty much barter off whatever the pool of money is. You'll see if you'll look on there that our highest priority projects we have completed because we knew what our highest priority projects were when we went up there to the meetings. I think those priorities have changed. Have you seen the Regional Transportation Study? We only get three projects every ten years.

Alderman Reynolds: That's all we're going to get from this study is three projects probably for $244,000.00.

Alderman Santos: We'll spend our money more wisely if we know where to spend. It will help us to make land use decisions when rezoning comes before the Council. We need to consider that when making land use decisions that they're transportation decisions too.

Alderman Marr: I support the study because I think one of our weaknesses as a Council is setting priorities. This is a method by which we could use to do it. It may be limited to three, it may be five but I do think it's a beneficial tool to go to the state department. I think we have to ask ourselves what probably other Council's had to ask themselves. Are we disciplined enough to follow it.

I understand your point Bob about not feeling like it's worthy to pay $24,000 to add the other items that we talked about. In the poor example of the traffic study that Kevin talked about there is one example in it and I think its good, "the process of developing the plan addresses a number of community issues". Environmental constraints, available funding, improvement schedules by other agencies, the cost and the effectiveness of alternative transportation plans and future needs. We look at everything on a case by case basis.

I also think that in the Task 30 where it talks about analyzing the present and future needs of the University of Arkansas Campus. To do a transportation study and to not have that component to me is crazy, it's a major part of our city, and it's a major part of our ward. Existing historical residential neighborhoods and neighborhood calming issues, is one of the top issues I hear from Wilson Park, Washington Willow and it needs to be in there.

Alderman Young: The last time when the consultant was here he referred to the State Highways as roads and you've got to study those in the total context. I think he mentioned something about how his focus was going to be more on the local roads.

We also mentioned last time possibly reducing some of the other aspects of it so we wouldn't have an increase. Do you feel that there's no other place that we could eliminate something in the other scope of services to equal it all out?

Greg Boettcher: Well I think the first question was, "were we going to focus on highways other than state highways" and that is correct. They were going to identify the major collectors and we had some additional streets that we had designated that they would look at that carry large volumes of traffic and those would be included in this scope of the study.

Alderman Young: Was there anything else you could eliminate rather than have an increase of $21,000?

Greg Boettcher: We sat down with the consultant and we negotiated it down to the current value that it has. I will say the study includes a review of our Master Street Plan. It does look at future land use and project traffic volumes. It does include looking at neighborhoods and working towards a policy for traffic calming. It includes some

planning functions, the smart growth issue on looking at that aspect of it. I don't think there is anywhere that we can give anything up. We did try to include a reasonable level of public meetings, public involvement. Many of the people in town know where the problems are, they know where they have difficulty getting to and from. The issue of the study is to meet with the public, look at traffic counts, validate that the traffic engineering correlates with what the citizens feel are problems. I think that's the input aspect of it but then the technical side that we look at with the consultant is how do we fix the problem. You know a couple of things that I also think are important is that it is a 10 year study. The costs are 10 years old and we're going to have to update them.

Alderman Davis: Its not that I'm against or for the study, I want us to look at the positives and negatives before we actually make a decision, that's why I brought a lot of those items up.

Alderman Bechard: The frustration with the funding mechanism is that we go do this study and then we don't have the dollars to go fix the problems if you will, I think as part of this we should challenge ourselves to look for funding mechanisms so that when we get the study back maybe we can go identify the top seven versus the top three.

We have to recognize that right now our market is not what we'd like it to be but at the same time interest rates are extremely low.

I do support the $200,000.00 investment. I question though passing the $20,000.00 tonight and it's not because of the $20,000.00 investment it's because the consultant is not here to answer the questions that Don has articulated. I would want to know the concerns that you have are in fact going to be taken care of for that $20,000.00. I want to hear from them directly before I go spend that money. Who knows, we may come back and say let's go spend $40,000.00 because they can do more than we thought or we may say let's not spend any money because this clearly isn't a core competency of theirs.

Alderman Marr: This optional Task 30, Alternative Transportation Elements we were handed at agenda session, was that forwarded to the consultant's that we're considering for hire?

Greg Boettcher: Yes.

Alderman Marr: So their pricing of $20,980.00 came from the review of that task item.

Greg Boettcher: Yes.

A conversation followed on the cost of the additional items and what is included in the cost of the study.

Greg Boettcher: The consultant has made probably three or four trips here from Kansas City and he doesn't have a contract yet. I thought it would be inappropriate to have him here to answer questions when you have not had time to look at the information and

formulate them, particularly on the additional task. Should you have questions it would be best if they could be relayed to us in some fashion and that way the consultant could come prepared.

I know, one thing on this smart growth that I would like to touch upon. The original scope dealt on a policy level developing some strategies and concepts you might say at a very over reaching, overall basis. The thing that we are looking at in this optional Task 30 is specifically studying certain routes and areas and trying to apply some of the other concepts plus actually looking at some of our routes. It involves meeting with the various entities that have mass transportation that we currently use and looking at their needs. So it's a much more of a ground level type involvement in a certain area rather than just some over reaching policy type development.

We have worked with planning in developing these scopes and do think the scope is considerably expanded over what we've looked at in the past. We've tried to bring planning into it and integrate that together and look at the Master Street Plan, land use and those types of things. As far as their resources and capabilities, they do have a staff of planners. We are bringing in planners, in their costs they are allocating hours for planners to be involved not traffic engineers.

Alderman Thiel: I've had some people contact me that are concerned about going over Mt. Sequoyah and of lengthening Garland all the way through. Those are things we probably won't be able to touch after they tell us that those are things that we should do. The four lanes that they recommend, we haven't done any of this. They're prioritization of recommended roadway improvement projects in '92 were basically four lanes and that's probably what we need, but they were all on State Highways. I'm just confused as to what this is going to show us for $200,000.00.

Alderman Santos: We're going to have planners here and we're going to have public input and they're going to find out what's acceptable in this town. I'm fully supportive of the study. I think we need it but I'd like to move to table this item until we get the full scope and have a chance to review it and have the consultants here to talk to us.

Alderman Santos moved to table the resolution. Alderman Marr seconded.

A discussion followed on the study.

Steve Frankenberger, 414 West Prospect Street: First I'd like to state that I'm not against the traffic study. I believe what is truly needed is for the city to make a fundamental change in the way that it looks at traffic. We currently see traffic only from the point of the motorist. The impact of outrageous, unsafe levels of traffic on residential streets through several Fayetteville neighborhoods is not considered. It's time for the city to take partial responsibility for causing this problem and it is time for this city to make a commitment to take full responsibility for fixing this problem. Unless you are prepared to do so a traffic study is not going to help at all. I feel we must speak out and insure that the city is doing the right traffic study.

The scope should be broad enough that it answers mass transit, trails, and sidewalks. The scope should be narrowed so that solutions such as routing more traffic through neighborhoods must not find our way into that mess. We need to specify that upfront before we start. My neighborhood believes that any study that does not address the problem of the current traffic levels on residential streets is a waste of time, money and general failure on the part of our government to govern.

Mr. Frankenberger voiced his concerns about the current traffic problems on residential streets.

Mayor Coody: Thank you very much. I might add that if we weren't serious about trying to tackle some of the traffic problems we wouldn't even be considering this.

Robert Brandon a resident of Wilson Avenue voiced his concerns about the heavy traffic in residential areas and the safety hazards that are posed by the current traffic in residential areas. He said we should determine what needs to be corrected before we design a study. He suggested that we make certain basis decisions about neighborhoods that need to be protected and that we design our traffic study around that.

We should make decisions about what we're going to protect and what we're not and then direct the planners and the engineers and these folks in the study to design traffic control devices, signaling devices, directional signaling devices, one way streets, medians that are continuous so turns can not be made, to accomplish those objectives. We have to think where we want the traffic to go and what is it going to take to make it go there.

A discussion followed on the traffic study and what would be included in the study.

Jim Beavers: The scope that we've negotiated today includes time for public meetings. This study will give us policies and warrants for closing streets to add traffic calming.

Kevin Santos: The Northwest Regional Planning Commission has invested in building a model so they will have a model available so we can do "what if" scenarios. So we will have that resource available to us too.

Jim Beavers: That's one reason we did not add a model to our scope of the contract. The Regional Planning Commission will be coming to the city to ask us to participate in the cost of the regional model. It is probably a year or two away to have that model up and running.

Mayor Coody: This administration doesn't like to make decisions in a total vacuum. I think the days of having studies done without public input are over. I think this will help to solve problems before they're generated.

Alderman Santos: Can you provide us with a copy of the expanded scope before the next City Council meeting?

Gregg Boettcher: Yes. We'll have the consultant modify the contract to include Task 30 as an optional task and integrate it all together as a single contract and then we will present that to the Council.

Alderman Thiel: One of the things that we discussed was that we felt like there wasn't enough clarification or details in what this encompassed, can they provide more details on the smart growth issue?

Greg Boettcher: We'll have those expanded upon.

Alderman Thiel: Also on the traffic calming procedures possibly. That's some of the issues that I think are not as cut and dried. I think most of these are summarized pretty well.

Greg Boettcher: If there are some questions would you let me or Mr. Beavers know so we can write them down. The consultant can come much better prepared to answer the questions if we know what they are.

Alderman Thiel: Okay.

Alderman Marr: Are there neighborhoods that we're going to direct as being protected areas? Does the administration have policies on the east/west corridor and where they are looking at targeting? I would like to hear what we've traditionally done and how you see addressing the political nature of the issues that were talked about tonight.

Mayor Coody: As far as I would be concerned, the Council sets policy. So if you set the policy that we do a priority of streets and concur with a plan or make changes to a plan then it would be our responsibility to carry out that policy. So there will be some political pressure because as we alleviate traffic from one area we're going to increase it some place else and that's where the political heat is going to come from. If the Council basically bows to pressure then we're never going to get anything accomplished. If we stand up and say that for the long term good of the community we have to cause some problems here and we have to make some people unhappy in the short term to solve problems in the long term.

Mr. Davis: That's why this program has public input meetings so that the public can come together and tell these individuals what their concerns are. I think it is very important if we decide to do this program that we have public input.

Alderman Santos: Well we're off to a good start with this public input.

Alderman Marr: Is there a current policy in place that we don't want roads over Mt. Sequoyah?

Mayor Coody: As a matter of fact there's an ordinance that was passed in 1995.

Kit Williams: Actually it was a resolution. It was passed I think unanimously by the City Council at that point in time after several meetings.

Alderman Marr: Is there a resolution on Wilson Park neighborhood, not to carry traffic through that neighborhood?

Kit Williams: I don't think there is.

Alderman Marr: And what about Washington-Willow from Maple to Lafayette Street.

Mayor Coody: I've talked to the Highway Department about the idea of widening Lafayette. I let them know that we don't think that's a good idea. The Highway Department has agreed that widening Lafayette that dead ends basically into College Avenue that that isn't the best use of their money, so they'd like to rethink their position of widening Lafayette through the historic district.

Alderman Marr: So it is my understanding that it's our job as Aldermen, if there is not a current policy and we think that there should be one that we should bring forward a resolution?

Kit Williams: Lafayette was actually downgraded during the Last Master Street plan from an arterial road that could be widened to a collector street based upon the comments of the neighborhood. So there already has been a response in the form of a resolution by adopting the Master Street Plan at that point in time.

Mayor Coody: Mr. Marr's question was, is it the Council's role to form policy by approving a resolution to take care of traffic problems.

Alderman Santos: The Master Street Plan was passed by resolution so it does show that Lafayette would not be widened, that the four lanes would continue across North Street.

Alderman Marr: And the same for Wilson Park?

Alderman Santos: The same for Wilson Park. We had in the neighborhood of 30 public hearings on that Master Street Plan, it was passed by resolution as part of the General Plan, and I would say that is setting policy.

Mayor Coody: I'd think so.

Alderman Marr: If that is the policy how do we explain to individuals that reside in Wilson Park why Wilson Avenue has traffic count 1,000 percent higher than what the road and Master Street Plan says it should be.

Alderman Santos: We show on the Master Street Plan that we'll extend Arkansas Avenue to North Street which would alleviate some of that but it hasn't been done yet.

Hugh Earnest: That is an urban area and that certainly is a connection that we should seriously look at. We have in this study, as an element, to sit down and discuss with the university those issues and areas that are important to them.

Alderman Bechard: I would suggest that we wait to go do this study before we start making decisions, because if we start right now trying to pass rules then I guarantee you my neighborhood is going to call and say "they're using this street to go through our neighborhood. What I would recommend is that we slowdown and we get the study. It is incumbent upon us as a City Council to share our concerns. I think those are things that we as leaders need to say that we want your help; we need to fix this problem, what is your recommendation? Let's try our best to hold on making taxable decisions until we have the information in front of us.

Mayor Coody: I'll echo that because immediately everyone is zeroing in on a specific street in a specific neighborhood. If a policy is brought forward it needs to be comprehensive citywide not just little pockets here and there, if you're going to make this policy for this kind of street you have to remember that it's going to apply to all those similar types of streets.

Mr. Brandon: I would like to clarify what I was trying to say. I would very much like for the chief executive of the city to make a policy pronouncement of a general concept what this executive administration supports with respect to protecting neighborhoods and I would like the City Council to do the same thing. Are we going to suggest that when we identify residential streets that are subjected to inappropriate traffic levels that we are going to direct the resources of the city to ameliorate that problem?

Mayor Coody: We have a motion and second to table this item. Shall the motion pass?

Upon roll call the motion to table the resolution passed unanimously.

SETBACK LINES: An ordinance establishing setback lines on such streets and highways as designated on the Master Street Plan and prohibiting the establishment of any new structures or other improvements within the setback lines. The ordinance was left on the first reading at the September 17, 2002 meeting.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Davis: Tim could you come up and tell the public what we're actually doing?

Tim Conklin: Over the years we've required setbacks based on the Master Street Plan future right-of-way requirements. Any development that is less than an acre does not go through what is called large scale development and therefore we do not get right-of-ways dedicated for future street widening. The Planning Division was challenged on that about a month and a half ago, with regard to do we actually have an ordinance that established our setback lines based on the Master Street Plan. We do not have that type of ordinance. I put together that ordinance with the help of our city attorney's office. This will enable the Planning Division to approve projects administratively and require for example, if you have a new development with a parking lot to be setback based on the Master Street Plan, to have the same right-of-way that a development with over an acre would have, this will make it consistent along our roadways.

With regard to the previous discussion. We did also amend the Master Street Plan to only require 50 foot of right-of-way for historic collector streets.

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

ORDINANCE 4422 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RAZE AND REMOVAL: A resolution approving a raze and removal of house at 1200 S. Roberts as per Ordinance 3948. The item was tabled at the May 7, 2002 meeting.

Alderman Davis moved to take the resolution off the table. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Kit Williams: I'd like to thank the Council for your patience on this particular case. This house was very dilapidated, it could not be saved and it was an eye sore in that neighborhood. However, you gave plenty of time for the owner to actually sell this house to someone else who then cleaned it up; they have taken the house down and moved all the trash away. This property has been cleaned up therefore this resolution is not needed. This has been a victory for the code enforcement officers. I appreciate you all being patient and giving the new owner enough time to satisfactory clean up the property.

Alderman Davis moved to deny this resolution since the property has been cleaned up. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

NEW BUSINESS:

RZN 02-27.00: An ordinance approving rezoning request RZN 02-27.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Lenwyn Edens for property located southeast of Wedington Drive and Brooke Lane. The property is zoned A-1, Agricultural and contains approximately 6.10 acres. The request is to rezone to RMF-6, Low Density Multi-Family Residential.

Mr. Williams read the ordinance.

Mr. Jorgensen: My name is Dave Jorgensen and on behalf of the owner I'm here to answer questions on this and help this through the process. This has been approved by the Planning Commission. This property was brought into the city in 1982 as A-1 and it already had the duplexes on it. We'd like to cleanup this neighborhood. There is one duplex that has burned down. Rather than bringing in R-2 we've consulted with the Planning Department and they suggested that one half is too dense and that's the reason for the request for RMF-6.

Alderman Thiel: The duplex that burned is still standing and it's a real safety hazard. The dirt drive I think is substandard. I think that our fire chief in fact said that it's not up to city standards. I'm concerned if we approve this rezoning, what assurance do we have that the burned duplex will be demolished and that the street will be brought up to some kind of standard?

Mr. Jorgensen: Concerning the duplex that has burned, a building permit was applied for to tear the building down and rebuild it. In the process, they discovered that it wasn't rezoned. We couldn't go any further on that and as far as any other improvements that may be necessary that is something that comes with this whole deal. This is the first step in upgrading this piece of property. We have a prospective buyer that feels like she'd like to take this project on. She has improved some property on Betty Jo and did a fantastic job I might add.

Alderman Thiel: My question is who is going to tear that building down? That has to be taken care of pretty quickly because it's been like that for about three years.

Marsha Beard: I'm the potential buyer. I purchased ten four-plexes about two years ago on Betty Jo Drive and have spent the last two years bringing them totally up to speed. The first step is to get it rezoned. It will cost about $200,000 just to tear down the existing building and start rebuilding it, that alone does not make the project profitable for me. The only thing that makes the project profitable for me is if I can take a few of the empty lots that are very large and after I go through the initial phase of totally redoing what's there and then rebuilding the duplex that is halfway there. The next stage would be building three four-plexes or four three-plexes.

We would put in a city standard street and sidewalks. This will not be profitable in at least the initial phase and probably not until you've gotten to the phase that you have some new buildings constructed to bring in some money. If we start talking about a major street development at this stage of the project it will make it cost prohibitive and I

will not be able to go forward with it. I will guarantee you that it will be cleaned up, look nice, and the type of tenants that you have out there are the type that will respect the property. I have about a 99% occupancy rate on my 72 places around town and that is because when you walk into my places they look new, if I can't walk in and want to live there, I don't put it up for rent.

Mayor Coody: I was just going to say you've really helped facelift a lot of the area of Fayetteville and we appreciate your efforts very much and it hasn't gone unnoticed.

Ms. Beard: Thank you.

Mayor Coody: We've all been grateful for somebody to take some of our blighted areas and transform them as you have and we hope you'll keep it up.

Ms. Beard: Well I'm trying to.

Mayor Coody: I know and I appreciate it.

Alderman Reynolds: I want to thank you for tackling the project out there. It's in dire need of your TLC.

Ms. Beard: Thank you.

Alderman Reynolds: And I want to thank you for tackling this because it's an area that needs to be loved a little bit and thank you very much.

Marsha Beard: Thank you very much. The thing I do think it has going for it is it is surrounded on three sides by the trees. You get this atmosphere that you're living out in the country and I don't want it to actually look like an apartment complex in the middle of Fayetteville that is not my goal. If you have driven down Betty Jo lately the ones that I own each one of them is unique. I plan on doing the same thing with this. I plan on giving them each their own personality and not go out there and paint them all the same color.

Alderman Jordan: In reading the notes of this from the Planning Commission and Chief Bosch from the Fire Department's point of view it says that it's a dirt road out there right now and it's a dead end street is that correct?

Ms. Beard: It's about 10 inches of chat they call it I believe.

Alderman Jordan: I understand that we would need a solid driving surface out there is that correct?

Chief Bosch: Yes it is.

Alderman Jordan: Would you explain that please?

Chief Bosch: Yes. Any type of development of that nature, I believe the City's Planning Department requires a solid surface, a hard surface. It would make it a lot easier for us to get our apparatus up and down that street if it was a hard surface.

Alderman Jordan: It says access to the building and proper turning radius for a U shaped street.

Chief Bosch: Yes sir. I believe in our current code it requires some type of a turn around, a cul-de-sac, or some type of turn around at the end of the block.

Alderman Jordan: You're going to add additional fire hydrants?

Chief Bosch: I don't believe there are any hydrants in the neighborhood right now are there?

Alderman Jordan: No hydrants?

Chief Bosch: I think our nearest water source is about a half mile back down east on Wedington.

Alderman Reynolds: There's one right behind the middle unit on the back road when I was out there. That's what I saw.

Chief Bosch: I'm not familiar with it.

Alderman Reynolds: On the east side on the street behind it.

Chief Bosch: Absolutely. That means we have to drive down the street attach to the hydrant and come up to Wedington, across and back down that street.

Alderman Jordan: I noticed that the response time is seven to ten minutes.

Chief Bosch: That's approximate. That's for the first arriving unit yes.

Alderman Jordan: Okay.

Chief Bosch: It depends on the time of day and the traffic. We are willing to work with her to try to assist her in meeting the needs on this project.

Mayor Coody: You might speed up your response time if you go through some neighborhoods to get there.

Chief Bosch: I don't want to go there.

Alderman Davis: Chief is the chip and seal, is it appropriate for your needs?

Chief Bosch: Tim knows more about this than I do.

Tim Conklin: I just asked our Public Works Director if a solid waste truck could drive on that and damage it, that's my biggest concern. Typically its not chip and seal it's an asphalt or concrete surface. Those trash trucks are very heavy especially if they are using dumpsters. I'm not sure what they will be using out here but my guess is the chip and seal will probably not be acceptable, I want to state that for the record right now. When they come through either subdivision or large scale development the Planning Commission is probably going to require something more than chip and seal and an adequate turn around at the end. Probably a 40 foot radius at the minimum.

Alderman Davis: Will this have to go through large scale since it is already there?

Tim Conklin: With regard to fixing it up right now and just getting the existing building torn down, no, the actual paved surface and street will be required at the time any additional units are placed out on that site. Should you rezone it, we will issue permits to do the renovations to the existing units but any new units would require either large scale development or even rebuilding the burned building.

Alderman Davis: Anything that is done out there would definitely be an improvement to what is there right now. I think you're probably in agreement with that.

Tim Conklin: I'm in agreement with that but I also have a lot of concern about our trash trucks going down there the first time and tearing apart a chip and seal street. I'll be more than happy to work with her and the Planning Commission will have to work with her also but we do want to make sure that from a long term maintenance that if trash pickup is going to be going down that private drive that the surface that's being constructed out there is going to be able to handle a trash truck.

Alderman Reynolds: Mayor, I guess we need to talk to the State Highway Department because I own property on North Garland and the last street that was constructed there was chip and seal.

Tim Conklin: I'm just sharing with you my past experiences with development.

Alderman Reynolds: If we don't help this lady with this project its going to stay just like it is. That sale is not going to go through and the gentleman that owns this is going to leave it just like it is with no improvements and I don't think that's right.

Alderman Davis: That's not good for Fayetteville.

Tim Conklin: I understand that.

Alderman Marr: I think this one would be a great one for the Planning Commission to tour because I think if they look at the pictures of what this proposed buyer has done and

then I think they'll be thrilled to get that kind of development. I do think it brings up a good point that Alderwoman Thiel brought up earlier and that should this not go through because of some reason there is still a burned building on the property that has been there for over two and half years. I have difficulty voting for something that's in noncompliance. We have code enforcement about a house that has burned to a certain level and needs to be torn down. You have a permit; you can't tear it down until you build it. I do think that we have a safety issue.

Alderman Jordan: I would like to leave this on the first reading.

Alderman Marr: I think it's a great project.

Mayor Coody: We do want to help because what you're doing is exactly what this town needs. Thank you very much and we want to do what we can do to be helpful and not put up any barriers.

The Ordinance was left on the First Reading.

OUTDOOR MUSIC ESTABLISHMENT: An ordinance creating Use Unit 35, Outdoor Music Establishment, in Chapter 162, Use Conditions, and adding Use Unit 35 to C-1, C-2, C-3, and C-4 zoning districts in Chapter 161, Zoning Regulations, of the Unified Development Ordinance.

Mr. Williams read the ordinance.

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

Alderman Santos: This is just kind of housekeeping, tidying up the ordinance that we already discussed in detail in the past.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

ORDINANCE 4423 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RIGHT-OF-WAY DEDICATION: A resolution reducing the right-of-way dedication from Wedington's centerline and Betty Jo Drive's centerline to 43' on Wedington Drive (a 12' reduction) and 25' on Betty Jo Drive (a 10' reduction) as submitted by Charles

Nickle and Robert Nickle for property located between Marvin Avenue and Betty Jo Drive south of Wedington Drive.

Alderman Santos: Mayor, I think that our right-of-ways are excessive in a lot of cases and this is one of those cases. In this case the Highway Department, Planning Staff, and the Planning Commission agree with me too.

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

RESOLUTION 152-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MEETING ADJOURNED AT 8:10 P.M.

City Council
Meeting Minutes
March 2, 2004

A meeting of the Fayetteville City Council was held on March 2, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

The meeting was called to order by Mayor Coody.

Mayor Coody: When we have our Council of Neighborhoods and the Ward cleanups, we need to find a way for everybody to pick up all the trash and litter. We should be cleaner than we are. If I can encourage all neighborhoods to please spend time on these Ward cleanup days picking up trash on the roadways we will haul it off, we will do our part. We need everyone in town to help, the government can not do this on our own, we are going to have to have the citizen's pitch in and help.

CONSENT:

Approval Of The Minutes: Approval of the February 17, 2004 meeting minutes.

2004 Bulk Construction Material Purchase: A resolution awarding bids for and approving the purchase of bulk materials and services utilized by various divisions of the City of Fayetteville in the amount of ($195,000.00).

Resolution 30-04 as Recorded in the Office of the City Clerk.

Terracon Contract: A resolution authorizing Parks and Recreation to contract with Terracon Consultants Inc. to perform the Cummings C & L Landfill Site Characterization Study.

Resolution 31-04 as Recorded in the Office of the City Clerk.

Cruzen Equipment Change Order # 1 Self Serve Fueling: A resolution approving Change Order #1 to the construction contract with Cruzen Equipment Company, Inc. in the amount of $18,135.50 to include an 87 octane Mogas pump at the Aviation Fuel Self-Serve Facility at the Fayetteville Municipal Airport; approving a project contingency in the amount of $1,814.00 and approving a budget adjustment in the amount of $19,950.00 for same.

Resolution 32-04 as Recorded in the Office of the City Clerk.

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

OLD BUSINESS:

Council on Aging, Inc.; Lease Senior Center, Walker Park: A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.
This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.
This resolution was tabled at the January 20, 2004 City Council meeting until the March 2, 2004 City Council meeting.

Kit Williams: Mr. Earnest has asked that this be tabled again. He has now sent me a memo and I think he has worked out a contract with the Senior Center and that will be before the City Council in two weeks if you will table this.

Alderman Jordan moved to table the resolution. Alderman Davis seconded. Upon roll call the motion to table passed unanimously.

Tabled until the March 16, 2004 City Council meeting.

Waste Hauler Contracts: A resolution authorizing the Mayor to execute contracts with Waste Management of Arkansas, Ozark Sanitation, and Roll-Off Services, Inc. to collect and transport specific types of solid waste within the city limits of Fayetteville.
This resolution was tabled at the February 17, 2004 City Council meeting until the March 2, 2004 City Council meeting.

Gary Dumas, Director of Operations: We have resolved the issues that were brought up by one of the haulers. Cardboard has been totally excluded from this contract, that will be something we may negotiate a separate contract for in the future, but there were too many issues to resolve it at this time. The issue that it would be mandatory that Class IV material would have to go to the landfill was removed; that Class IV material can go to any licensed approved landfill. The final issue concerned using the City's transfer station for all Class I. We have changed the contract to read that the hauler may take Class I to the City's transfer station or any other duly authorized landfill.

Alderman Cook: If they do not use our transfer station how will we know how much they are hauling?

Gary Dumas: We will have a meeting with the haulers sometime in the next two weeks and will determine how we will verify how much they are hauling. Even if it was required to go through our transfer station there is no absolute certainty that it would all go through our transfer station anyway with any hauler. We will attempt to come up with some mechanism.

Kit Williams: We have a right to audit and if we find that they are in breach of this contract then the contract can be terminated and they would not be able to haul garbage within the City.

Alderman Reynolds: Who is going to enforce the ordinance? Will the Police Department write the tickets?

Kit Williams: As with every ordinance it is the Police Department that will enforce it.

Alderman Reynolds: When does it take effect?

Kit Williams: I think the resolution I presented to the Council stated March 16.

Alderman Reynolds: Anyone that does not have a contract with us by March 16 will be in violation of the ordinance.

Gary Dumas: If they are hauling prior to that date. Any new hauler that comes into town can execute a contract at any time.

A discussion followed on the hauler contracts and the use of the City's transfer station.

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

Resolution 33-04 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Improvement District No. 6 – Rupple Row Development: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 6 - Rupple Row Development.

Mr. Williams read the ordinance.

Alderman Cook: The Improvement District is basically a financing vehicle where these people are financing the improvements and then the home owners will pay it back. How does that affect impact fees? It seems like the owner would be paying twice for their infrastructure, once as an impact fee and then to pay off the cost of the infrastructure.

Kit Williams: The home owners normally always pay for the cost of improvements, because the developer normally would have to pay for the cost of development and then he raises the price of his lots in order to pay himself back for the infrastructure cost. That is a different part than the impact fee which is going toward the sewer collection system and the water delivery system. This is not for the portion that is within the development that has been paid for but for the part outside that development.

Jim McCord, the attorney representing the District: The developer must comply with the city ordinances regarding impact fees; this is just a financing alternative for the infrastructure in that sub-division.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4546 as Recorded in the Office of the City Clerk

Planning Commission Appeal – RZN 04-01.00 (Parnell): An appeal filed by Bell Cow, Inc. regarding Planning Commission denial of RZN 04-01.00 as submitted by Eric Johnson of Triangle Builders Supply.

This was withdrawn by the petitioner.

ADM 04-07.00 Bill of Assurance Amendment: A resolution to approve a second amendment to the Bill of Assurance submitted with Ordinance No. 4411 as amended by Resolution No. 28-03.

Alderman Jordan: I wanted to be sure that there has been a meeting between the developer and the neighborhood and they are all right with this.

Chris Brackett, Jorgenson and Associates: We did have a meeting with the adjoining property owners everything seemed to be resolved after the meeting.

Bassam Ziada a resident of 723 N. 46th Street spoke in favor of the amendment.

Charlie Sloan a resident spoke in favor of the amendment.

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

Resolution 34-04 as Recorded in the Office of the City Clerk.

R-PZD 04-02.00 (Cross Keys): An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-02.00) located south of Wedington Drive at the corner of N. 46th and Persimmon Street containing 38.48 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Alderman Marr: The Planning Commission does not typically remove connectivity of roads in newly developed areas. Why was connectivity removed on this development?

Dawn Warrick: This went to the Planning Commission with a connection to the east between lots 10 and 11 for a stub out of a city street to connect to the vacant parcel that is east of this subject property. The Planning Commission discussed whether that connection should be vehicle or pedestrian. Staff recommended throughout the process that it be a vehicular connection in order to fulfill the city's policy of connectivity. The Planning Commission reviewed that discussed the traffic movements that would function throughout this development and hear from the applicant with regard to his knowledge of the proposed future development to the east and through discussion and process they chose to remove the vehicular connection and change that to a pedestrian connection.

Alderman Marr: Are there other developments similar in size or newly developing area like this where we have made that exception?

Dawn Warrick: Not that I am aware of in a similar circumstance when there is a vacant property adjacent to the subject track.

A discussion followed on the connectivity of the project.

Alderman Jordan moved to amend the ordinance to go back to what was originally planned for that area with the connectivity. Alderman Lucas seconded the motion. Upon roll call the motion to amend the resolution passed 7-1. Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Lucas and Jordan voting yes. Alderman Davis voting no.

This Ordinance was Left on the First Reading.

R-PZD 04-05.00 (Hickory Park): An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-5.00) located north of 2730 E. Township Street, containing 4.429 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Geary Lowery, a resident, spoke in opposition to this project. He spoke about the current traffic and connectivity.

Bob Sigafoos a resident of Hardy Lane spoke of the drainage problems associated with this project.

Tim Conklin: With regard to the wet land issue that was discussed at Sub-Division Committee, I think it would be more appropriate for the engineers to address those issues.

Dawn Warrick: Our Landscape Administrator has walked the site; our Associate Planner who is the project manager on the site has not walked it but has driven out and around the site to observe the surrounding conditions and the property. The Planning Commission toured the site prior to their meeting.

Tom Jefcoat, Milholland Company: It was brought up in the reviews that we have a marsh area on those lots that needed to be considered. We looked at that comment at the time, that land

does slope so it is hard to have a bough if you have a pretty good slope. The developer has worked to preserve as many trees as possible on the site. The infrastructure has been removed to preserve a buffer between the adjoining neighbors. As far as wet lands, we found none on site.

Alderman Thiel: What are you doing as far as a retention pond to address the slope toward the other properties?

Tom Jefcoat: We worked with the City's Engineering Department on that. The configuration of the street intercepts most of the existing flow, there is a detention pond under the asphalt on one of the streets and part of it will be discharged to 265. All the retention is under ground.

A discussion followed on the project, tree preservation, and the drainage.

Tom Jefcoat: We are reducing the amount of water that is going onto those lots now by intercepting it with the cross street before it gets there. The street intercepts development water and that water which is being discharged is actually less than what is being discharged now, we have addressed that issue and the engineering staff is satisfied with that.

Alderman Marr: Were there any other opposition from the public regarding this project.

Dawn Warrick: The statements that were made this evening were reflective of the comments that we've heard throughout the review process. I will be glad to look back through the documents and get you some sort of a count. It was not a high number of people; I will get you a count.

Tom Jefcoat: We did have a neighborhood meeting and about 30 people attended; everyone at that meeting was pleased with the development, the layout, and the way that it affected their property but the one gentleman.

A discussion followed on the project.

Alderman Reynolds: It looks like there are about 10 other owners outside the church on this piece of property and it looks like we have one opposed. I hope the others will come forward if they have a problem with this by our next meeting.

This Ordinance was Left on the First Reading.

Construction Contract for Fire Station 7: A resolution to approve a construction contract with _____ in the amount of _____ for the construction of Fire Station No. 7.

Chief Bosch: Bids have been opened and are above the anticipated project budget because of that we took all three deductive alternates on the project to get it down below the 25% ceiling. We are currently working with the architect to get the contract drafted, we would ask this to be tabled to the March 16, 2004 City Council meeting.

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

Water and Wastewater Operations Center – Marinoni Contract: A resolution to approve the construction contract for the new Water and Sewer Operations Center with Marinoni Construction, Inc. in the amount of $3,403,199.00, plus a contingency of $225,159.00 and a budget adjustment of $128,235.00.

Alderman Jordan moved to approve the resolution. Alderman Davis seconded. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent during the vote.

Resolution 35-04 as Recorded in the Office of the City Clerk.

Greg Boettcher thanked the Council for this project. He stated it is one of the most important projects he has been working on and probably one of the most critically needed.

McClinton-Anchor Purchase Bid Waiver: An ordinance waiving the formal competitive bidding requirements for the purchase of asphalt and aggregate materials through a bulk purchase contract with APAC-Arkansas/McClinton Anchor in an amount not to exceed $900,000.00.

Gary Dumas asked to table this indefinitely.

Alderman Jordan moved to table the ordinance indefinitely. Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

VAC 04-01.00 (Michael Campbell): An Ordinance approving VAC 04-01.00 to vacate and abandon a portion of the water and sewer easement located at 4843 Lavendon Place as described on the attached map and legal description.

Mr. Williams read the ordinance.

Mr. Williams: I have prepared a release, Mr. Paul Reynolds who represents Mr. Campbell is here and has seen that and I think we have an agreement on the terms and conditions.

Paul Reynolds: We have approved the release, it is filed and Mr. Campbell is ready to pay the $9,000.00. We ask that you approve this tonight; we think this is a satisfactory resolution for everybody involved.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4547 as Recorded in the Office of the City Clerk

Announcements:

Mayor Coody thanked City Attorney Kit Williams for the good work that he did in recognizing some legislative that was passed that was a real problem. I think his good legal work has saved not only the City of Fayetteville but other cities and the state itself from several liabilities with illegal exactions.

Alderman Reynolds: The three minute speaker ordinance will be on the agenda for March 16, 2004 City Council meeting.

Meeting Adjourned at 7:30 P.M.

Sondra Smith
City Clerk

New Business C.5
Firemen's Pension

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE EXTENSION OF THE CURRENT FIVE YEAR DEFERRED RETIREMENT OPTION PLAN TO A TEN YEAR DEFERRED RETIREMENT OPTION PLAN FOR ALL ELIGIBLE EMPLOYEES OF THE FAYETTEVILLE FIRE DEPARTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the extension of the current Five Year Deferred Retirement Option Plan to a Ten Year Deferred Retirement Option Plan for all eligible employees of the Fayetteville Fire Department.

PASSED and **APPROVED** this the 16th day of March 2004.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Informational Item
Agenda Session 3/9/04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

From: Hugh Earnest
Chief Administrative Officer

Date: February 23, 2004

Subject: City Council discussion of sale of the library annex located at 211 E. Dickson Street

Recommendation
It is our recommendation that the City Council express its intent to sell the library annex through a competitive bid process and that said sale be concurrent with the sale of the main library building.

Background
Due primarily to financial need, the Library Board voted to pursue the sale of its current facility at 217 E. Dickson and use the proceeds to help pay for the new library. The existing facility is scheduled to be vacated in late August or early September 2004.

The current library property, zoned R-O, is comprised of what were two separate buildings prior to 1991 — the approximately 24,500 square foot east building housing adult and children's services and the approximately 6,600 square foot professional medical office building on the west which houses genealogy, Foundation, Friends' bookstore and staff. Research conducted in 2001-2002 identified that the Library Board of Trustees holds the deed for the property on which the east building is situated, while the City holds the deed for property on which the west building is situated.

In March and April 2003 four meetings were held to gather public input on acceptable and unacceptable uses of the existing library facility at 217 E. Dickson, and to share background information and current status of the effort to sell the building. One neighborhood association meeting was held on March 6, and three library-sponsored meetings were held on March 24, March 26 and April 3. Suggestions were made for the process of selling the building and a list of acceptable and unacceptable uses was generated. There was a general consensus that acceptable uses included stable cultural, educational, religious, governmental, non-profit, mixed-use, office, corporate headquarters and residential uses that would bring vitality to and enhance the neighborhood. Unacceptable uses included noisy, late night, traffic-intensive, light-

intensive, highly commercial, nuisance producing uses. In response to concerns from citizens, an additional meeting was held on February 2 for the specific purpose of securing additional input on options for use of the site. Many of the items brought up at the meeting had been previously discussed in earlier meetings. At the Feb. 16 meeting of the Library Board, officers of the Washington-Willow Neighborhood Association expressed their desire that the monies the City realized from the sale of the annex be applied toward the City's purchase of the main building.

The library board expressed its need to have a Request for Bid solicitation on the street before May 1st of this year.

Current Status

The Fayetteville Library Board has received an appraisal of the property consisting of the main library and the annex to the west of the main building. While it is the desire of the library board to sell the property and use the proceeds toward the completion of the new library, the board has clearly expressed its intent to work closely with the city on the disposal of this valuable piece of property.

City staff recently sat down and listed in no particular order or preference a number of possible uses for the annex itself. The building in question has approximately 6,600 sq. ft. and was appraised at $550,000 if considered as an integral component of the library site. The city paid $350,000 for the building in 1991.

The following are the options identified by the city staff members. They are listed in no particular order.

- Use the entire building as a Park's office for administration and park planning and programming
- use of the building as a museum
- joint usage by a number of non-profits such as DDEP or its successor, various non-profits such as Habitat, Seven Hills, Convention and Visitors Bureau
- hold the annex and lease it out to one or several users
- sell it in conjunction with the sale of the entire property.
- sell it as a separate property apart from the main building

There was no consensus in the group, although there was a general agreement that the best interests of Parks administration and planning would be met by a move from the Happy Hollow Complex.

From: Geary Lowery

As a follow up to Alderman Reynold's suggestion of an allotment of time in the City Council meetings for citizens to address matters not on the agenda, the following is further information on how the citizen's participation portion of the meeting is governed. This section of the agenda will be the very last item.

CITIZENS PARTICIPATION

Items raised under this portion of the City Council Agenda cannot be deliberated or acted upon until the notice provisions of the Open Meeting Law have been met. If you wish to speak on a matter not listed on the agenda, please step up to the podium and clearly state your name and address. In consideration of others, avoid repetition, and limit your comments to no more than three (3) minutes. To ensure all persons equal opportunity to speak, each subject matter will be limited to ten (10) minutes

****

Final Agenda
City Council Meeting
March 16, 2004

A meeting of the Fayetteville City Council will be held on March 16, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Fire Department Certificates of Appreciation

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the March 2, 2004 meeting minutes. Approval of the April 30, 2002, June 6, 2002, June 11, 2002 and October 1, 2002 meeting minutes.

2. **Construction Contract for Fire Station 7:** A resolution to approve a construction contract with VEI General Contractors, Inc. to build the West Fayetteville Fire Station on Rupple Road in the amount of $1,340,100.00 with a contingency of $38,000.00 and approval of a budget adjustment of $274,637.00.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

3. **MISSCO Corporation Contract:** A resolution approving the purchase of shelving in the New Fayetteville Public Library from MISSCO Corporation in the amount of $151,185.00; and approving a contingency in the amount of $7,559.00.

4. **AEP/Swepco Contract for Utility Burial, School Avenue:** A resolution to approve a contract with AEP/Swepco, Inc. to bury utility lines along School Avenue at the New Library for the amount of $186,395.41 plus a contingency of $6,000.00.

5. **Mayor Dan Coody and Stephen Davis Signatory Authority:** A resolution delegating signatory authority in connection with State Revolving Loan Fund Assistance.

B. OLD BUSINESS:

1. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.
   This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.
   This resolution was tabled at the January 20, 2004 City Council meeting until the March 2, 2004 City Council meeting.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

2. **R-PZD 04-02.00 (Cross Keys):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-02.00) located south of Wedington Drive at the corner of N. 46th and Persimmon Street containing 38.48 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

3. **R-PZD 04-05.00 (Hickory Park):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-5.00) located north of 2730 E. Township Street, containing 4.429 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

C. NEW BUSINESS:

1. **Fayetteville Senior Activity Center Additional Funds:** A resolution to approve a budget adjustment in the amount of $9,864.19 for additional expenses incurred by the Council on Aging, Inc. for operation of the New Fayetteville Senior Activity Center.

2. **VAC 04-2.00 Rodgers Subdivision:** An ordinance approving VAC 04-2.00 to vacate and abandon a 20' portion of a platted alley, retaining a utility easement within subject property as depicted on the attached map and legal description.

3. **McClinton Anchor Bulk Purchase Contract:** A resolution approving a bulk purchase contract with APAC-Arkansas/McClinton Anchor in an amount not to exceed $1,240,811.00 for asphalt and aggregate materials.

4. **Rules of Order and Procedure, Public Notification and Participation:** A resolution amending the Rules of Order and Procedure for the Fayetteville Mayor/City Council, Section A. City Council Meetings, Subsection 6. Public Notification and Participation.

5. **Firemen's Pension and Relief Fund Board of Trustees Resolution 02-03, Increasing the DROP from Five to Ten Years:** A resolution to approve the extension of the current five year Deferred Retirement Option Plan to a ten year Deferred Retirement Option Plan for all eligible employees of the Fayetteville Fire Department.

6. **Firemen's Pension and Relief Fund Board of Trustees Resolution 04-03, Working after DROP:** A resolution to make continuing employment available to all eligible employees of the Fayetteville Fire Department after their five or ten year Deferred Retirement Option Plan has been completed.

Old Business B.1.
Lease Senior Center

LEASE AND AGREEMENT TO PROVIDE SERVICES

WHEREAS, the taxpayers of the City of Fayetteville with assistance of private and public donors paid for the construction of the Fayetteville Senior Activity Center at Walker Park (hereinafter "Senior Center"); and

WHEREAS, the Council On Aging, Inc. (hereinafter "Council On Aging") is an Arkansas Not For Profit Corporation which assisted with the design and construction of the Senior Center and had efficiently and successfully operated the Fayetteville Senior Center on Sang Avenue for many years to the great benefit of Fayetteville citizens; and

WHEREAS, it is to the overall benefit of the City of Fayetteville, the Council On Aging, and Fayetteville citizens for the City to lease to the Council On Aging the premises of the new Fayetteville Senior Activity Center in consideration of the Council On Aging's operation of the Senior Center to provide recreational, cultural and nutritional services to Fayetteville citizens; and

WHEREAS, the City of Fayetteville, as the owner of the structure, recognizes that the Council on Aging is the current contractor of record occupying the structure, and is operating programs for Senior Citizens under the terms and conditions as established by the Area Agency on Aging and agreed to by the City. The City further recognizes that the contractor for provision of said services is subject to change as part of a selection process which will occur at periodic intervals.

NOW, THEREFORE, the City of Fayetteville for the consideration stated above and listed below agrees to lease the Fayetteville Senior Activity Center in Walker Park to the Council On Aging, Inc. and the Council On Aging, Inc. agrees to operate and maintain the Senior Center for the benefit of senior citizens of Fayetteville and elsewhere as more particularly described below:

1. The Council On Aging, Inc. can and shall utilize the kitchen in the Fayetteville Senior Activity Center both to provide nutritious meals to those at the Center and to seniors in the community through the Meals On Wheels or other similar programs.

2. The Council On Aging, Inc. shall operate the Senior Center with sufficient staff to maintain the premises and assist attendees at least five days a week year round during the term of this lease.

3. The City of Fayetteville shall be responsible to maintain and repair and replace if necessary the following major components of the Fayetteville Senior Activity Center:

a. Roof, gutters and down spouts;
b. Foundation, floor joists, structural walls;
c. Parking lot, curbs and pavement.

4. The Council On Aging, Inc. shall be responsible to maintain the Fayetteville Senior Activity Center in a clean, sanitary and attractive condition and shall be responsible to maintain and repair and replace if necessary the following components of the Fayetteville Senior Activity Center:

a. Kitchen area including fixtures and appliances;
b. Plumbing fixtures and electrical outlets and fixtures;
c. Flooring and carpeting;
d. Interior wall surfaces;
e. Windows (including replacement of any broken panes);
f. HVAC system including regular replacement of air filters.

5. The term of this lease shall be from the date signed until June 30, 2004, when it expires automatically. During this period, the feasibility and advisability of operating the Senior Activity Center more than five days a week shall be studied by both the Council On Aging, Inc. and the City of Fayetteville. Once the issue over the number of days of operation is resolved, both parties anticipate entering into a 20 year lease with both sides having the right to terminate with one year's notice.

6. The City of Fayetteville agrees to use the Fayetteville Senior Activity Center for the operation of a senior activity center as defined by the applicable state and federal regulations as long as required by such regulations. If the City chooses to discontinue using the Senior Center as a senior activity center such that the Council On Aging, Inc. would be required to reimburse funds received from a federal or state agency, the City will reimburse the required funds either to the Council On Aging, Inc. or directly to the governmental agency.

7. The City of Fayetteville will be responsible for any insurance necessary for the structure housing the Fayetteville Senior Activity Center and the Council On Aging, Inc. shall insure all of the contents of this building as well as purchasing and maintaining in force a liability insurance policy from a company acceptable to the City for any injury or damages resulting from its or visitors' use (including foodservice) of the premises in an amount of at least $1,000,000.00 with a no-fault medical expenses rider of at least $5,000.00 per person. A copy of

the Council On Aging, Inc.'s current insurance policy shall be provided to the Fayetteville City Clerk and a copy of any change, modification, renewal, or termination of said insurance shall be provided the City Clerk within five (5) days of its receipt.

8. The Council On Aging, Inc. shall be responsible to fully pay and keep current all utilities (gas, electric, telephone, cable, water, sewer, solid waste, etc.) necessary to properly operate the Senior Center.

9. This Lease and Agreement constitutes the entire agreement between the City of Fayetteville and the Council On Aging, Inc. Any changes or modifications must be in writing and agreed to by the City Council of Fayetteville and the Board of Directors of the Council On Aging, Inc. to be effective.

In Agreement With All of the Terms, Promises, and Conditions stated above and after formal approval by the Board of Directors of the Council On Aging, Inc. and the Fayetteville City Council we execute this Lease and Agreement To Provide Services by signing below on this the _____ day of March, 2004.

COUNCIL ON AGING; INC.

By: _____
JANET LINEBAUGH
Executive Director

Witness: _____

_____
Name & Title

CITY OF FAYETTEVILLE

By: _____
DAN COODY
Mayor

ATTEST:

_____
Sondra Smith
City Clerk

Old Business B.3.
Hickory Park

RECEIVED
MAR 10 2004
PLANNING DIV.

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS

REGISTRATIONS:
PE: AR, MO
PLS: AR

March 10, 2004

Project No. E-687

RECEIVED
MAR 10 2004
PLANNING DIV.

FAYETTEVILLE
113 W. Mountain Street
Fayetteville, Arkansas 72701

ATTN: Dawn Warrick, Zoning and Development Administrator
RE: Hickory Park,
City Council approval

Dear Dawn:

In an effort to assist City Council members in their approval processing of the referenced project, attached are minutes from the Neighborhood meeting and site photographs.

Please provide these to the City Council members for review at the agenda secession.

The minutes and photographs are provided by Susan Hemingway, St. John's Lutheran Church.

The photographs start with the church property along Hwy 265 looking toward Township. They progress in sequence along the south section (near the south boundary) of Hickory Park going eastwardly toward Hwy265; then westwardly through the middle of the property; then up the north section (near north boundary) back toward Hwy 265, crossing (bisecting) the site three times. These pictures were taken on 3/5/04, following two (2) days of rains (some heavy). No water found - Susan Hemingway.

Thank you for your assistance in presenting this additional information to the City Council members. Should you have any question, please contact myself or Mrs. Hemingway (521-6003).

Sincerely,
Milholland Company

Thomas M. Jelcoat, ASLA
Projects Manager

cc: Tracy Hoskins

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net

St. John's Lutheran Church

Janurary 26, 2004
7:30 pm

Minutes of the Neighborhood Meeting

A meeting of the neighbors and concerned citizens regarding the plans for the property to the north of St. Johns Lutheran Church. Tracy Hoskins, developer and Tom Jefcoat, project engineer presided.

Mr. Jefcoat thanked the people for coming out on such a snowy evening. He invited all those in attendance to come forward and look at the plans for Hickory Park and present them with any concerns they may have. He said that he would address those concerns to the group afterward. The majority in attendance did go forward. Three in attendance left at that point. Mr Jefcoat gave copies of the subdivision plans to any that wanted them.

The group was then reseated so all concerns could be addressed to the attendance.
The following are the concerns that were discussed.

One couple was concerned that a sidewalk be built along 265 to meet up with Township , so that children could ride their bikes to Gulley Park or walk to school safely. It was said that quite a few people jog along Township for exercise or recreation. Doug Hemingway , the church president, said that we would be willing to work with the city, neighbors, and developer on the issue of the sidewalk.

The issue of traffic on Hwy 265 was a concern. Neighbors said the traffic in this area was bad especially during the rush hours.A neighbor, who identified himself as Mr. Sigafoos from Hardy Lane, said he thought there should be a street going along the west side of the church property to connect with Township. Other neighbors living on Hampton Ct., said they definitely did not want a street in their back yard, and did not believe any one living next to the church property on Hampton would want this. Mrs. Schoolcraft, the pastors wife, said the church would not go for this as it would be running to close to the daycare playground. It was brought up there is a turning lane on 265, and traffic count was well within the maximum capitcy for the Hwy.265. There will also be a left hand turn lane at the subdivision exit to accommodate the traffic .The addition of 14 new homes in this subdivision should not affect the traffic count much more than it already is.

Mr. Sifgafoos said he did not believe that Dave Jorgens from the Sewer Dept would approve of the plan because there was supposed to be a 12' roadway along the back of lots to accomadate the sewer lines. Mr. Jefcoat said because of the very small amount of sewer line to be constructed along the back of the lots that Mr. Jorgens waived that rule. The utilities would run along the front rather than behind the houses giving more room for trees to be preserved.

The island on Shagbark Bend and Mockernut was discussed. Mr. Hoskins said it would be landscaped with a mail kiosk for residents. The street design, called a hammerhead was also discussed, as being the best design available to leave as many trees as possible on the site.

The island at the entrance to the subdivision was also discussed as to whether it left room for emergency vehicles to enter. It was shown that it did. It is also to be landscaped . Mr. Hoskins said a wall was to be built along 265, also.

Mr. Sigafoos from Hardy Lane, said he was concerned with the water that collected on the property.He said someone should come out and look at this water. Mr Jefcoat said that the city's engineering department and city's Landscape Administrator had addressed the issue, an underground retention pond would be utilized to control run-off and to reduce water discharge.

Mr. Hoskins and Mr. Jefcoat asked if there were anymore questions that they could answer. Mr. Sifgafoos thanked them for holding the meeting and being so upfront and honest. A murmur of approval circulated the room. Some in the audience asked what the lot prices would be, and if Mr. Hoskins would be building any? Mr. Hoskins stated he would be building on some lots and builders would have to go through an architectural screening. The homes are expected to be somewhere between 2400 sq' and 3000'sq;.

The majority of the neighbors lingered, took plans of the site, and departed seemingly in good spirits and in agreement with the design concepts presented.

Recorded by Susan Hemingway to the best of my ability.

New Business C.I.
Senior Center Additional Funding

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: **Mayor and City Council**

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

Date: **March 11, 2004**

Subject: **Senior Center Funds**

It was the consensus of the City Council that additional monies be appropriated to the Senior Citizen Center at Walker Park. Therefore, a Budget Adjustment for $50,000 is herewith attached.

Thanks

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: General Government Division: Miscellaneous Program: Miscellaneous	Date Requested	Adjustment Number
2004		3/16/2004	

Project or Item Requested:	Project or Item Deleted:
$50,000 is requested in the Transfer to Council on Aging account.	None. Use of fund balance is proposed.

Justification of this Increase:	Justification of this Decrease:
Additional expenses have been incurred by the Council on Aging for the operation of the new Fayetteville Senior Activity Center.	There is sufficient funding remaining to comply with City policies.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Trans to Council on Aging	1010	6600	5718	01	50,000		

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	1010	0001	4999	99	50,000		

Approval Signatures		Budget Office Use Only		
		Type: A B C D E		
Requested By	Date			
Budget Manager	3.11.04 Date	Date of Approval	Initial	Date
Department Director	Date	Posted to General Ledger	Initial	Date
Finance & Internal Services Director	Date	Posted to Project Accounting	Initial	Date
Mayor	Date	Entered in Category Log	Initial	Date

New Business C.3.
Mc Clinton Anchor Bulk
Purchase Contract

RESOLUTION NO. _____

A RESOLUTION APPROVING A BULK PURCHASE CONTRACT WITH APAC-ARKANSAS/MCCLINTON ANCHOR IN AN AMOUNT NOT TO EXCEED $1,240,811.00 FOR ASPHALT AND AGGREGATE MATERIALS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a bulk purchase contract with APAC-Arkansas/McClinton Anchor in the amount of $1,240,811.00 for asphalt and aggregate materials.

PASSED and **APPROVED** this 16th day of March 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City Council Agenda Item

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Terry Gulley, Transportation Manager

Date: March 10, 2004

Subject: A resolution awarding a bulk purchase contract to McClinton-Anchor for the purchase of asphalt and aggregate materials in an amount not to exceed $1,240,811

Recommendation: Transportation Division staff recommends awarding the purchase of asphalt and aggregate materials to McClinton-Anchor in an amount not to exceed $1,240,811.

Background: The purchase of asphalt and aggregate materials is necessary for In-House Street Improvements. This purchase was competitively bid with bid opening on March 8, 2004. The bid sheets are attached. The second bidder only provided select aggregates. The aggregate purchase last year was less than 3% by volume of the total purchase.

Budget Impact: Budgets for the acquisition of these materials are in the Sales Tax Capital Improvements and Street funds.

Attached: Bid sheets

APAC-Arkansas
McClinton Anchor

CITY OF FAYETTEVILLE PRODUCT PRICE LIST - F.O.B. PLANT

FOR YEAR 2004

******Prices Are Subject To Change******

Material Description	Material Code	WEST FORK	SHARPS	HINDSVILLE
Type 2 Surface (LS) 96' AHTD	44042	$24.75	$23.25	$24.25
Type 3 Surface (LS) 96' AHTD	45042	$24.25	$23.25	$24.25
Premix- MC250 - 96' AHTD	46581	$29.00	$29.00	NO-BID
Type 2 Surface (SS) 96' AHTD	44043	$25.25	$25.25	NO-BID
Type 3 Surface (SS) 96' AHTD	45043	NO-BID	$25.25	NO-BID
Type 1 Binder 93' AHTD	41420	NO-BID	$21.00	NO-BID
Type 2 Binder 96' AHTD	42041	NO-BID	$21.25	NO-BID
Base (Black Base) 93' AHTD	40420	NO-BID	$21.50	NO-BID
Superpave Surface-(PG64-22)		NO-BID	$26.50	$26.50
Superpave Binder-(PG64-22)		NO-BID	$22.25	$23.00
Superpave Base-(PG64-22)		NO-BID	$21.50	$21.50
(Non-Spec) Type 3 Commercial Mix	65041	NO-BID	$22.75	$23.75

PLEASE NOTE:

1.) PRICES ABOVE ARE QUOTED FOB PLANT EXCLUDING APPLICABLE TAXES.

3.) Please call the numbers listed below for material orders and haul rates:

Sharps	Aggregate - (479) 756-8866 or Asphalt (479) 756-2881
Hindsville	Aggregate or Asphalt - (479) 789-2230 or (479) 756-2232
Avoca	Aggregate-(479)636-1010 or Asphalt (479)636-8329
West Fork	Asphalt-(479)839-8514

THANK YOU FOR YOUR BUSINESS!!!

APAC-Arkansas
McClinton Anchor
CITY OF FAYETTEVILLE PRODUCT PRICE LIST - F.O.B. PLANT

FOR YEAR 2004

Material Description	Material Code	WEST FORK	Material Code	SHARPS	Material Code	HINDSVILLE
AG Lime	90107		-	-	90108	$4.50
Coarse Lime	90507		-	-	90508	$3.75
Fill Material	-	-	90905	$1.50	90908	$1.50
* Class 7 Base	91505	*6.85	91505	$5.20	91508	$5.20
* Misc. Base	91708	*5.65	91705	$4.95	91708	$4.00
Crusher Run (Small, non-spec base)	-	-	91905	$6.60	-	-
1 1/4" Conc. Aggregate	-	-	-	-	94308	$7.00
1" Conc. Rock	-	-	-	-	94508	$7.00
3/4" Conc. Rock	-	-	-	-	94908	$7.25
B-Stone	-	-	95505	$5.60	95508	$5.60
Rip Rap	-	-	95705	$10.60	95708	$10.60
Shot Rock	-	-	95905	$4.85	95908	$4.85
CL 1 Seal Chips	-	-	-	-	96308	$8.60
5/8" Chips (LS)	-	-	-	-	93608	$7.85
CL 2 Seal Chips	-	-	-	-	96508	$9.35
1/2" Chips (LS)	-	-	92305	$8.35	92308	$8.35
CL 4 Seal Chips	-	-	-	-	96908	$11.35
Waste Material	-	-	97105	$4.35	97108	$4.35
Abrasives (LS) Grit	-	-	-	-	97308	$5.60
Block Chat	-	-	-	-	97708	$7.35
1 1/2" Filter Rock	-	-	8305a	$6.60	8308a	$6.60
1 1/8" Filter Rock	-	-	2105a	$6.60	2108a	$6.60

PLEASE NOTE:

1.) PRICES ABOVE ARE QUOTED FOB PLANT EXCLUDING APPLICABLE TAXES.

2.) PLEASE SEE AGGREGATE ORDERING NOTES ON BACK PAGE.

3.) Class 7 Base for West Fork is hauled in from Sharps.

4.) Misc. Base for West Fork is hauled in from Hindsville.

*** Subject To Availability**

5.) Please call the numbers listed below for material orders and haul rates:

West Fork 'Aggregate - (479) 443-2331 or Asphalt (479) 839-8514

Sharps 'Aggregate - (479) 756-8866 or Asphalt (479) 756-2881

Hindsville 'Aggregate - (479) 789-2230 or Asphalt (479) 756-2232

WEST FORK FACILITY * SEE ATTACHED PRICE SHEETS.

INVITATION TO BID

BID #	DATE ISSUED:	DATE AND TIME OF OPENING:
04-26	Feb. 26, 2004	March 8th, 2004 at 11:00 a.m.

BUYER:	DATE REQUIRED:
City of Fayetteville, AR	Blanket Order as Needed

F. O. B.	BUYER'S PHONE #	GUARANTEED DELIVERY LOAD TIME:
Asphalt Plant/Quarry	(479) 575-8289	

ITEM #		DESCRIPTION	QUANTITY	UNIT PRICE
1		Coarse Lime	TON	
2		Abrasives-LS (Grit)	TON	
3		1 1/4" Concrete Aggregate	TON	
4		3/4" Concrete Aggregate	TON	
5		Class 7 Base (SB-2)	TON	
6		Fill Material	TON	
7		Surge Pile (8" Minus)	TON	
8		Rip Rap (Sized Rock)	TON	
9		Shot Rock	TON	SEE
10		Superpave- Surface	TON	ATTACHED
11		Superpave- Binder	TON	SHEET
12		TY-2 HM SURF-LS	TON	
13		TY-3 HM SURF-LS	TON	
14		TY-2 HM SURF-SS	TON	
15		TY-3 HM SURF-SS	TON	
16		Premix-Coarse	TON	
17		HM Base (Black Base)	TON	
18		TY-1 HM Binder	TON	
19		TY-2 HM Binder	TON	
20	*	Delivery price to Fay. Corp. City Limits:	TON	

Plant Location Address: 12274 SOUTH EAST CAMPBELL RD. WEST FORK, AR 72774

Maximum Guaranteed Wait Time to Load: 30 MINUTES FOR SCHEDULED PICKUP

* HAUL TO SOUTH CITY LIMITS:
- AGGREGATE @ $2.15/TON
- RIP RAP @ $3.15/TON
- ASPHALT @ $2.45/TON

EXECUTION OF BID

Upon signing this Bid, bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent

BIDS WILL BE ACCEPTED

NAME OF FIRM: APAC ARKANSAS INC. McCUNTON - ANCHOR	PHONE: 587-3300	FEDERAL ID#: 58-140-1469
BUSINESS ADDRESS: P.O. BOX 1367 240 N. BLOCK ST.	CITY AND STATE: FAYETTEVILLE, AR. 72702	
AUTHORIZED SIGNATURE: James A. Coe 03/05/04	TITLE: ADMIN. VICE PRESIDENT	

HINDSVILLE FACILITY * SEE ATTACHED PRICE SHEETS.

INVITATION TO BID

BID #	DATE ISSUED:	DATE AND TIME OF OPENING:
04-26	Feb. 26, 2004	March 8th, 2004 at 11:00 a.m.

BUYER:	DATE REQUIRED:
City of Fayetteville, AR	Blanket Order as Needed

F. O. B.	BUYER'S PHONE #	GUARANTEED DELIVERY LOAD TIME:
Asphalt Plant/Quarry	(479) 575-8289	

ITEM #		DESCRIPTION	QUANTITY	UNIT PRICE
1		Coarse Lime	TON	
2		Abrasives-LS (Grit)	TON	
3		1 1/4" Concrete Aggregate	TON	
4		3/4" Concrete Aggregate	TON	
5		Class 7 Base (SB-2)	TON	
6		Fill Material	TON	
7		Surge Pile (8" Minus)	TON	
8		Rip Rap (Sized Rock)	TON	
9		Shot Rock	TON	
10		Superpave- Surface	TON	SEE
11		Superpave- Binder	TON	ATTACHED
12		TY-2 HM SURF-LS	TON	SHEET
13		TY-3 HM SURF-LS	TON	
14		TY-2 HM SURF-SS	TON	
15		TY-3 HM SURF-SS	TON	
16		Premix-Coarse	TON	
17		HM Base (Black Base)	TON	
18		TY-1 HM Binder	TON	
19		TY-2 HM Binder	TON	
20	*	Delivery price to Fay. Corp. City Limits:	TON	

Plant Location Address: 19953 HWY 303 SPRINGDALE, AR. 72764

Maximum Guaranteed Wait Time to Load: 30 MINUTES FOR SCHEDULED PICKUP

* HAUL TO EASTERN CITY LIMITS:
- AGGREGATE @ $ 2.65 / TON
- RIP RAP @ $ 3.65 / TON
- ASPHALT @ $ 2.95 / TON

EXECUTION OF BID

Upon signing this Bid, bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent

BIDS WILL BE REJECTED

NAME OF FIRM: APAC ARKANSAS INC. McCUNTON - ANCHOR	PHONE: 587-3300	FEDERAL ID#: 58-140-1469
BUSINESS ADDRESS: P.O. BOX 1367 240 N. BLOCK ST.	CITY AND STATE: FAYETTEVILLE, AR. 72702	
AUTHORIZED SIGNATURE: James A. Cole	TITLE: ADMIN. VICE PRESIDENT	

08/05/04

SHARPS FACILITY * SEE ATTACHED PRICE SHEETS.

INVITATION TO BID

BID #	DATE ISSUED:	DATE AND TIME OF OPENING:
04-26	Feb. 26, 2004	March 8th, 2004 at 11:00 a.m.

BUYER:	DATE REQUIRED:
City of Fayetteville, AR	Blanket Order as Needed

F. O. B.	BUYER'S PHONE #	GUARANTEED DELIVERY LOAD TIME:
Asphalt Plant/Quarry	(479) 575-8289	

ITEM #		DESCRIPTION	QUANTITY	UNIT PRICE
1		Coarse Lime	TON	
2		Abrasives-LS (Grit)	TON	
3		1 1/4" Concrete Aggregate	TON	
4		3/4" Concrete Aggregate	TON	
5		Class 7 Base (SB-2)	TON	
6		Fill Material	TON	
7		Surge Pile (8" Minus)	TON	
8		Rip Rap (Sized Rock)	TON	
9		Shot Rock	TON	SEE
10		Superpave- Surface	TON	ATTACHED
11		Superpave- Binder	TON	SHEET
12		TY-2 HM SURF-LS	TON	
13		TY-3 HM SURF-LS	TON	
14		TY-2 HM SURF-SS	TON	
15		TY-3 HM SURF-SS	TON	
16		Premix-Coarse	TON	
17		HM Base (Black Base)	TON	
18		TY-1 HM Binder	TON	
19		TY-2 HM Binder	TON	
20	*	Delivery price to Fay. Corp. City Limits:	TON	

Plant Location Address: 13585 PUPPY CREEK ROAD SPRINGDALE, AR. 72764

Maximum Guaranteed Wait Time to Load: 30 MINUTES FOR SCHEDULED PICKUP

* HAUL TO NORTH CITY LIMITS:
- AGGREGATE @ 2.80/TON
- RIP RAP @ 3.80/TON
- ASPHALT @ 3.10/TON

EXECUTION OF BID

Upon signing this Bid, bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent

BIDS WILL BE REJECTED

NAME OF FIRM: APAC ARKANSAS INC. McCLINTON - ANCHOR	PHONE: 587-3300	FEDERAL ID# 58-140-1469
BUSINESS ADDRESS: P.O. BOX 1367 240 N. BLOCK ST.	CITY AND STATE: FAYETTEVILLE, AR. 72702	
AUTHORIZED SIGNATURE: James A. Cole 03/05/04	TITLE: ADMIN. VICE PRESIDENT	

INVITATION TO BID

BID #	DATE ISSUED:	DATE AND TIME OF OPENING:
04-26	Feb. 26, 2004	March 8th, 2004 at 11:00 a.m.

BUYER:	DATE REQUIRED:
City of Fayetteville, AR	Blanket Order as Needed

F. O. B.	BUYER'S PHONE #	GUARANTEED DELIVERY LOAD TIME:
Asphalt Plant/Quarry	(479) 575-8289	

ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE
1	Coarse Lime	TON	4.25
2	Abrasives-LS (Grit)	TON	4.25
3	1 1/4" Concrete Aggregate	TON	6.50
4	3/4" Concrete Aggregate	TON	6.75
5	Class 7 Base (SB-2)	TON	5.00
6	Fill Material	TON	4.50
7	Surge Pile (8" Minus)	TON	6.00
8	Rip Rap (Sized Rock)	TON	7.00
9	Shot Rock	TON	5.00
10	Superpave- Surface	TON	
11	Superpave- Binder	TON	
12	TY-2 HM SURF-LS	TON	
13	TY-3 HM SURF-LS	TON	
14	TY-2 HM SURF-SS	TON	
15	TY-3 HM SURF-SS	TON	
16	Premix-Coarse	TON	
17	HM Base (Black Base)	TON	
18	TY-1 HM Binder	TON	
19	TY-2 HM Binder	TON	
20	Delivery price to Fay. Corp. City Limits:	TON	3.25
	Plant Location Address: 21202 Parsons Springdale, AR		
	Maximum Guaranteed Wait Time to Load: 10 min.		

EXECUTION OF BID

Upon signing this Bid, bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent

BIDS WILL BE REJECTED

NAME OF FIRM:	PHONE:	FEDERAL ID#
Northwest Arkansas Quarries LLC	750-4656	270050290
BUSINESS ADDRESS: 611 W Bowen Blvd Fayetteville, AR	CITY AND STATE: Fayetteville, AR	
AUTHORIZED SIGNATURE:	TITLE: MEMBER	

New Business C.5
Firemen's Pension

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE EXTENSION OF THE CURRENT FIVE YEAR DEFERRED RETIREMENT OPTION PLAN TO A TEN YEAR DEFERRED RETIREMENT OPTION PLAN FOR ALL ELIGIBLE EMPLOYEES OF THE FAYETTEVILLE FIRE DEPARTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the extension of the current Five Year Deferred Retirement Option Plan to a Ten Year Deferred Retirement Option Plan for all eligible employees of the Fayetteville Fire Department.

PASSED and **APPROVED** this the 16th day of March 2004.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

New Business C.6
Firemens Pension

RESOLUTION NO. _____

A RESOLUTION TO MAKE CONTINUING EMPLOYMENT AVAILABLE TO ALL ELIGIBLE EMPLOYEES OF THE FAYETTEVILLE FIRE DEPARTMENT AFTER THEIR FIVE OR TEN YEAR DEFERRED RETIREMENT OPTION PLAN HAS BEEN COMPLETED

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes and approves the availability of continuing employment for all eligible employees of the Fayetteville Fire Department after their Five or Ten Year Deferred Retirement Option Plan has been completed.

PASSED and **APPROVED** this the 16th day of March, 2004.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Tentative Agenda
City Council Meeting
March 16, 2004

A meeting of the Fayetteville City Council will be held on March 16, 2004 at 6:00 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:** Approval of the March 2, 2004 meeting minutes.

2. **Construction Contract for Fire Station 7:** A resolution to approve a construction contract with VEI General Contractors, Inc. to build the West Fayetteville Fire Station on Rupple Road in the amount of $1,340,100.00 with a contingency of $38,000.00 and approval of a budget adjustment of $274,637.00.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

3. **MISSCO Corporation Contract:** A resolution approving the purchase of shelving in the New Fayetteville Public Library from MISSCO Corporation in the amount of $151,185.00; and approving a contingency in the amount of $7,559.00.

4. **AEP/Swepco Contract for Utility Burial, School Avenue:** A resolution to approve a contract with AEP/Swepco, Inc. to bury utility lines along School Avenue at the New Library for the amount of $186,395.41 plus a contingency of $6,000.00.

5. **Mayor Dan Coody and Stephen Davis Signatory Authority:** A resolution delegating signatory authority in connection with State Revolving Loan Fund Assistance.

6. **Fayetteville Senior Activity Center Additional Funds:** A resolution to approve a budget adjustment in the amount of $9,864.19 for additional expenses incurred by the Council on Aging, Inc. for operation of the New Fayetteville Senior Activity Center.

B. OLD BUSINESS:

1. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.
   This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.
   This resolution was tabled at the January 20, 2004 City Council meeting until the March 2, 2004 City Council meeting.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

2. **R-PZD 04-02.00 (Cross Keys):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-02.00) located south of Wedington Drive at the corner of N. 46th and Persimmon Street containing 38.48 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

3. **R-PZD 04-05.00 (Hickory Park):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-5.00) located north of 2730 E. Township Street, containing 4.429 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

C. NEW BUSINESS:

1. **VAC 04-2.00 Rodgers Subdivision:** An ordinance approving VAC 04-2.00 to vacate and abandon a 20' portion of a platted alley, retaining a utility easement within subject property as depicted on the attached map and legal description.

2. **Transportation Division Hiring 6 Full-Time Employees:** A resolution authorizing the hiring of six (6) full-time employees (patch and asphalt preparation crews) in the Transportation Division; and approving a budget adjustment in the amount of $340,811.00 for same.

3. **Approval of a Bulk Purchase Contract with_____:** A resolution approving a bulk purchase contract with _____ in the amount of _____ for asphalt and aggregate materials.
The bid opening for this contract will be March 8, 2004.

4. **Rules of Order and Procedure, Public Notification and Participation:** A resolution amending the Rules of Order and Procedure for the Fayetteville Mayor/City Council, Section A. City Council Meetings, Subsection 6. Public Notification and Participation.

5. **Firemen's Pension and Relief Fund Board of Trustees Resolution 02-03, Increasing the DROP from Five to Ten Years:** A resolution to approve Resolution 02-03, of the Firemen's Pension and Relief Fund Board of Trustees, increasing the DROP from five to ten years, in accordance with ACT 1369.

6. **Firemen's Pension and Relief Fund Board of Trustees Resolution 04-03, Working after DROP:** A resolution to approve Resolution 04-03, of the Firemen's Pension and Relief Fund Board of Trustees, working after DROP, in accordance with Act 1372.

D. INFORMATIONAL:

Discussion of Library Annex Sale: Agenda Session March 9, 2004

Council Tour: March 15, 2004

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: **March 2, 2004**

FROM:

Chris Bosch, Fire Chief	Fire Administration	Fire
Name	Division	Department

ACTION REQUIRED: Approval of a Resolution awarding the construction contract between the City of Fayetteville and VEI General Contractors, Inc. to build the west Fayetteville Fire Station on Rupple Road in the amount of $1,340,100.00 with a contingency of $38,000.00 and approval of a Budget Adjustment of $274,637.00.

COST TO CITY:

$1,378,100.00	$ 1,337,280.00	Fire Improvements
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5804.00	$ 231,200.00	Fire Station 7
Account Number	Funds Used to Date	Program / Project Category Name
01015	$ 1,106,080.00	Sales Tax Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager ____ Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager ____ Date

Internal Auditor ____ Date

City Attorney ____ Date

Purchasing Manager ____ Date

STAFF RECOMMENDATION: R·

Division Head ____ Date

Department Director ____ Date

Finance & Internal Services Dir. ____ Date

Chief Administrative Officer ____ Date

Mayor ____ Date

Received in Mayor's Office ____ Date

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

New Item: **Yes** **No**

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Chris Bosch, Fire Chief

Date: February 27, 2004

Subject: Approval of a Resolution approving a construction contract with VEI General Contractors, Inc. to build the west Fayetteville Fire Station on Rupple Road in the amount of $1,340,000.00 with a contingency of $38,000 and a Budget Adjustment of $274,637.00

RECOMMENDATION

Staff recommends approval of this resolution, which will enable us award the contract for construction of Fire Station 7 in the amount of $1,340,100.00 with a contingency of $38,000 and a budget adjustment of $274,637.00.

BACKGROUND

As you know, over the past year the Fire Department has worked diligently to identify and purchase a parcel of property on the west side of I-540 for the construction of Fire Station 7. The Fire Department identified the need for this facility several years ago and began budgeting for this project through the annual CIP Budgeting process.

DISCUSSION

With the accelerated level of residential and commercial growth currently underway on the west side of the community, it is imperative construction of this facility begin as soon as possible. Fire Station 7 will assist the Department in reducing the overall response time across the City and will help the organization to enhance the level of service currently provided throughout the community.

The Fire Department, with the assistance of the Building Services Division and the continued support of the Mayor, has designed a facility that allows for the immediate allocation of resources and also provides an opportunity for future growth without the need to expand the proposed building as future growth takes place. We have also worked to remain both environmentally and fiscally conscious and have taken every step possible to meet the needs created by both of these concerns.

CONCLUSION

In closing I believe this project will be beneficial, not only to the Fire Department but also to the Citizens overall. This project will help the community to maintain the reputation of being a "Safe Community" which is reflected in the current Guiding Principles as identified by the Mayor and Council during the 2003 Strategic Planning Session.

BUDGET IMPACT

This project is budgeted through the annual Sales Tax Capital Program of the CIP Budget. The amount of declared funds for this project were $1,100,000. 00 with the final bid price coming in at $1,340,100. This project will require a budget adjustment of $274,637 and a contingency of $38,000.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: **March 2, 2004**

FROM:

Chris Bosch, Fire Chief	Fire Administration	Fire
Name	Division	Department

ACTION REQUIRED: Approval of a Resolution awarding the construction contract between the City of Fayetteville and VEI General Contractors for construction of Fire Station 7, located on Rupple Road south of Wedington Drive.

COST TO CITY:

1,340,100.00	$ 1,337,280.00	Fire Improvements
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5804.00	$ 231,200.00	Fire Station 7
Account Number	Funds Used to Date	Program / Project Category Name
01015	$ 1,106,080.00	Sales Tax Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager ____ Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager ____ Date

Internal Auditor ____ Date

City Attorney ____ Date

Purchasing Manager ____ Date

STAFF RECOMMENDATION: R.

Division Head ____ Date

Department Director C Bosch 2/03/04 Date

Finance & Internal Services Dir. ____ Date

Chief Administrative Officer ____ Date

Received in Mayor's Office ____ Date

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

New Item: **Yes** **No**

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONSTRUCTION CONTRACT WITH VEI GENERAL CONTRACTORS, INC. TO BUILD THE WEST FAYETTEVILLE FIRE STATION ON RUPPLE ROAD IN THE AMOUNT OF $1,340,100.00 WITH A CONTINGENCY OF $38,000.00 AND APPROVAL OF A BUDGET ADJUSTMENT OF $274,637.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves VEI General Contractors, Inc. as the low bidder for the West Fayetteville Fire Station (#7) after removing the deductible portions of the contract resulting in the low bid of $1,340,100.00 with a contingency of $38,000.00 and approves a construction contract in that amount with VEI General Contractors, Inc.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $274,637.00 for this project.

PASSED and **APPROVED** this the 16th day of March, 2004.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sales Tax Capital Improvements Division: Program:	Date Requested	Adjustment Number
2004		3/16/2004	

Project or Item Requested:	Project or Item Deleted:
$274,637 is requested for Building Costs for the new Fire Station #7.	None. Use of Fund Balance is proposed.

Justification of this Increase:	Justification of this Decrease:
The bid for the fire station, with deducts, was over the project budget but was still within 25% of the bid certification.	There is sufficient funding remaining to comply with City policies.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Building costs	4470	9470	5804	00	274,637	01015	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	4470	0947	4999	99	274,637		

Approval Signatures		Budget Office Use Only		
		Type: A B C D E		
Requested By	Date			
Budget Manager	3-3-04 Date	Date of Approval	Initial	Date
Department Director	Date	Posted to General Ledger	Initial	Date
Finance & Internal Services Director	3-3-04 Date	Posted to Project Accounting	Initial	Date
Mayor	Date	Entered in Category Log	Initial	Date

City Council Meeting of March 16, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Louise Schaper, Library Executive Director

Date: February 27, 2004

Subject: Furnishings for Blair Library: MISSCO Contract Sales

RECOMMENDATION

Approve a contract with MISSCO Contract Sales in the amount of $151,185 for shelving in the new library at 401 W. Mountain. Plus a contingency of $7,559 for a total of $158,744.

BACKGROUND

The overall budget for furnishings including shelving is $975,500. This $151,185 contract is for 775 sections of new Estey shelving to be installed throughout the new library. In addition, we will be reusing all shelving purchased in the last six years. The shelving is capable of holding 270,000 volumes at 80% capacity.

DISCUSSION

This shelving is available under General Services Administration contract (GSA); the vendor's price is below the GSA schedule. This is a critical path item because of lead time and the requirement that shelving be installed prior to substantial completion.

BUDGET IMPACT

The shelving is in the new main library building project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF SHELVING IN THE NEW FAYETTEVILLE PUBLIC LIBRARY FROM MISSCO CORPORATION IN THE AMOUNT OF $151,185.00; AND APPROVING A CONTINGENCY IN THE AMOUNT OF $7,559.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves the purchase of shelving in the new Fayetteville Public Library from MISSCO Corporation in the amount of $151,185.00.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contingency in the amount of $7,559.00.

PASSED and **APPROVED** this 16th day of March 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

Agreement Between City of Fayetteville and MISSCO for Interior Furnishings

AGREEMENT
made as of the day of in the year of

Sixteenth day of March, 2004

(In words indicate Day, Month and Year)

BETWEEN the Owner:

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701-6083

and the Contractor:

_MISSCO

(Name and Address)

the Project is:

Fayetteville Public Library, 401 West Mountain Street, Fayetteville, AR 72701

the Interior Designer is:

Leanne Larson, Meyer, Scherer & Rockcastle, Ltd., 710 South 2nd Street, Minneapolis, MN 55401

The City of Fayetteville and MISSCO agree as set forth below.

ARTICLE 1
THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

ARTICLE 2
THE WORK OF THIS CONTRACT

The MISSCO shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

ARTICLE 3
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the City.
(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

Unless the date of commencement is established by a notice to proceed issued by the City of Fayetteville, MISSCO shall notify the City in writing not less than five (5) days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

3.2 MISSCO shall achieve Substantial Completion of the entire Work not later than 15 June 2004, subject to adjustments of this Contract Time as provided in the Contract Documents.
Failure of the Contractor to complete the Work prior to the date of Final Completion will result in a penalty of 5% of the total Contract Sum, assessed each day the goods or services are late.

ARTICLE 4
CONTRACT SUM

4.1 The City shall pay MISSCO in current funds for MISSCO's performance of the Contract the Contract Sum of One hundred fifty one thousand, one hundred eighty four and twelve one hundreth Dollars ($151,184.12), subject to additions and deductions as provided in the Contract Documents.

ARTICLE 5
PAYMENT

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

5.6.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of five percent (5%). Pending final determination of cost to the

City of changes in the Work, amounts not in dispute may be included as provided in Subparagraph 8.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;

5.6.2 Add that portion of the Contract Sum properly allocable to materials, furniture, furnishings and equipment delivered and suitably stored at the Project premises for subsequent incorporation in the completed Work, less retainage of five percent (5%);

5.6.3 Subtract the aggregate of previous payments made by the City.

ARTICLE 6
FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the City to MISSCO when (1) the Contract has been fully performed by MISSCO except for MISSCO's responsibility to correct nonconforming Work as provided in Subparagraph 13.1.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive (1) final payment; and (2) final acceptance of work has been issued by the Interior Designer; such final payment shall be made by the City not more than 30 days after the issuance of the Interior Designer's final acceptance of work, or as follows:

ARTICLE 7
MISCELLANEOUS PROVISIONS

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

7.2 Changes, modifications, or amendments in scope, price of fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.

7.3 Freedom of Information Act. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, MISSCO will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. ss25-19-101 et. Seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

7.4 Legal jurisdiction to resolve any disputes must be **Arkansas** with **Arkansas law** applying to the case.

ARTICLE 8
TERMINATION

8.1 The Contract may be terminated by the City or MISSCO as provided in Article 15 of the General Conditions.

ARTICLE 9
ENUMERATION OF CONTRACT DOCUMENTS

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

9.1.1 The Agreement is this executed Agreement Between City of Fayetteville and MISSCO for Interior Furnishings.

9.1.2 The General Conditions are the General Conditions of the Contract for Interior Furnishings.

9.1.3 The Specifications are those contained in the Specifications for Interior Furnishings dated 09 October 2003.

9.1.4 The Drawings are as shown below.

Number	Title	Date
A101FR	Level 1 Furniture Plan	1/27/04
A102FR	Level 2 Furniture Plan	1/27/04
A103FR	Level 3 Furniture Plan	1/27/04
A104FR	Level 4 Furniture Plan	1/27/04

9.1.5 The addenda, if any, are as follows:

Number	Title	Pages

Portions of addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

This Agreement is entered into as of the day and year first written above and is executed in at least three (3) original copies of which one (1) is to be delivered to MISSCO, one (1) to the Interior Designer for use in the administration of the Contract, and the one (1) remainder to the City of Fayetteville.

City of Fayetteville

_____

DAN COODY, Mayor

Attest:

_____

Sondra Smith, City Clerk

MISSCO

_____

(Signature)

_____

(Printed Name & Title)

STAFF REVIEW FORM

XX AGENDA REQUEST
XX CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: March 16, 2004

FROM:

Louise Schaper	Exec. Director	Library
Name	Division	Department

ACTION REQUIRED: Approve a contract with MISSCO Contract Sales in the amount of $151,185 for shelving in the new library at 401 W. Mountain. Plus a contingency of $7,559 for a total of $158,744

COST TO CITY:

$158,744.00	$ 8,950,917.00	New Main Library
Cost of this request		Program Category / Project Name
4150-9150-5804-00	$ 6,380,895.00	Library Improvements
Account Number	Funds Used to Date	Program / Project Category Name
99073.1	$ 2,570,022.00	Library Construction Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — 2-26-04 Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — 2/26/04 Date
Internal Auditor — 2/26/04 Date
City Attorney — 2/26/04 Date
Purchasing Manager — 2/27/04 Date

STAFF RECOMMENDATION:

2/27/04 P.A.

Division Head — Date

Department Director — Date

Finance & Internal Services Dir. — 2-27-04 Date

Chief Administrative Officer — 2-27-04 Date

Mayor — 2/27/04 Date

Cross Reference

New Item: **Yes** **No**

Previous Ord/Res#: ____

Orig. Contract Date ____

Orig. Contract Number ____

C:\Documents and Settings\gnelson\Local Settings\Temp\MISSCO.xlt

ENTERED 2/26/04

Description _____ Meeting Date _____

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Contract has not been signed by Contractor

Grants Coordinator

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Louise Schaper, Executive Director - Fayetteville Public Library

Date: February 26, 2004

Subject: : A resolution to award a contract in the amount of $186,395.41 to AEP/SWEPCO for the burial of utilities along School Avenue in behalf of the new Fayetteville Public Library located at 401 W. Mountain Street.

RECOMMENDATION

We recommend the City Council approve the resolution in the amount of $186,395.41 to award the contract to AEP/SWEPCO for utility burial along School Avenue. Plus a contingency allowance of $6,000 for a total of $192,395.

BACKGROUND

On February 5, 2002 the Fayetteville City Council approved an ordinance waiving requirements for competitive bidding for the burial of utilities for the library project. This enables pre-qualified subcontractors of AEP/SWEPCO to bid on the work to provide 1) electric power ducts and vaults, and 2) telephone, TV cable, and any fiber optic ducts. The City will contract directly with AEP/SWEPCO for this work. Time is of the essence on this request due to the project schedule and interfacing with city engineering and construction requirements for improvements to School Ave. prior to library opening date.

DISCUSSION

The City building code requirement to bury the new and existing utilities on the east side of the new library creates challenge as well as opportunity. The opportunity to create a more safe and visually appealing aspect of the project is highly desirable for the project and the surrounding area. The apartment building and two residences facing the new building on the east side of School Avenue are directly affected by this change due to the existing overhead utility poles currently serving them. With the removal of those poles the residences are entitled to new service connections including electric power and TV cable. This resolution enables the work to proceed that replaces the existing 12.5 KV overhead electrical distribution system on the west side of School Ave. between Mountain Street and Rock Street with an underground electrical system. The resolution

ENTERED 2/25/04

also includes the labor for installation of conduit for the other utilities and street cut repair adhering to City of Fayetteville specifications. The scope of work is fully outlined and prepared under a separate document.

BUDGET IMPACT

This $186,395.41 expenditure is included in the project budget.

# # #

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH AEP/SWEPCO, INC. TO BURY UTILITY LINES ALONG SCHOOL AVENUE AT THE NEW LIBRARY FOR THE AMOUNT OF $186,395.41 PLUS A CONTINGENCY OF $6,000.00

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the proposed contract with AEP/SWEPCO, Inc. to bury utility lines along School Avenue at the new library for the amount of $186,395.41, plus a contingency of $6,000.00.

PASSED and **APPROVED** this the 2nd day of March, 2004.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

AmirmoezFosterHaileyJohnson

AFHJ

Architects & Planners

MEMORANDUM

February 17, 2004

To: Bob Kohler

From: Jim Foster

Reference: Fayetteville Public Library, School Avenue Utilities

For City contracting purposes, attached are the AEP letter proposal dated January 30, 2004 and the original drawing prepared by AEP/SWEPCO.

Post Office Box 790 • 100 West Center, Suite 302 • Fayetteville, AR 72702 • 479-442-5565 • FAX 479-442-8849

AEP SOUTHWESTERN ELECTRIC POWER®

January 30, 2004

Mr. Kip Guthrie

Garver Engineers
3810 Front St., Suite 10
Fayetteville, Ar. 72703

Re: Fayetteville Public Library
School Ave. - Electrical Distribution
Relocation

Dear Mr. Guthrie:

Following for your information, and per your request, is an estimate of cost for AEP/SWEPCO to replace the existing 12.5 KV overhead electrical distribution system on the west side of School Ave., between Mountain St. and Rock St. in Fayetteville, with an underground electrical system.

Please find attached AEP drawing D - 04 – 30 that outlines the scope of work proposed for this relocation.

AEP/SWEPCO would provide all labor and material for the excavation and installation of conduit, pulling vaults, and cable on the west side of School Ave., and the excavation, conduit, and necessary equipment to provide underground distribution across School Ave. to an apartment complex and two residences on the east side of School Ave. Service from the street to the point of metering on the buildings would remain overhead.

AEP's scope of work also includes the installation of conduit for other utilities as indicated on the drawing, but does not include the material cost of this conduit.

The cost for AEP/SWEPCO to perform the above work is estimated to be $186,395.41. This estimate is based on AEP/SWEPCO' s contractor's ability to perform the ditch excavation utilizing conventional backhoe equipment. In the event significant rock is encountered that would require additional equipment for rock removal to achieve required trench depth, AEP/SWEPCO would request reimbursement for this additional equipment cost.

If you have any questions concerning this proposal, please contact me at 973-2301.

Sincerely,
Floyd Homaday
Floyd Homaday
Project Engineer

0106-6100

STAFF REVIEW FORM

XX AGENDA REQUEST
XX CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: March 16, 2004

FROM:

Louise Schaper	Library	General Government
Name	Division	Department

ACTION REQUIRED: Approve a resolution to award a contract to AEP/SWEPCO for $186,395.41 plus a contingency of $6,000 for utility burial along School Avenue

COST TO CITY:

$192,395.00	$ 8,950,917.00	New Main Library
Cost of this request		Program Category / Project Name
4470-9470-5804-00	$ 6,539,639.00	Library Improvements
Account Number	Funds Used to Date	Program / Project Category Name
99073-1	$ 2,411,278.00	Sales Tax Capital Improvement Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date

Internal Auditor — Date

City Attorney — Date: 2-27-04

Purchasing Manager — Date

STAFF RECOMMENDATION:

Division Head — Date

Department Director — Date

Finance & Internal Services Dir. — Date: 2-27-04

Chief Administrative Officer — Date: 2-27-04

Mayor — Date: 2/27/04

Swepco.xlt

Cross Reference

New Item: **Yes** **No**

Previous Ord/Res#: ____

Orig. Contract Date ____

Orig. Contract Number ____

gm 2/27/04

ENTERED 2/25/04

Staff Review Form - Page 2

Description _____ Meeting Date _____

Comments: Reference Comments:

Budget Manager

Accounting Manager

No contract attached to review.

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

No contract to review.

Grants Coordinator

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

March 16, 2004 City Council Meeting

To: Mayor Dan Coody and Fayetteville City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Stephen Davis, Finance & Internal Services Director

Date: March 3, 2004

SUBJECT: Delegation of Signatory Authority - ASWCC Loan Documents

Recommendation
The Fayetteville City Council, designate Dan Coody, Mayor and Stephen Davis, Finance & internal Services Director as the City of Fayetteville signatories for the Arkansas Soil & Water Conservation Commission Revolving Loan Program loan documents.

Background
Resolution 107-01 designated Dan Coody, Mayor and Ted Webber, Administrative Services Director as the official City of Fayetteville signatories to the Arkansas Soil & Water Conservation Commission Revolving Loan Agreements. The resolution needs to be changed to reflect the current staff.

The AWSCC has committed to loan the City of Fayetteville $100 million for the construction and equipping of the WSIP project. The agreed upon interest rate is fixed at 3.00% as long as the loan is repaid, in full, within nine and a half (9.5) years of date of the loan closing and 3.25% for all loans that are repaid in ten (10) years or more.

It is Staff's intent to structure the Soil & Water loan to take advantage of the 3% interest rate. To fully fund the WSIP Project and take advantage of the lower interest rate from ASWCC, a commercial bond issue was completed in 2002. The debt service for the ADEQ loan and commercial bond issue is expected to be funded with a dedicated three fourths (3/4) per cent city sales tax.

J:\DEBT FINANCING\WSIP\ADEQ\WWTP SIGNATORY DELEGATION AGENDA MEMO.DOC

RESOLUTION NO. _____

A RESOLUTION DELEGATING SIGNATORY AUTHORITY IN CONNECTION WITH STATE REVOLVING LOAN FUND ASSISTANCE

WHEREAS, the City of Fayetteville, Arkansas (the "City") deems it necessary and proper to apply for State loan assistance under Title VI of the Water Quality Act of 1987, Public Law 100-4, and the rules and regulations pursuant thereto, in order to fund all or a portion of the costs of the acquisition, construction and equipping of a new sewer treatment facility; and, for the acquisition, construction, reconstruction, extending, improving and equipping of modification to the sewer collection system; and, for construction, reconstruction, extending, improving and equipping improvements to the existing sewer treatment plant; hereinafter called the "Project".

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That Dan Coody, Mayor, and Stephen Davis, Finance and Internal Services Director, as the Signatory Agents of the City, or the successors of said Signatory Agents, are hereby authorized and directed to make application for assistance with respect to the Project under Public Law 100-4 and the Arkansas Revolving Loan Fund and to sign the acceptance of the loan agreement, when made, and any other documents required to complete the Project, on behalf of the City.

Section 2: That a copy of this Resolution shall be furnished by the Mayor to the Arkansas Department of Environmental Quality and/or the Arkansas Soil and Water Conservation Commission, as the agency overseeing the Arkansas Revolving Loan Fund Program.

PASSED and **APPROVED** this the 16th day of March, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk

RESOLUTION NO. 107-01

A RESOLUTION DELEGATING SIGNATORY AUTHORITY IN CONNECTION WITH STATE REVOLVING LOAN FUND ASSISTANCE

WHEREAS, the City of Fayetteville, Arkansas (the "City") deems it necessary and proper to apply for State loan assistance under Title VI of the Water Quality Act of 1987, Public Law 100-4, and the rules and regulations pursuant thereto, in order to fund all or a portion of the costs of the acquisition, construction and equipping of a new sewer treatment facility; and, for the acquisition, construction, reconstruction, extending, improving and equipping of modifications to the sewer collection system; and, for construction, reconstruction, extending, improving and equipping of improvements to the existing sewer treatment plant; hereinafter called the "Project".

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That Dan Coody, Mayor, and ~~Ted Webber, Administrative Services Director~~, as the Signatory Agents of the City, or the successors of said Signatory Agents, are hereby authorized and directed to make application for assistance with respect to the Project under Public Law 100-4 and the Arkansas Revolving Loan Fund and to sign the acceptance of the loan agreement, when made, and any other documents required to complete the Project, on behalf of the City.

Section 2. That a copy of this Resolution shall be furnished by the Mayor to the Arkansas Department of Environmental Quality and/or the Arkansas Soil and Water Conservation Commission, as the agency overseeing the Arkansas Revolving Loan Fund Program.

PASSED and APPROVED this the 17th day of July, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

XX AGENDA REQUEST

For the Fayetteville City Council Meeting of: March 16, 2004

FROM:

Stephen Davis		Finance & Internal Services
Name	Division	Department

ACTION REQUIRED: Approve a resolution designating Dan Coody, Mayor and Stephen Davis, Finance & Internal Services Director signatories for the Arkansas Soil & Water Conservation Commission RLF Loan documents.

SUMMARY EXPLANATION: This action is needed to update Resolution 107-01.

STAFF RECOMMENDATION: Approve the resolution.

Division Head _____ Date _____

City Attorney _____ Date 3-3-04

Department Director _____ Date _____

Finance & Internal Services Dir. _____ Date 3-3-04

Chief Administrative Officer _____ Date 3-3-04

Mayor _____ Date _____

Received in Mayor's Office _____ Date

Cross Reference:

Previous Ord/Res#: Res. 107-01

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes (No)

ENTERED 3/4/04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

From: Hugh Earnest, Chief Administrative Officer HE

Date: February 23, 2004

Subject: Request to increase the 2004 appropriation to the Council on Aging

Recommendation

The City Council, by passage of a Resolution, agrees to increase the appropriation to the Council on Aging. The monies paid to the City as payment in Lieu of Taxes from Fayetteville Housing Authority will be added to the amount currently allocated by the City for support of the Senior Citizen Center.

Background

The City Council has requested, as part of the approval of a lease between the City and the Council on Aging, that City staff and representatives of the Council explore the feasibility of increasing the hours of operation of the new Senior Center in Walker Park. The center has been in operation since May of 2003 and it has been a tremendous addition to the services provided seniors in this area. The contract for services between the Council on Aging and the Area Agency on Aging is determined by past history and future predictions. In the event that contracted services go beyond the predicted contract levels, the increased services must be paid, in some form, by the community.

The Council on Aging is a non-profit organization that receives funding from Federal, State, City and United Way. The yearly revenues for 2003-2004 are as follows:

Federal and State	49%	$608,920
Contributions	44.5%	$534,000
United way	3.8%	$ 49,000
City	2.7%	$ 32,900

The money requested from the City is used exclusively for Hillcrest Towers. Last year, the City allocation was $31,500. This year, the City allocation is $32,900. This is a $1,400 increase that will be used at the new senior center.

It should also be noted that the Council on Aging provides services to nine centers in Washington County. A key part of that service is Meals on Wheels as well as meals on site in nine centers across the county. The kitchen in our Senior Center on Sang is used

to provide meals for Fayetteville, West Fork, Goshen, Elkins, Greenland and Elm Springs. These meals are provided at no cost and individuals are asked to contribute to cover the cost of the meals. The center also is currently open for dances and special events on weekends. Council staff opens the center to seniors on request for various events.

We have also, as background, attached a survey of the client base that was recently completed by council staff.

The 1969 agreement between the Housing Authority and the City of Fayetteville calls for the payment in lieu of taxes from the Authority to the City of Fayetteville. The amount remitted by the Authority is determined by formula that considers gross rents less utility expense. The payment for 2004 is $9,864.19. The amount remitted has been relatively unchanged for quite a few years.

Current Situation

The Senior Center has exceeded expectations of the Council on Aging. However, the survey does not seem to support any addition to the current hours of operation. The staff of the Council on Aging is not prepared at this time to recommend any additional hours of operation for the Center. As has been discussed, the Center is available for use on any night and for use by groups on weekends. Both City staff and COA staff are in agreement that a rental charge rate schedule for after hours use needs to be developed in order to reduce any confusion or misunderstanding.

In addition, increasing the appropriation to the COA by the tax in lieu payment from the Housing Authority will enable the Housing Authority and the COA to jointly fund the program offered at Hillcrest Towers by the Council for the foreseeable future.

The money currently appropriated by the City for support of the Council on Aging will then be used by the COA solely at the Senior Citizen Center. The Council on Aging board and Mrs. Linebaugh will be working with the City in the preparation of next year's budget for the senior citizen center. Both parties will be looking at all options for additional activities and revenues. The budget year for the Council on Aging is July 1-June 30th. Because of that, both Mrs. Linebaugh and I are in agreement that any request for additional support from the City will be developed between now and July 1st and presented to the Council.

Budget Impact

The General fund balance of the city will be reduced by $9,864.00.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF $9,864.19 FOR ADDITIONAL EXPENSES INCURRED BY THE COUNCIL ON AGING, INC. FOR OPERATION OF THE NEW FAYETTEVILLE SENIOR ACTIVITY CENTER

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment of $9,864.19 for the Council On Aging, Inc. to cover increased expenses from its operation of the Fayetteville Senior Activity Center.

PASSED and **APPROVED** this the 16th day of March, 2004.

APPROVED:

By: _____ DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: General Government Division: Miscellaneous Program: Miscellaneous	Date Requested	Adjustment Number
2004		3/16/2004	

Project or Item Requested:
$9,865 is requested in the Transfer to Council on Aging account.

Project or Item Deleted:
None. Use of fund balance is proposed.

Justification of this Increase:
Additional expenses have been incurred by the Council on Aging for the operation of the new Fayetteville Senior Activity Center.

Justification of this Decrease:
There is sufficient funding remaining to comply with City policies.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Trans to Council on Aging	1010	6600	5718	01	9,865		

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	1010	0001	4999	99	9,865		

Approval Signatures

Requested By	Date
Budget Manager	3-3-04 Date
Department Director	Date
Finance & Internal Services Director	3-3-04 Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

STAFF REVIEW FORM

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: March 16, 2004

FROM:

Hugh Earnest	Chief Administrative Officer	General Government
Name	Division	Department

ACTION REQUIRED: Approval of a budget adjustment increasing the funding for Council on Aging.

COST TO CITY:

$9,864.19	$ 32,900.00	Trasfers
Cost of this request 1010-6600-5718-01		Program Category / Project Name
2250-9250-5718-01	$ 32,900.00	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	General Fund & Parks Development
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item XX Budget Adjustment Attached

Budget Manager — 3.4.04 Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — 3/4/04 Date
Internal Auditor — 3/4/04 Date

City Attorney — 3-4-04 Date
Purchasing Manager — 3-3-04 Date

STAFF RECOMMENDATION: Approve resolution.

Division Head — Date

Department Director — Date

Finance & Internal Services Dir. — 3-4-04 Date

Chief Administrative Officer — 3-4-04 Date

Mayor — Date

Cross Reference

New Item: **Yes** **No**

Previous Ord/Res#: _____

Orig. Contract Date _____

Orig. Contract Number _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: **Mayor and City Council**

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

Date: **March 4, 2004**

Subject: **Lease with Council on Aging**

After considerable conversation and discussion our recommendation at this time remains that we make no change in the language of the lease with the Council on Aging that currently calls for the operation of the Senior Center building for five days. However, we are also recommending that the term of the lease be changed to cover only through June 30th of this year. As I have stated in the memo recommending additional funding, it is our intent to work with the Council on Aging as they develop their 2004-05 budget. We will use that opportunity to analyze current operations and most importantly, additional/increased funding from various sources.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: **Mayor Dan Coody and City Council Members**

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

Date: **December 17, 2003**

Subject: **Lease with the Council on Aging**

Recommendation
The lease as attached is recommended for approval by the Council.

Background
The new Senior Citizen Center that was opened for service in July of 2003 is operated by the Council on Aging. This particular non-profit agency was very active in fund raising for and the design of the current structure. The Council is a service provider at this location as well as being responsible for the operation of nine centers in Washington County. The Council on Aging (COA) has a contract with Area Agency on Aging in Harrison for providing services at the Senor Center. Area Agency on Aging, also a non-profit, contracts with a number of third-party providers for a wide range of services for seniors and also directly operates senior centers in some locations. It should be noted that some 25 years ago, the state set up eight separate Area Agencies on Aging blanketing the state. These non-profits all operate through a number of Federal and State programs set up to deliver services to seniors.

Current situation
The opening of the new Senior Center has given us an opportunity to develop a lease for the use of the building by the Council on Aging. The lease with the Council on Aging essentially defines responsibility for maintenance of the building, lays out terms and conditions in the unlikely case that the city should choose to discontinue use of the facility for services to seniors, and stipulates a lease period and hours of operation.

Budget Impact
There is no direct budget impact, other than a formalization of the obligation of the owners of the building to be responsible for certain maintenance items as detailed in the lease.

Tabled to 1/20/04 mtg
Tabled to 3/2/04 mtg
Tabled to 3/16/04 meeting

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A LEASE AND AGREEMENT TO PROVIDE SERVICES WITH THE COUNCIL ON AGING, INC. FOR THE FAYETTEVILLE SENIOR ACTIVITY CENTER IN WALKER PARK

WHEREAS, the taxpayers of the City of Fayetteville with assistance of private and public donors paid for the construction of the Fayetteville Senior Activity Center at Walker Park; and

WHEREAS, the Council On Aging, Inc. is an Arkansas Not For Profit Corporation which assisted with the design and construction of the Senior Center and had efficiently and successfully operated the Fayetteville Senior Center on Sang Avenue for many years to the great benefit of Fayetteville citizens; and

WHEREAS, it is to the overall benefit of the City of Fayetteville, the Council On Aging, and Fayetteville citizens for the City to lease to the Council On Aging the premises of the new Fayetteville Senior Activity Center in consideration of the Council On Aging's operation of the Senior Center to provide recreational, cultural and nutritional services to Fayetteville citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the lease and agreement to provide services with the Council On Aging, Inc., attached as Exhibit "A" so that the Council On Aging, Inc. can continue to operate the Fayetteville Senior Activity Center to provide recreational, cultural and nutritional services to Fayetteville citizens.

PASSED and **APPROVED** this the 20th day of January, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk

LEASE AND AGREEMENT TO PROVIDE SERVICES

WHEREAS, the taxpayers of the City of Fayetteville with assistance of private and public donors paid for the construction of the Fayetteville Senior Activity Center at Walker Park (hereinafter "Senior Center"); and

WHEREAS, the Council On Aging, Inc. (hereinafter "Council On Aging") is an Arkansas Not For Profit Corporation which assisted with the design and construction of the Senior Center and had efficiently and successfully operated the Fayetteville Senior Center on Sang Avenue for many years to the great benefit of Fayetteville citizens; and

WHEREAS, it is to the overall benefit of the City of Fayetteville, the Council On Aging, and Fayetteville citizens for the City to lease to the Council On Aging the premises of the new Fayetteville Senior Activity Center in consideration of the Council On Aging's operation of the Senior Center to provide recreational, cultural and nutritional services to Fayetteville citizens; and

WHEREAS, the City of Fayetteville, as the owner of the structure, recognizes that the Council on Aging is the current contractor of record occupying the structure, and is operating programs for Senior Citizens under the terms and conditions as established by the Area Agency on Aging and agreed to by the City. The City further recognizes that the contractor for provision of said services is subject to change as part of a selection process which will occur at periodic intervals.

NOW, THEREFORE, the City of Fayetteville for the consideration stated above and listed below agrees to lease the Fayetteville Senior Activity Center in Walker Park to the Council On Aging, Inc. and the Council On Aging, Inc. agrees to operate and maintain the Senior Center for the benefit of senior citizens of Fayetteville and elsewhere as more particularly described below:

1. The Council On Aging, Inc. can and shall utilize the kitchen in the Fayetteville Senior Activity Center both to provide nutritious meals to those at the Center and to seniors in the community through the Meals On Wheels or other similar programs.

2. The Council On Aging, Inc. shall operate the Senior Center with sufficient staff to maintain the premises and assist attendees at least five days a week year round during the term of this lease.

3. The City of Fayetteville shall be responsible to maintain and repair and replace if necessary the following major components of the Fayetteville Senior Activity Center:

a. Roof, gutters and down spouts;
b. Foundation, floor joists, structural walls;
c. Parking lot, curbs and pavement.

4. The Council On Aging, Inc. shall be responsible to maintain the Fayetteville Senior Activity Center in a clean, sanitary and attractive condition and shall be responsible to maintain and repair and replace if necessary the following components of the Fayetteville Senior Activity Center:

a. Kitchen area including fixtures and appliances;
b. Plumbing fixtures and electrical outlets and fixtures;
c. Flooring and carpeting;
d. Interior wall surfaces;
e. Windows (including replacement of any broken panes);
f. HVAC system including regular replacement of air filters.

5. The initial term of this lease shall be from the date signed until June 30, 2004, while the feasibility and advisability of operating the Senior Activity Center more than five days a week is studied by both the Council On Aging, Inc. and the City of Fayetteville. Unless a new lease is agreed to by June 30, 2004, this lease shall continue into effect until December 31, 2004, when it expires automatically. Once the issue over the number of days of operation is resolved, both parties anticipate entering into a 20 year lease with both sides having the right to terminate with one year's notice.

6. The City of Fayetteville agrees to use the Fayetteville Senior Activity Center for the operation of a senior activity center as defined by the applicable state and federal regulations as long as required by such regulations. If the City chooses to discontinue using the Senior Center as a senior activity center such that the Council On Aging, Inc. would be required to reimburse funds received from a federal or state agency, the City will reimburse the required funds either to the Council On Aging, Inc. or directly to the governmental agency.

7. The City of Fayetteville will be responsible for any insurance necessary for the structure housing the Fayetteville Senior Activity Center and the Council On Aging, Inc. shall insure all of the contents of this building as well as purchasing and maintaining in force a liability insurance policy from a company acceptable to the City for any injury or damages resulting from its or visitors' use (including foodservice) of the premises in an amount of at least $1,000,000.00

with a no-fault medical expenses rider of at least $5,000.00 per person. A copy of the Council On Aging, Inc.'s current insurance policy shall be provided to the Fayetteville City Clerk and a copy of any change, modification, renewal, or termination of said insurance shall be provided the City Clerk within five (5) days of its receipt.

8. The Council On Aging, Inc. shall be responsible to fully pay and keep current all utilities (gas, electric, telephone, cable, water, sewer, solid waste, etc.) necessary to properly operate the Senior Center.

9. This Lease and Agreement constitutes the entire agreement between the City of Fayetteville and the Council On Aging, Inc. Any changes or modifications must be in writing and agreed to by the City Council of Fayetteville and the Board of Directors of the Council On Aging, Inc. to be effective.

In Agreement With All of the Terms, Promises, and Conditions stated above and after formal approval by the Board of Directors of the Council On Aging, Inc. and the Fayetteville City Council we execute this Lease and Agreement To Provide Services by signing below on this the _____ day of March, 2004.

COUNCIL ON AGING, INC.

By: _____
JANET LINEBAUGH
Executive Director

Witness: _____

_____
Name & Title

CITY OF FAYETTEVILLE

By: _____
DAN COODY
Mayor

ATTEST:

_____
Sondra Smith
City Clerk

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: January 6th, 2004

FROM:

Hugh Earnest		Chief Adminstrative Officer
Name	Division	Department

ACTION REQUIRED: Passage of a Resolution authorizing a lease with the Council On Aging

SUMMARY EXPLANATION: See attached memo

STAFF RECOMMENDATION:

Division Head — Date

Received in Mayor's Office 12/19/03 Date

The proposed lease I drafted requires operation of the Center 6 days a week. Different responsibility for repair HVAC, plumbing, electrical

City Attorney — Date

Department Director — Date

Finance & Internal Services Dir. — 12-19-03 Date

Chief Administrative Officer — 12-19-03 Date

Mayor — 12/19/03 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 12/8/03

City Council Meeting of March 02, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director T.C.

From: Dawn T. Warrick, AICP, Zoning and Development Administrator DTW

Date: February 12, 2004

Subject: Residential Planned Zoning District for Cross Keys (R-PZD 04-02.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating the Residential Planned Zoning District (R-PZD) for Cross Keys. This action will establish a unique zoning district for development of a 38.84 acre tract located south of Wedington Drive at the corner of N. 46th and Persimmon Street. The request is to rezone the subject property to a Residential Planned Zoning District with a total of 108 single family lots.

BACKGROUND

The applicant requests a rezoning and preliminary plat approval for a residential development within an R-PZD zoning district. The proposed use is single-family residential, with 108 lots proposed. A detention pond is to be located off-site to the south, on property also owned by the applicant. Density for the entire site is 2.81 units per acre. The development is currently zoned R-A, Residential Agricultural. The site is located on the northeast corner of the intersection of Persimmon Street and 46th Street. The applicant is proposing a fence along Persimmon Street and 46th Street. Pedestrian access to vacant tract to the east was approved by the Planning Commission. Vehicular access to the project is provided from both 46th Street and Persimmon Street. The development has proposed covenants to ensure that all structures access interior streets and homes will contain a minimum of 2000 square feet. The Parks and Recreation Advisory Board and Planning Commission accepted money in lieu of a land dedication due to the proximity of the Boys and Girls Club to this site.

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on Monday, February 09, 2004. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval (preliminary plat). Street improvements shall include the construction of Persimmon Street along the south property line and allowable uses include use units 1, 8, and 24. Planning Commission amended the preliminary plat to eliminate the street connection to the east and provide a 50' non-motorized connection.

BUDGET IMPACT

None.

2/17/04

From: Renee Thomas
To: Smith, Sondra; Williams, Kit
Date: 3/3/04 8:07AM
Subject: Cross Keys Ordinance

Kit and Sondra,

The reading for Cross Keys R-PZD last night was read from C-2, Thoroughfare Commercial to R-PZD. This is incorrect, it should state from R-A, Residential Agricultural to R-PZD. I have attached a new copy of the ordinance reading correctly. Please let me know if I need to do anything else.

Thanks,

Renee

Renee Thomas
City of Fayetteville
Planning Division
113 W. Mountain
Fayetteville, AR 72701
(479) 575-8268
rthomas@ci.fayetteville.ar.us

AS Amended 3-2-04

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED (R-PZD 04-02.00) LOCATED SOUTH OF WEDINGTON DRIVE AT THE CORNER OF N. 46TH AND PERSIMMON STREET CONTAINING 38.48 ACRES MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RA Residential Agriculture to R-PZD 04-02.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on February 9, 2004 except that Putting Green Drive shall be extended to the east as a local street..

Section 3. That this ordinance shall take affect and be in full force at such time as all of the requirements of the development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and **APPROVED** this the 16th day of March, 2004.

APPROVED:

By: _____ DRAFT
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 04-02.00

PART OF THE SE1/4 OF THE SW1/4 OF SECTION 12, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SE1/4, SW1/4 THENCE S02°37'23"W 1.63 FEET TO THE P.O.B., THENCE S02°37'23"W 1320.10 FEET, THENCE N87°02'10"W 1266.36 FEET, THENCE N02°16'32"E 1318.64 FEET, THENCE S87°06'18"E 1274.35 FEET TO THE P.O.B.; CONTAINING 38.48 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of February 09, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
	Matt Casey, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	February 3, 2004

R-PZD 04-02.00: Residential Planned Zoning District (Cross Keys, pp 438) was submitted by Chris Brackett of Jorgensen & Associates on behalf of Charles Sloan and Sloan Properties for property located south of Wedington Drive at the corner of N. 46th and Persimmon Street. The property is currently zoned R-A, Residential Agricultural and contains approximately 38.48 acres. The request is to rezone the subject property to a Residential Planned Zoning District and to approve the development of a residential subdivision with 108 single family dwellings proposed. Planner: Suzanne Morgan

Findings: The applicant requests a rezoning and preliminary plat approval for a residential development within an R-PZD zoning district. The proposed use is single-family residential, with 108 lots proposed. A detention pond is to be located off-site to the south, on property also owned by the applicant. Density for the entire site is 2.81 units per acre. The development is currently zoned R-A, Residential Agricultural. The site is located on the northeast corner of the intersection of Persimmon Street and 46th Street. The applicant has proposed to erect a fence along these two rights-of-way. The preliminary plat for Persimmon Place Subdivision, located west of 46th St., was approved with a condition that a privacy fence six feet in height be constructed as required in the Bill of Assurance filed when this property was rezoned. This item must be heard at City Council pursuant to the requirements for a PZD.

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Single family residential	RSF-4, Residential Single-family – 4 units per acre R-A, Residential Agricultural
South	One single-family home	Planning Area
East	Vacant	RSF-4, Residential Single-family – 4 units per acre
West	Vacant (Persimmon Place PPL is under construction) 2.65 units/acre	RSF-4, Residential Single-family – 4 units per acre

Right-of-way being dedicated: 50' for all interior rights-of-way, 70' along Persimmon St., and 50' along 46th St.

Connectivity: Connectivity from this proposed residential subdivision is being provided west to 46th Street, south to Persimmon St., and east to a vacant tract of land for connectivity to future development.

Street Improvements: Construction of Persimmon Street along southern property line and a recommendation from Engineering Division to cost share for the developer to overlay the entire width of 46th Street for the length of the project.

Master Street Plan Streets:

North: Wedington Drive (principal arterial) approximately ½ mile north
South: Persimmon Street (collector) planned for construction with this development
East: 46th Street (local street)
West: 54th Ave. (collector) is approximately ¾ mile west

Tree Preservation:		
	Existing canopy:	0.13 %
	Preserved canopy:	0.08 %
	Mitigation:	$1,050 payment into the City's Tree Escrow Account prior to final plat approval.

Background: This proposal was heard at Subdivision Committee meeting on December 30, 2003 where it was forwarded to the Planning Commission. On January 12, 2004 the Planning Commission tabled the item back to Subdivision Committee for lack of developer notification. This item was heard again by the Subdivision Committee on January 29, 2004.

Recommendation:

Forward to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed preliminary plat subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district for R-PZD 04-02.00 with all conditions of approval as determined by the Planning Commission.

2. An ordinance creating this R-PZD shall be approved by City Council.

3. A Final Plat is required to legalize the lot configuration, filed pursuant to City of Fayetteville requirements.

4. Planning Commission determination of appropriate fence material, if desired, and appropriate timing for installation. The fence shall not encroach upon right-of-way or easement.

5. Planning Commission determination of street improvements. *Staff recommends 14' from the centerline of 46th Street including curb, gutter, and storm sewer, and construction of* Persimmon St. *along the south property line.*

6. Payment of **$1,050** into the City's Tree Escrow Account prior to final plat approval.

7. Allowed uses in this R-PZD shall be restricted to use unit 8, single family residential, *+use units 1+ 24.*

8. Covenants to be filed with the final plat to include maintenance of detention, common open space, fences, entry features, and landscape islands. (A draft is included in the report.)

Standard Conditions of Approval:

9. Payment of parks fees in the amount of **$59,940** for 108 single-family units shall be required prior to Final Plat.

10. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

11. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

12. Sidewalk construction in accordance with current standards to include a six foot sidewalk and ten foot green space along Persimmon Street and a four foot sidewalk with a six foot greenspace along 46th Street and all proposed streets.

13. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

14. Preliminary Plat shall be valid for one calendar year.

PLANNING COMMISSION ACTION:

__yes__ **Required**
__X__ **Approved** _____ **Denied**
Ostner/Allen 2 9-0

Date: **February 09, 2004**

Comments:
* Motion to Amend the east connection and to approve a non-motorized connection allowing for bicycles, pedestrians, etc.. Motion was moved by Bunch and seconded by Shackelford. Motion passed 5-4

The "CONDITIONS OF APPROVAL", beginning on page one of this report, are accepted in total without exception by the entity requesting approval of this development item.

_____
By

_____
Title

_____
Date

Findings associated with R-PZD 04-02.00

Sec. 166.06. Planned Zoning Districts (PZD).

(B) *Development standards, conditions and review guidelines*

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The subject property is adjacent to property zoned RSF-4 and R-A to the north, and RSF-4 to the east and west. There are single family homes to the north and a preliminary plat has been approved by the Planning Commission for a subdivision of 154 lots on 58.11 acres (2.65 units/acre) to the west of this proposed development. The southern property line boarders the City's Planning Area. The subject property is 38.48 acres with 108 single family lots proposed for a density of 2.81 units per acre.

(2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: The site has 0.13% canopy cover with 0.08% preserved canopy proposed. The applicant has proposed erecting a fence along Persimmon St. and 46th Street to shield housing to the neighbors to the south and to be compatible with the fence to be placed along the boundaries of the subdivision to the west. The preliminary plat for Persimmon Place to the west was approved with a condition that a fence 6' in height be erected along these rights-of-way.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Connectivity from this proposed residential subdivision is being provided west to 46th Street, south to Persimmon St., and east to a vacant tract of land for connectivity to future development. All rights-of-way within the subdivision shall be dedicated to the City.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Each lot shall be for single family use and provide the required two off-street parking spaces per unit.

(5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The land use meets all the requirements for open space, buffer or green strip provisions of the chapter in the code.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalk construction shall be in accordance with current standards to include a six foot sidewalk and ten foot green space along Persimmon Street and a four foot sidewalk with a six foot greenspace along 46th Street and all proposed streets within the development.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights are being provided along Persimmon Place and within the development with spacing not to exceed 300 feet.

(8) *Water.* As required by §166.03.

FINDING: Water shall be extended to the subject property.

(9) *Sewer.* As required by §166.03.

FINDING: Sewer shall be extended to serve the subject property.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: Rights-of-way shall be dedicated to the City of Fayetteville and constructed to City standards.

(11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: N/A

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The site has 0.13% canopy with 0.08% preservation proposed. Mitigation of $1,050 into the City's Tree Escrow Account is required.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: N/A

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Location of property is located on relatively flat land. No view shed has been identified in this area.

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or

occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that_the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district,

contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.
(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant has submitted a Bill of Assurance and Protective Covenants and Restrictions for Cross Keys Subdivision. (See attached)

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposed R-PZD of 108 lots is located on land identified on the General Plan as residential use. The density and use will not negatively impact surrounding properties. The subdivision is near the Boys and Girls Club and will be able to promote community in this area. (See attached comments from Raymond C. Smith regarding these ten criteria.)

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the

Planning Commission. Covenants provided by the developer will be included in the R-PZD ordinance. This ordinance will be forwarded to the City Council for approval.

(C) R - PZD, Residential Planned Zoning District.

(1) Purpose and intent. The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed residential planned zoning district allows single-family use which is compatible with surrounding property. The property is currently zoned Residential Agricultural and would allow for residential development at a lower density than that allowable by a majority of the surrounding property. The density proposed will not significantly increase the amount of traffic to cause congestion in the area which is served by a local and collector street.

(2) Permitted uses.

Unit 1 City-wide uses by right
Unit 2 City-wide uses by conditional use permit
Unit 3 Public protection and utility facilities
Unit 4 Cultural and recreational facilities
Unit 5 Government facilities
Unit 8 Single-family dwellings

Unit 9 Two-family dwellings
Unit 10 Three-family dwellings
Unit 12 Offices, studios and related services
Unit 13 Eating places
Unit 15 Neighborhood shopping
Unit 19 Commercial recreation, small sites
* Unit 24 Home occupations
Unit 25 Professional offices
Unit 26 Multi-family dwellings

FINDING: The proposed single-family dwellings are a permitted use under use unit #8.
Also Use Units 1 & 24.

(3) Condition. In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The PZD proposed is entirely residential in use.

RECOMMENDATION: Approval of R-PZD with conditions.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 04-02.00 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed rezoning of the existing Residential Agricultural area to the proposed development with residential single-family use with a density of 2.81 units per acre is consistent with the General Plan 2020 that identifies this area for residential use. Single-family use is compatible with existing and planned surrounding single-family residential homes and the surrounding zoning.

The proposal is consistent with the following principles of the General Plan 2020 which are:

- ***Creating a sense of place and connectivity within neighborhoods and community.***
  Finding: Connectivity within neighborhoods and community is provided.
- ***Containing and strengthening the emergence of multiple activity centers.***
  Finding: The proposed subdivision is in close proximity to the Boys and Girls Club and by utilizing it may strengthen the community center.

- *Increasing transportation efficiency.*

  Finding: The developer will construct Persimmon Street and improve 46th Street for the length of the property to achieve connectivity and the flow of traffic as shown on the Master Street Plan. There will also be a stub out to vacant property to the east.

The proposal is consistent with the guiding policies for Residential Areas identified in the General Plan 2020 which are:

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

9.8.j Implement the Master Street Plan and incorporate bike lanes, parkways and landscaped medians to preserve the character of the City and enhance the utilization of alternative modes of transportation.

9.8.i Establish performance zoning design standards to mitigate adverse impacts of contrasting land uses with residential land uses.

9.8.k Adopt a City policy of "connectivity", meaning that commercial areas and residential areas are easily accessible by vehicles, pedestrians and bicyclists.

The following is from The General Plan 2020 regarding Community Character:

9.19.a Protect and enhance Fayetteville's appearance, identity and sense of place.

9.19.d Discourage perimeter walls and guard houses around the perimeter of new residential developments and promote "connectivity" to increase accessibility and provide more livable neighborhoods.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed density is consistent with the existing surrounding zoning.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will increase traffic but should not appreciably increase traffic danger or congestion with the surrounding local, collector, and principle arterial streets, and connectivity is provided from the proposed development to these streets. Trip generation calculations indicated that 108 single family detached dwellings will produce 1034 two-way trips per day on average. Wedington Dr. is a principal arterial and can sustain a volume of 20,600 trips per day. Current traffic counts on Wedington Dr, east of 46th St. are 15,000 trips per day according to the AHTD 2002 traffic count.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed zoning will increase population density but should not undesirably increase the load on public services, including schools, water and sewer facilities. Using 2000 Census data for Fayetteville that indicates there are 2.21 persons per occupied unit, the estimated population for a single family development with 108 homes is 239 persons. The maximum development allowable for this property with its current zoning designation of R-A zone is 19 units for a population of 42 persons.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION

TO: Jorgensen and Associates Inc.

COPY: Suzanne Morgan, Associate City Planner

FROM: Craig Carnagey, Sr. Planner (Landscape Administration)

DATE: December 23, 2003

SUBJECT: Cross Key Subdivision

TREE PRESERVATION PLAN

1. A payment of $1,050.00 will be required to be made into the City's Tree Escrow Account before Final Plat Approval.

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THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

January 20, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **R-PZD 04-02.00: Residential Planned Zoning District (Cross Keys, pp 438)** was submitted by Chris Brackett of Jorgensen & Associates on behalf of Charles Sloan and Sloan Properties for property located south of Wedington Drive at the corner of N. 46th and Persimmon Street would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

RAYMOND C. SMITH, P.A.
ATTORNEY AT LAW

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70 North College Avenue
yetteville, Arkansas 72701

Telephone (479) 521-7011
FAX (479) 443-4333
Toll Free 1-800-282-0168
Email rsmith7011@sbcglobal.net

December 4, 2003

City of Fayetteville Planning Division
125 West Mountain Street
Fayetteville, Arkansas 72701

Re: R-PZD Residential Planning Zoning District Request
Cross Keys Subdivision

Site Location: Northeast corner intersection of Persimmon Street & North 46th Street

Legal Description: The SE¼ of the SW¼ of Section 12, T16N, R31W, in Washington County, Arkansas , and more particularly described as follows: Commencing at the NE corner of said SE¼, SW¼ thence S02°37'23"W 1.63 feet to the P.O.B., thence S02°37'23"W 1320.10 feet, thence N87°02'10"W 1266.36 feet, thence N02°16'32"E 1318.64 feet, thence S87°06'18"E 1274.35 feet to the P.O.B.,; containing 38.48 acres more or less subject to easements and right of ways of record.

The current owner of the above described property, The Hoyet Greenwood Trust A, Jean Greenwood Jowers, Trustee, and Developer, Charles W. Sloan, Charles W. Sloan and Associates, Inc., are now in final negotiations and a sales contract should be signed momentarily, and are proposing a Planning Zoning District (R-PZD) be established for the above described land. The land will be rezoned from A-1 to R-PZD will achieve the overall objectives of a PZD. During subsequent phases of Cross Keys, additional 160 acres now situated in the county will be annexed into the city and become part of the overall development.

The proposed PZD meets the criteria as set out in Sec. 166.06A, Planning Zoning District (PZD), Title XV, Unified Development Code:

(1) Location. The above described property is eligible as it is situated within the City of Fayetteville limits.
(2) Ownership. Landowner is eligible applicant and the development plan will be binding upon all subsequent owners of the land.

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(3) Size. Although the site location contains approximately 38.48 acres, there is no minimum tract size requirement.

The proposed PZD can accomplish one or more of the following goals specified in Sec. 161.25(A) Planned Zoning District, Title XV, Unified Development Code:

(1) Flexibility. Cross Keys Phase I Subdivision will include approximately 109 homes with not greater than 2.85 houses per acre in a variety of styles of houses, each having not less then 2000 sq. ft. of heated space.

(2) Compatibility. Cross Keys is certainly compatible with surrounding land use. Persimmon Place, a subdivision development situated on 46th Street, has a masonry fence surrounding the subdivision. Cross Keys will have the same style masonry fences. Although Persimmon Place has a minimum house size of 1850 sq. ft., Cross Keys will have a minimum of 2000 sq. ft. The Proposed PZD will achieve compatibility between the proposed development and surrounding areas so as to preserve and enhance the overall neighborhood appearance.

(3) Harmony. This area in the western part of Fayetteville is currently being developed as single family residential dwellings and this proposal will meet the purpose and intent of R-PZD and the permitted use as Unit 8, as single family dwellings.

(4) Variety. Approximately 109 houses will be constructed in the PZD. Developer will not sell the lots to a single builder but anticipates as many as twenty different builders will be involved resulting in a variety of housing types and an increase In employment opportunities and services.

(5) No Negative Impact. The Proposed PZD will not have a negative impact on the future growth of the western part of Fayetteville.

(6) Coordination. Proposed PZD and the development of land surrounding the PZD is being coordinated between the various developers. In coordination with John Knox and the development of his subdivision, West Persimmon Street between N. 46th Street to Rupple Road will be developed, constructed and paved to a 24 ft. paved width.

(7) Open Space. The developer will develop adjacent land to include a golf course that will complement the activities already in existence and planned near the Fayetteville Boys and Girls Club.

(8) Natural Features. The preliminary plat of Cross Keys is planned to obtain maximum enhancement and minimal disruption of natural existing features of the land and surrounding areas.

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(9) General Plan. Proposed PZD will take into consideration tree preservation, landscaping, water conservation, preservation of natural site amenities and the protection of watercourses from erosion and siltation. All features shall be combined in such a way as to further the health, safety, amenity and welfare of the community.

Raymond C. Smith
Attorney at Law
Owner Representative

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BILL OF ASSURANCES AND PROTECTIVE COVENANTS AND REWSTRICTIONS FOR "CROSS KEYS", A SUBDIVISION OF THE CITY OF FAYETTEVILLE, ARKANSAS

KNOW ALL BY THESE PRESENTS, Charles W. Sloan and Associates, Inc., hereinafter referred to a "Declarant" as owner, developer and sub divider of all the lots in **CROSS KEYS, Phase I,** a subdivision to the City of Fayetteville, Arkansas, hereinafter referred to as "**CROSS KEYS,**" by execution hereof, enters and declares the following assurances, covenants, and restrictions with respect to the subdivision.

1. OWNERSHIP:

Declarant is the developer of the following described real property being developed as the Cross Keys Subdivision, Phase I, of the City of Fayetteville, County of Washington, State of Arkansas, to-wit:

The Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) Of Section Twelve (12), Township Sixteen (16) North, Range Thirty-one (31) West, containing 40 acres, more or less

2. SINGLE-FAMILY LAND USE:

Lots within Cross Keys Subdivision Phase I are developed as a Planned Zoning District to provide single family lots with approximately 2.8 lots per acre, with a Lot minimum width of Eighty (80) feet, and shall be in compliance with or exceed the regulations for RSF4 zoning as defined and interpreted by the City of Fayetteville, Arkansas, and Courts of competent jurisdiction, and in compliance with the assurances, covenants, restrictions, and conditions set out and contained herein, on the date these covenants and restrictions were executed.

3. BUILDING LIMITATIONS AND REQUIREMENTS:

The subdivision and building codes of the City of Fayetteville, Arkansas, as such presently exist or are hereafter amended, shall be and are hereby made applicable to all lots in Cross Keys Subdivision. All dwellings, other structures and/or improvements shall comply with said ordinances as such exist on the date of such construction. Any conflicts between such ordinances and the provisions of the conditions, covenants and restrictions shall be resolved in favor of the more restrictive provisions. Building,

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architectural, and design specifications shall be in accordance with the codes and regulations of the City of Fayetteville, Arkansas, and specifically those pertaining to development of Land zoned RSF4 (Residential Single Family w/4 units/acre).

Individual homes (Single Family, RSF4:

a. All dwelling structures constructed upon any lot of Cross Keys shall contain a minimum of two thousand (2000) square feet of heated living space.
b. Each dwelling shall have a private garage for not less than two (2) vehicles. All garage interiors must be dry-walled and finished. All garage doors must be of section type, with automatic garage door openers with appropriate child safety features.
c. Each dwelling is required to have a concrete driveway.
d. All homes and/or other structures constructed within Cross Keys must have an architectural asphalt, tile, or wood shingle roof.
e. No roof pitch on any structure shall be less than a 10/12 pitched.
f. All homes must have one hundred percent (100%) brick, stone or stucco on all exterior walls up to the top plate of the 1st floor. Total percentage of brick, stone or stucco on all exterior walls of each house must equal Eighty (80) percent of the wall surface
g. Variance. Any lot owner may petition the Architectural Committee for a variance from the building limitation and requirements. Each application for a variance will be considered individually based on the overall design of the proposed house in relationship to its compatibility with the other homes in Cross Keys Subdivision. Any application for a variance shall include all documentation that supports the quality of the proposed construction that will be equal to or greater than the requirements set forth in these building limitations and requirements.

Compliance with the above referenced ordinances, conditions, and restrictions, and any future revisions and/or additions to said ordinances, conditions, and restrictions, shall be judged, determined by and require prior approval by the Architectural Committee. The Architectural Committee shall view and approve all exterior plans and specifications for all structures prior to construction and be given the power to amend and/or alter any design plans or specifications prior to construction and be given the power to amend and/or alter any design plans or specifications prior to construction and be given the power to amend and/or alter any design plans or specifications prior to approval for construction with Cross Keys. Any alterations or recommendations made by the Architectural Committee must be revised on said plans and be resubmitted to the Architectural Committee for approval prior to construction. Revisions to prior approved architectural are discouraged; however, any revisions made to said exterior plans must be resubmitted again to the Architectural Committee for approval.

In order to be apprised of current requirements, all owners and builders should contact the Architectural Committee prior to commencement of construction. The specifications and requirements for RSF4 zoning designation shall be deemed minimal

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requirements for the architectural and design specifications for Cross Keys. The City of Fayetteville specifications may be supplemented from time to time where not inconsistent with the original plans and architectural intent of Cross Keys.

4. BUIDING LOCATION AND YARD RESTRICTIONS:

No building may be located within twenty-five (25) feet of any lot line which is adjacent to a street, within eight (8) feet of the side lot lines, or within twenty (20) feet (RSF4) If two adjacent lots are purchased for purposes of constructing only one home, the interior side yard line limitations are removed . No lots within the subdivision may be subdivided, except as follows: if owners on both sides of a vacant joining lot elect to purchase said lot, they may subdivide the only one time. This lot split of the joining lot then increases the size of both adjacent lots and for building purposes the interior side lot line limitation would be associated with and measured from the new property line created by the division. If both portions of the split lot were ever recombined for purposes of serving as a building lot, then the original restriction as to set back would apply.

The front yard, the side yards and a minimum of thirty (30) feet of the backyard shall be fully grass sodded within sixty (60) days and ninety (90) days, respectfully, following the date on which the dwelling is eligible for the issuance by the City of Fayetteville of a temporary certificate of occupancy. Any variance must be submitted and approved by the Grounds Committee. All front yards shall be maintained and groomed as required to be consistent with the other homes within the subdivision and to comply with the overall architectural objectives of the Cross Keys Subdivision.

5. BULDERS AND CONTRACTORS:

Prior to commencement of any site work or construction, a lot owner shall submit the name, address, and telephone number of the lot owner; the name, address, and telephone number of the building contractor; a complete set of construction plans include exterior colors and finishes; and a plat plan reflection the location or all improvements, and set back lines, collectively referred to as "Building Packet" to the Architectural Committee for review and approval. Within thirty (30) days after receipt of the Building packet the Architectural Committee shall act upon the request and provide the lot owner approval or disapproval in writing. A building contractor is defined as a general contractor, building contractor, construction contractor or consultant, architect, design builder or the owner, if he/she acts as their own contractor.

If the Building Packet is complete and the Architectural Committee fails to respond to a lot owner within the specified time period, said member may approach the Board of Directors of Cross Keys Property Owners Association and request immediate action be taken to approve or disapprove the owner's submission. The Board of Directors shall have the authority to approve or

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disapprove the submission; however, must act within fifteen (15) working days of receipt of the owner's written request.

If both the Architectural Committee and the Board of Directors fail to act, if no suit to halt the proposed construction is commenced prior to the completion of said construction, and if said construction is in compliance with the ordinances of the City of Fayetteville, Arkansas, written approval form the Architectural Committee shall no longer be required and the completed construction shall be deemed in compliance with the Cross Keys conditions, covenants, and restrictions.

No building materials shall be placed or stored on a lot prior to approval of the Building Packet and the scheduled date on which construction is to commence. Construction sites shall be kept neat and orderly. Construction sites are to be cleaned daily of trash and scrap material. If said requirements are not adhered to, Cross Keys Property Owners Association may hire a cleanup crew to perform the task. Should Cross Keys Property Owners Association incur expense associated with the cleanup of a construction site, said expense shall be deemed a lien upon the lot until paid. Portable toilets must be on all job sites during construction. Upon completion of the building project all remaining materials, trash, dumpsters, toilets, etc. shall be removed from the lot and subdivision within ten (10) days.

6. HOME OCCUPATION:

Home occupations, as defined by the codes of the City of Fayetteville, Arkansas, are prohibited.

7. FENCES:

Fencing of the front yard is prohibited. Fencing of rear and side yards must be of brick, decorative iron, or cedar wood construction. Except for fencing constructed for the purpose of screening by Declarant, no fencing may exceed six (6) feet in height. All fences shall be recessed at least ten (10) feet from the front of the dwelling. No wire or chain link fencing is allowed. Fencing shall not infringe on neighboring lots or the common grounds of Cross Keys. All fencing plans and materials must be submitted to and approved by the Architectural Committee. Unless a dwelling structure is built on a lot, fencing of the lot is prohibited. Lots numbered seven (7) thru thirty-two (32) shall have six (6) ft. high privacy fences constructed of cedar wood on the rear lot line.

8. SIDEWALKS, DRIVEWAYS AND STREETS:

A lot owner may not cut or cause to be cut a street within Cross Keys for any reason. Concrete driveways and street access points are to be constructed and completed by the owner prior to or at completion of the dwelling project. All driveways are to be of concrete base and may have a decorative type finish.

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example: brick lines, brick expansions, aggregate finish pattern concrete, etc. Concrete sidewalks shall be constructed at the expense of the lot owner and shall be completed at the time the driveway is constructed. Sidewalks shall be four (4) feet wide and constructed as designed and shown on the final plat.

Sidewalks shall be made of concrete with a light broom finish, expansion joints are to be cut on eight (8) foot centers. The length of sidewalks will vary with each lot, the sidewalk shall be the full street side width of the lot.

9. UTILITES:

All utilities situated within Cross Keys subdivision shall be underground and overhead service is not permitted.

10. SATELLITE DISHES:

Satellite dishes shall be twenty-four (24) inches or less in diameter and shall not be visible from the street.

11. CABLE TV:

Cable television access shall be supplied to each lot within the development.

12. OUTBUILDINGS AND PORTABLE BUILDINGS:

No portable structures are allowed. Outbuildings may be allowed and constructed for use as storage of outside, lawn and flower garden equipment and supplies provided the structure is similar in design to the home. All plans for such structures must be presented to and approved by the Architectural Committee prior to construction.

13. EASEMENTS:

Easements for installation and maintenance of utilities, drainage facilities and any other such easements are reserved as shown on the recorded plat. Lot owners are discouraged from constructing structures or improvements, or landscaping located within an easement is subject to being damaged, destroyed, or removed by the easement owner without compensation or replacement being provided to the lot owner.

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14. OIL AND MINING OPERATIONS:

No operations associated with the testing for, location, or recovery of, and refining or processing of oil, gas or minerals found upon or underneath Cross Keys shall be permitted or located within Cross Keys.

15. LIVESTOCK, POULTRY AND PETS:

No livestock, poultry, exotic, wild, non-domesticated, or other such animals (except as noted within) shall be kept, raised or sheltered on any residential building lot or common area within Cross Keys. Dogs, cats and other household pets may be kept, provided they are not raised for commercial purposes. The outside living area for approved pets must be maintained and kept clean at all times and screened from public view. All living areas for such pets must be in the rear or side yard. The walking of permitted animals on a leash is allowed, provided and owner/walker picks up any dropping from said animal.

16. PARKING OF VEHICLES:

All vehicles, except recreational vehicles, shall be parked in the garage or driveway of the owner's respective lot. The Subdivision's streets shall not be used as a place to park or store vehicles. The parking or storage of a vehicle on a subdivision street for two (2) consecutive days of any given week shall be deemed a "routinely parked" vehicle. Licensed and non-licensed recreational vehicles, of any type, shall not be routinely parked on the streets of the subdivision or on any lot within the subdivision.

The above restrictions apply to, but shall not be limited to recreational equipment, motor homes, boats, travel trailers, campers, trnasport trailers and the like. Any large trucks, tandem wheel tractors or large commerical vehicles are strictly prohibited within the subdivision except for moving, and delivery purposes and development of a lot and new home construction.

17. INOPERATIVE VEHICLES:

No inoperative or non-licensed vehicle shall be left on any subdivision street or owner's driveway in excess of two (2) days.

18. TEMPORARY STRUCTURES:

No temporary structure shall be used for human habitation. The bu[illegible]

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PLANNING DIV.

and contractors are allowed such structures during the construction phase for storage and construction use only. All such structures must be removed prior to or at completion of the building project.

19. SIGNS AND POSTERS:

No signs or posters are allowed except as noted below:

a. A professionally made sign noting the property is for sale.
b. A professionally made construction sign noting the builder of the improvements, which sign shall be removed once the improvements are completed or occupied.
c. Political, garage sale, and commercial signs or posters are permitted but only for the duration of their intended purpose.
d. Any lot owner may apply for a waiver of a sign or for permission to place a sign on a lot by submission of the sign design, intended duration, a purpose to Cross Keys Applications for waiver shall be submitted prior to placement of a nonpermitted sign.

20. SIGHT DISTANCE AT INTERSECTIONS:

Walls, fencing, shrubs, hedges, trees or other improvements constructed or made near or at the intersections of streets within the Cross Keys shall be located and constructed in compliance with the codes, regulations, and ordinances of the City of Fayetteville.

21. MAILBOXES AND HOUSE NUMBER:

Prior to occupancy of any dwelling structure located on a lot, the lot owner shall construct a mailbox and install a house number which has been approved as to design and site location by the Architectural Committee.

22. STREETLIGHTS:

All streetlights shall be installed by Cross Keys and dedicated to the City of Fayetteville, Arkansas for public use and maintenance by the City.

23. CLOTHESLINES:

Outdoor clotheslines or poles are prohibited.

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24. BASKETBALL GOALS:

The placement of all basketball goals must be approved by the Grounds Committee.

25. TREE REQUIREMENTS:

Each lot owner and shall be responsible for the health of all planted trees on the lot and shall be bound for the maintenance, care and monitoring for each tree planted. Each lot within Cross Keys Subdivision is required to plant and maintain two 2" inch diameter Native American trees in the front yard before the structure is certified for occupancy. If at any time said tree is damaged significantly or dies, it must be replaced within a two-month period. A list of types of trees permitted will be provided by the Grounds Committee. Failure to replant or maintain the tree after notice by the Property Owners Association could result in an assessment and a lien upon the lot for the cost of planting and maintaining the tree. The lot owner agrees a lien which results from a failure to pay any assessment may be foreclosed in the same manner provided by Arkansas Law for the foreclosure of a real estate mortgage.

26. NUISANCES:

No noxious, destructive or offensive activity as defined by City Ordinance and State or Federal laws or regulations shall be carried on or upon any lot or street, nor shall anything be done thereupon which may be or may become an annoyance or nuisance to the Cross Keys community and its homeowners.

27. ENTRYWAY AND MEDIAN MAINTENANCE AND UPKEEP:

Entryways, retention ponds and surrounding areas, public areas and parks, and common areas and improvements are an integral part of Cross Keys and it is in the best interest of Cross Keys that said such entryways, medians, retention ponds and surrounding areas, public areas and parks, and common areas and improvements be maintained at all times.

The cost of the routine upkeep, maintenance and repair and replacement of entryways, medians, retention ponds and surrounding areas, and common areas and improvements shall be shared by each lot owner through annual or special assessments. Any upkeep, maintenance and repair of public area and parks shall be at the discretion of the Board of Directors of Cross Keys Property Owners Association.

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PLANNING DIV.

28. SWIMMING POOLS:

Swimming pools must be underground and placed in the back yard and properly fenced.

29. STREETS:

All streets within the Cross Keys development shall be dedicated to the City of Fayetteville, Arkansas for public use and maintenance by the City.

30. HOLDING POND:

The Property Owners Association shall be responsible for the designated holding pond (if any) within the subdivision development and shall publish the rules and regulations applicable to the holding pond.

31. GOVERNING STRUCTURE:

By accepting ownership of property within Cross Keys, each owner accepts membership within the Cross Keys Property Owners Association, an Arkansas non-profit corporation formed to promote the collective and individual property and civic interests of all owners of Cross Keys property and to own, operate and maintain any area which is now or which in the future may be designated common property and at its discretion publicly owned property such as the park area so long as the development and maintenance of park and publicly owned areas are in compliance with City codes and regulations.

By accepting ownership of property within Cross Keys, each owner acknowledges, said property is now or will be subject to periodic assessments to be established and used for the construction development, improvement, repair and replacement of the entryways, retention ponds and surrounding areas, and common areas and improvements by the Board of Directors of the Cross Keys Property Owners Association and agrees if said assessments are not timely and fully paid said assessment and all costs, including legal fees, associated with the cost of collection of same shall be deemed a lien on the property so assessed.

The owner(s) of each lot in Cross Keys shall be entitled to one (1) vote on any proposition or action placed before the membership of the Cross Keys Property Owners Association for a vote. If more than one person or entity owns a single lot, the owners must collectively agree upon their single vote before casting same. If one or more entities own more than one lot, the owner(s) are entitled to

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one (1) vote per lot owned.

32. ARCHITECTURAL COMMITTEE:

The Architectural Committee is established to insure, within its limited ability, that all dwellings and/or other exterior structures within Cross Keys are compatible with the other dwelling and structures constructed or to be constructed within Cross Keys.

The Architectural Committee for all new construction shall consist of three (3) builders, appointed by the Cross Keys Developer and owning lots in Cross Keys Subdivision. At such time when each of the three builders has sold all owned lot and homes in Cross Keys that position on the Architectural Committee will then be appointed by the Cross Keys Property Owners Association.

The Architectural Committee shall be appointed and shall serve at the discretion of the Board of Directors of the Cross Keys Property Owners Association. The Architectural Committee shall have no less than one (1) member and shall have no more that three (3) members who shall own or be representative of the owners of property within Cross Keys.

33. GROUNDS COMMITTEE:

The Grounds Committee is established to insure the streets, sidewalks, common areas and improvements located thereupon, unimproved lots and the front and side yards of improved lots, are maintained, groomed and kept in good order. The Grounds Committee shall note any problems with mailboxes, entryways, retention ponds and areas surrounding same, public areas and parks, common areas and improvements within the Cross Keys development. Any problems or violations noted by the committee shall be written up and reported for repair or correction to the proper parties. If the needed repair or violation is directed to a lot/home owner, said owner has fifteen (15) days in which to correct the problem. If the owner fails to take measures to correct the problem, the Grounds Committee may report the violation or problem to the Board of Directors of Cross Keys Property Owners Association for further action and follow-up.

The Grounds Committee shall be appointed and serve at the discretion of the Board of Directors of the Cross Keys Property Owners Association. The Grounds Committee shall consist of no less that one (1) member and shall have no more that three (3) members, who will be owners or representatives of owners of property within Cross Keys.

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34. VIOLATIONS:

Any and all violations against a lot/homeowner(s) may result in a levy against the owner and the property by the Board of Directors of Cross Keys Property Owners Association. All violations should be considered of the utmost importance and be addressed and responded to in a timely manner.

Correction of the item in violation should began, as soon as possible. If the property owner believes the violation is wrong or incorrect, the properfty owner should contact the issuing party of the violation as soon as possible.

35. ASSESSMENTS:

Lots owned by Charles W. Sloan and Associates, Inc. shall not be assessed an annual assessment fee as long as the lot remains an undeveloped lot. Once title of a lot is transferred from Charles W. Sloan and Associates, Inc. there will be due and annual assessment of two hundred and fifty dollars ($250.00) which assessment shall be for a full calendar year. Assessments will be due January 1st of each year. For any lot purchased in mid-year, the lot owner at closing shall be assessed and pay the annual assessment prorated for the remainder of that year. Assessments shall be collected by and paid to the Cross Keys Property Owners Association. Assessments shall be used for the repair, maintenance, upkeep, and replacement of the entryways, retention ponds and surrounding areas, common areas and improvements, public areas and parks, golf course and to pay the costs associated with the operations of the Cross Keys Property Owners Association, including costs and fees paid to lawyers and accountants. By a two thirds (2/3) vote of the Board of Directors of Cross Keys Property Owners Association or a majority vote of the owners of lots in Cross Keys Property Owners Association the assessment may be periodically increased or decreased. By acceptance of ownership of a lot within Cross Keys, a lot owner is agreeing to pay current and future assessments and is agreeing assessments shall be deemed a lien against the lot. The lot owner agrees a lien which results from a failure to pay an assessment may be foreclosed in the same manner provided by Arkansas Law for the foreclosure of a real estate mortgage. Each lot owner agrees to pay Cross Keys Property Owners Association costs and legal fees associated with the collection of delinquent assessments of foreclosure of liens.

36. DURATION OF COVENANTS AND RESTRICITIONNS:

These restrictions and covenants are hereby declared to be covenants running with the lots and shall be fully binding upon all persons acquiring property in said subdivision whether by decent, devise, purchase or otherwise and

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any person by the acceptance of title to any lot in this subdivision shall hereby agree and covenant to abide by and fully perform the foregoing restrictions and covenants.

These covenants are to run with the land and shall be binding for a period of twenty-five (25) years. Said covenants and restrictions may be extended for successive five (5) year terms if approved by a majority of the lot owners.

37. BINDING EFFECTS AND AMENDMENTS OF COVENANTS:

All natural persons or other legal entities who shall acquire any lot within the Cross Keys subdivision shall be deemed to agree, accept, conform to and observe the restrictions, covenants and stipulations contained herein, and the By-Laws of Cross Keys Property Owners Association and accepts membership in the Cross Key Property Owners Association.

Any amendment of these covenants and restrictions requires an approval by a vote of seventy-five percent (75%) of the lot/home owners of all phases within Cross Keys.

No changes in the covenants and restrictions shall be valid unless the amended covenants and restrictions are properly recorded in the recorder's office of Washington County, Arkansas. No amendment shall be allowed which would be in violation of RSF4 zoning in affect at the time of the amendment.

38. SEVERABILITY:

Invalidation of any restriction or portion of a restriction set forth herein, or any part thereof, by an order, judgment, or decree of any court, or otherwise, shall not invalidate or affect any of the other restrictions, or any part thereof, as set forth herein, but they shall remain in full force and effect.

Executed on this 3rd day of Dec 2003.

Charles W. Sloan & Associates, Inc.
Owner and Developer

By _____
Charles W. Sloan
President

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ACKNOWLEDGEMENT

State of Arkansas)
)ss.
County of Washington)

On this the 3d day of December, 2003, before me, a Notary Public, the undersigned officer, personally appeared Charles W. Sloan, President of Charles W. Sloan and Associates, Inc., known to me to be the person whose name is subscribed to the within instrument and acknowledged that he had executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public

My Commission Expires
8-18-2009

"OFFICIAL SEAL"
Raymond C. Smith
Notary Public, State of Arkansas
County of Washington
My Commission Exp. 08/18/2009

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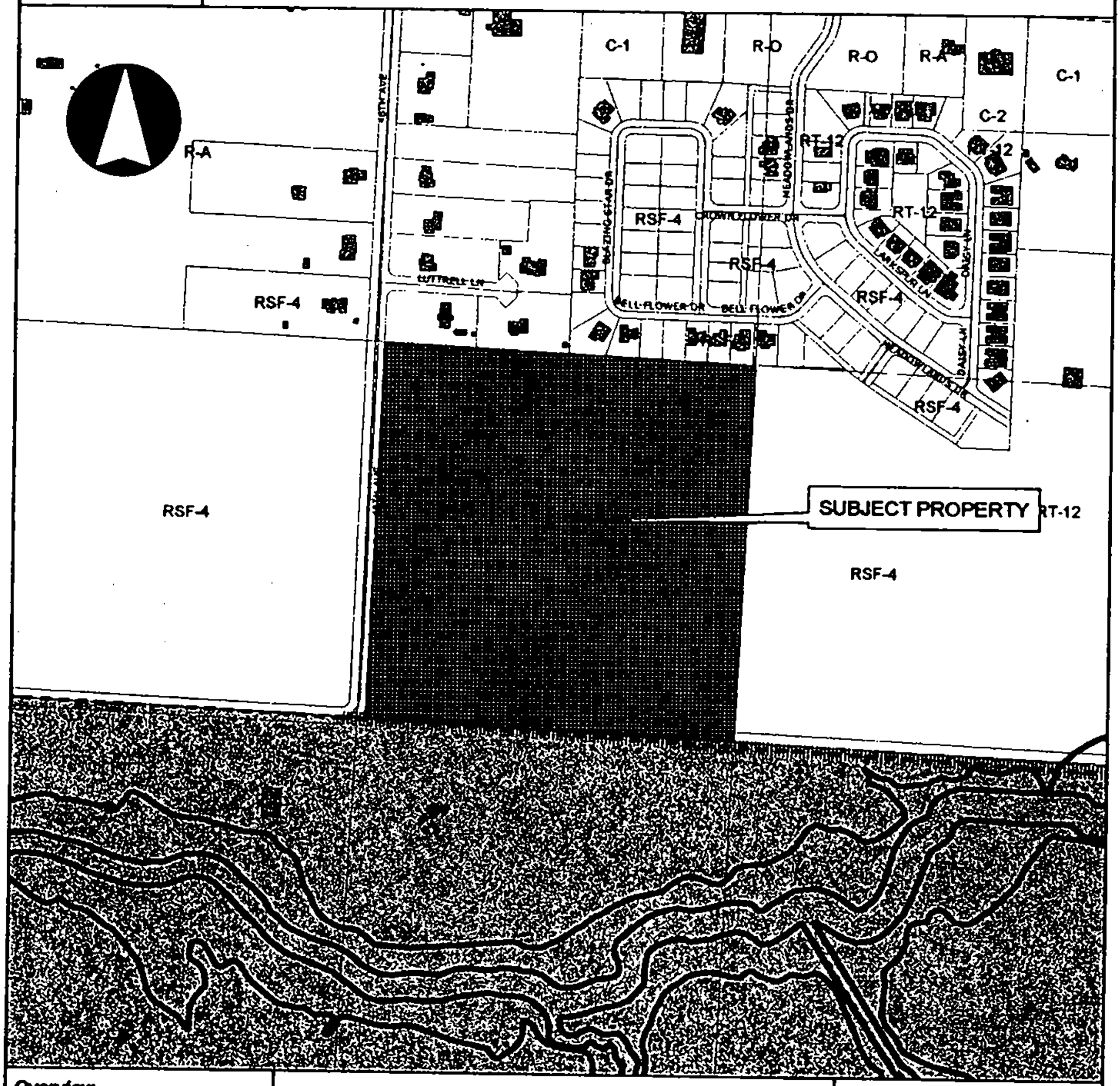
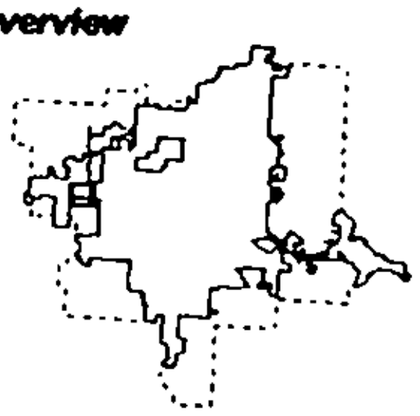
R-PZD04-02.00

Close Up View

CROSS KEYS



Overview



Legend

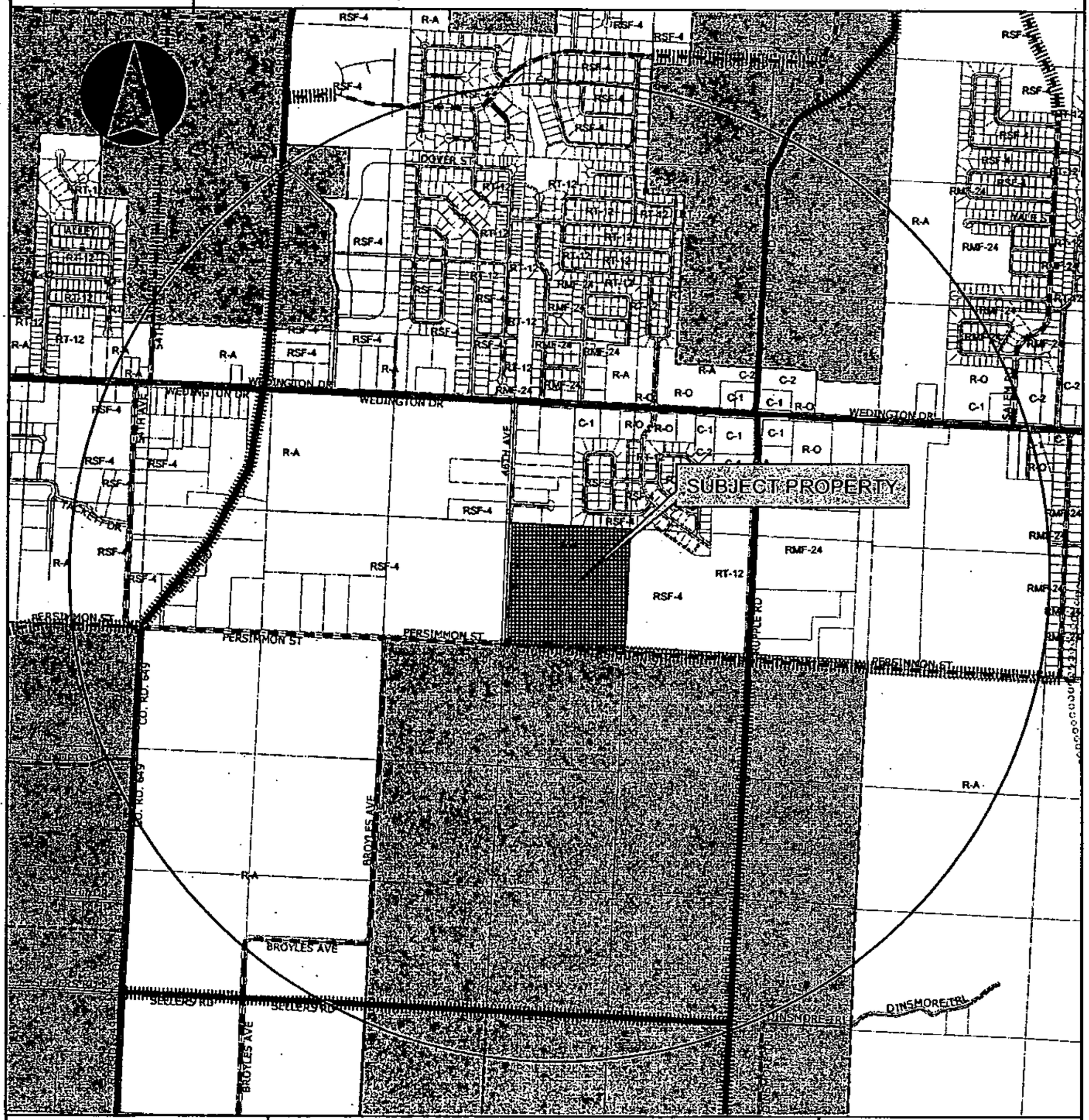
R-PZD04-02.00 — Overlay District — FLOODWAY
Master Street Plan — 100 YEAR
Master Street Plan — 500 YEAR
Freeway/Expressway — LIMIT OF STUDY
Principal Arterial — Base/Line Profile
Minor Arterial
Collector
Historic Collector
City Limits
Outside City

0 200 400 800 1,200 1,600 Feet

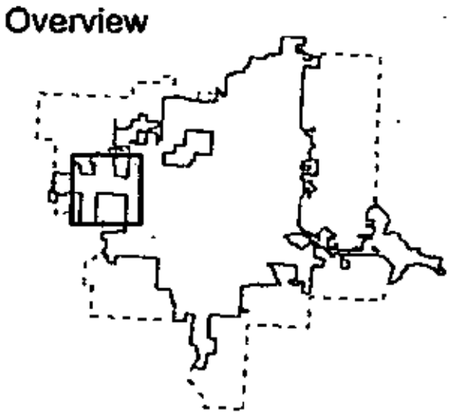
R-PZD04-02.00

One Mile View

CROSS KEYS



Overview



Legend

Subject Property
- R-PZD04-02.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

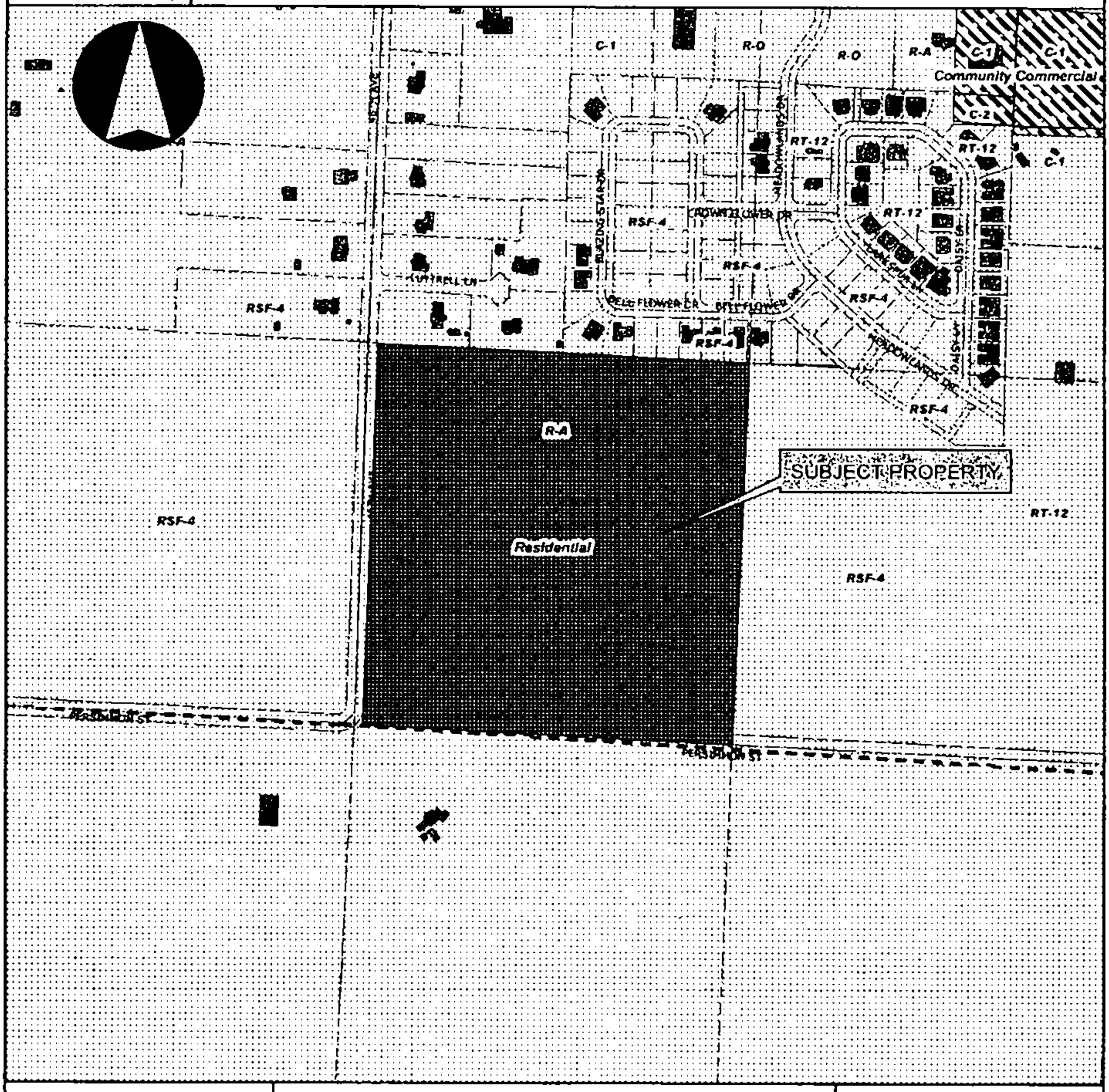
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

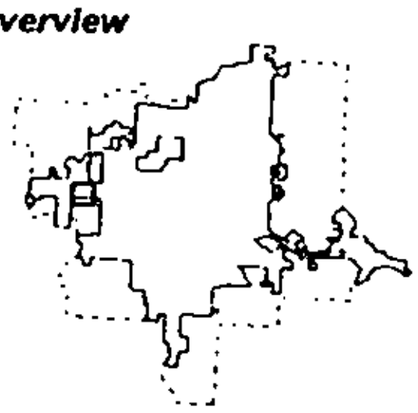
R-PZD04-02.00

Future Land Use

CROSS KEYS



Overview



Legend

Subject Property

R-PZD04-02.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 200 400 800 1,200 1,600

Feet

C. 4.
Cross Keys
R-PZD 04-02.00
3/2/04

FAYETTEVILLE
FIRE DEPARTMENT
FIRE MARSHAL'S OFFICE

TO: Suzanne Morgan, Planning

FROM: Battalion Chief Kyle S. Curry KC

DATE: February 25, 2004

RE: Time / Distance Measurements "Cross Key"

Ms. Morgan:

As per your request I measured the travel time and distances, from Fire Station #2 and the site of Fire Station #7, to a proposed development located on 46th Avenue. These times are approximations due to the variables that come into any emergency response.

Fire Station #2 to Cross Key:
Miles – approximately 3.5
Time – approximately 4 minutes 55 seconds

Site of Fire Station #7 to Cross Key:
Miles – approximately 1.0
Time – approximately 1 minute 36 seconds

Amended & left on 1st reading 3-2-04

R-PZD 04-02.00: Residential Planned Zoning District (Cross Keys, pp 438) was submitted by Chris Brackett of Jorgensen & Associates on behalf of Charles Sloan and Sloan Properties for property located south of Wedington Drive at the corner of N. 46th and Persimmon Street. The property is currently zoned R-A, Residential Agricultural and contains approximately 38.48 acres. The request is to rezone the subject property to a Residential Planned Zoning District to allow for the development of a residential subdivision with 109 single family dwellings proposed.

Bunch: Just a comment, the PZDs seem to take a little longer as they come through but the added deal is if they had to come through individually as a Rezoning and then a Preliminary Plat or Large Scale Development I think it winds up taking even more time. On the surface these things look like they are quite lengthy, and they are, but they are still shorter than having the duality. As we move to the next item on the agenda it is another Residential Planned Zoning District for Cross Keys submitted by Jorgensen & Associates on behalf of Sloan Properties for property located south of Wedington in the Persimmon and 46th area. Suzanne, can you give us the staff report on this please?

Morgan: Yes. The applicant has requested a Rezoning and Preliminary Plat for this residential development for an R-PZD. The proposed use is single family residential with 109 lots proposed with a detention pond located south of the property. Also, the proposal is to have this community fenced with a wood and brick fence. Also, the density for the entire site is to be 2.83 units per acre. The land is currently zoned R-A, Residential Agricultural and the site is located north on Persimmon Street and east on 46th Street. The item must be heard at City Council pursuant to requirements for a PZD. To the north the land use is single family residential zoned RSF-4 and R-A. To the south the land is in the Planning Area and used for single family. To the east is currently zoned RSF-4 and to the west Persimmon Place Preliminary Plat has been approved for the west of this development. Water and sewer are to be extended to serve this development. Right of way to be dedicated is 50' along all of the interior rights of way and 70' along Persimmon Street as well as 50' along 46th Street, a local street. Street improvements are construction of Persimmon Street along the southern property line. There are to be street connections to the south and west of this property. Tree preservation information, existing is .13%, preserved is .08%. Mitigation is $1,050 payment into the tree escrow account. Staff's recommendation is to forward this R-PZD to the full Planning Commission with a total of 13 conditions. Number five, Planning Commission determination of connectivity. Staff is recommending a street connection to the east to allow connectivity for future development. Number six, modified to state Planning Commission determination of street improvements. Staff is recommending 14' from centerline for 46th Street to include curb, gutter and storm sewer. Staff will be recommending a cost share for the developer to overlay the entire

width of 46th Street for the length of the project. Item seven, payment of parks fees in the amount of $60,495 for 109 single family units.

Bunch: Thank you Suzanne. Are there any additional comments from Parks?

Ohman: No Sir.

Bunch: Engineering?

Casey: Not at this time.

Bunch: At this time we will turn it over to the applicant. Will you introduce yourselves and tell us about your project please?

Brackett: Yes, my name is Chris Brackett, I'm with Jorgensen & Associates representing Charlie Sloan who is here with me. This is a PZD. The main reason why this was brought forward as a PZD is because as a firm, we were involved with the development of Persimmon Place adjacent to this and there were many concerns with the adjoining property owners with this development. Through the rezoning they had a serious problem with not being able to see exactly what we were planning on doing. With this process we felt that we were able to bring forward exactly what we were proposing and present to the adjacent property owners. Also, this development the density is more than the RSF-4 required and we had some other slight changes to that zoning. We felt that it was appropriate to bring this in as a PZD and will be happy to answer any questions you might have.

Bunch: At this time I will take public comment. Is there anyone in the audience who would like to address this R-PZD? Seeing none, I will bring it back to the Committee for comments. One of the first comments we need to address is what you just said about the density. There was considerable complaint and comment concerning the development across the street because of the density and the size of the lots and the impact that those would have on the neighborhood, whether it be from perceived property values or traffic or whatever. How is this going to exaggerate or help the situation where you are getting more of Persimmon built? Are you building both sides of Persimmon?

Sloan: Both sides.

Brackett: Persimmon brought through the Bill of Assurance we worked out with the adjoining property owners required 80' wide lots. We are at least 80' with the majority of these being 85'. My understanding of the problems with Persimmon was they didn't want the 70' wide lots and pack them in kind of development. They wanted a larger home with a little bit bigger lot

than your normal, than some of the subdivisions that have been developed in this area. This exceeds what Persimmon does and by the lack of public comment I think we've achieved something that the adjoining property owners are comfortable with.

Bunch: Can you tell us a little bit about the detention pond and how that is working? I know that it is on the property that is owned by the same owner.

Sloan: I am going to own all of it, both sides of Persimmon.

Bunch: Are there any kind of easements that need to be drawn up Matt for the detention pond since that is part of this?

Casey: Before that goes to construction we will require offsite drainage easements to be filed for that area.

Bunch: I guess by having both pieces of property that makes a much better solution by putting it down next to the drainage area.

Sloan: It really came from staff that we have that down there, we have the availability. We are going to put one down there eventually for the other side so we had space to make it fit together. We already have a natural drainage to that point so why not just go ahead and continue on with it. There are some other things planned for the land across that that may benefit it in a long run by doing it that way.

Bunch: Is all 70' of right of way for Persimmon being dedicated in this proposal?

Sloan: Yes, we are going to be able to because we will be closing on everything and then we will be able to dedicate both sides. We went back and sort of worked something out so we do make sure that we do own everything completely so we can dedicate it.

Bunch: All of your lots with just an exception of a handful of them are just over 11,000 sq.ft. The ones that are under are just barely under.

Sloan: We are putting up a 2,000 sq.ft. minimum on the space.

Bunch: How will the fence around this compare with the fence that is going in across the street and will it create a monotonous corridor down through here and a wind tunnel or what is the deal on the fences?

Sloan: Suzanne may be able to show a quick elevation of what we are proposing for a fence. I knew that there was one across the street so we were trying to do something like that. I had planned on an all brick fence but the more

you look at a solid brick fence the more you don't really like a solid brick fence. I thought maybe we can do a mixture where we have basically brick across the bottom of everything and put maybe cedar or something in between it to lighten it up and maybe breathe a little bit. Maybe we can get together with the gentleman that owns the project next door and maybe we can coordinate so they will complement each other and one doesn't look like a stark contrast from the other.

Bunch: Was the one across the street supposed to be poured concrete?

Brackett: We were required to show it as a decorated concrete fence.

Sloan: One of the neighbors called me this morning and said that they would like us to work with the owners of Persimmon Place and possibly coordinate that fence. It may be a little bit different color but the same texture, something that looks good. I am sure they would want to keep their distinct subdivision. We are trying to tie something together on this side of the street that ties together with the rest of the land across the street for future expansion.

Bunch: I think it is just a matter of keeping it from being like a concrete canyon, a little diversity in there and also a little breathing room. A solid fence was predicated on sound and visuals and everything else. Now that the situation has changed I think it is wonderful that you are working together to try to create something that is a little friendlier.

Sloan: We are going to try to. The neighbors, at least the one I talked to, said that he was going to try to get the neighbors to work together to support some kind of change. They still want the fence there but they would like to see a little bit more diversity rather than just a block fence or a solid masonry fence.

Bunch: Is this going to have a P.O.A.?

Sloan: Yes. That will be taken care of through that.

Bunch: Through this one?

Sloan: Through all of them. Hopefully this will be Phase I of an overall project and then each one will be just added to it. We will come back with the southern part with another PZD because we will have multiple size lots with a little bit bigger lots all the way up to an acre and possibly four or five acres around the existing home.

Bunch: Are you going to restrict access to lots 36 and 37 to Turner Drive?

Sloan: Yes.

Bunch: That begs the question of where is the fence. I guess the sidewalk will be outside the fence?

Brackett: Yes, the sidewalk is in the right of way, the fence will be outside of the right of way.

Ostner: Is there a space between the fence and the sidewalk?

Sloan: Yes, it will be landscaped.

Bunch: Also limiting access on lots 1 and 49?

Brackett: We have a note that all lots will access interior streets.

Bunch: There is that short turning radius and medians here will preclude some of that.

Sloan: That will stop that for sure.

Bunch: Unless there is a car space between it. Of course, you build out most of your subdivisions yourself don't you?

Sloan: I usually do but this one there will be quite a few builders, probably five or six builders in there with me at least. I don't have a problem with that. I just know on corner lots you guys like to have side garages but we are just talking about four lots being affected. I don't have a problem with it, I just hadn't thought about it.

Bunch: Do you think by the time this gets to full Planning Commission that you will have a better handle on what the fence will be?

Brackett: We are going to propose that.

Bunch: The one across the street was just a regular subdivision, it wasn't a PZD.

Brackett: Right, it came in before that ordinance was approved.

Ostner: I have a question. I'm not sure it is even for you guys. These corner elbows, I was trying to find some guidance in the development manual on the limit of width of streets. I know we accept cul-de-sacs but these are neither. How are these streets widening to 60' or 70' in the corners?

Casey: I don't know that you will find that in our manual anywhere. It has been accepted practice for years to do this in a residential subdivision. Our

minimum street standards state that the minimum radius for a street is 150'. If you did that in a subdivision like this you would have all radiuses and no straight portions of the streets. This is an option to overcome that. They allow the little bulb around the corners that gives plenty of room for turning movements. It also gives the benefit of adding additional right of way frontage for these corner lots. You are not forced to have the larger lots in the corners to make your frontage requirements. There are a few reasons for that. It has the same radius as our cul-de-sac which is 40' to the back of curb. Other than that, I don't know that you could find that anywhere in our minimum street standards or in our development code. It is just accepted practice.

Ostner: So, 150' minimum radius. I took my pen and paper last night and I'm pretty sure if it was just a curve that that would be real close to 150'.

Brackett: We've drawn it that way. A 150' cuts this lot out and it brings you out into here. Because this 150' on the centerline and then you have your additional 25' on the outside. It is substantial.

Ostner: Since this is a PZD those are all on the table. You get an extra lot in every corner. Those lots, even though their frontage at the right of way line is 70', their curb is tiny and the driveways tend to pile up as they do on many cul-de-sacs. This is just something that concerns me. I'm not sure how to resolve it because it is a standard practice but I just wanted to ask the question.

Anthes: I'm with you Alan, these things drive me crazy too. We see them a lot, I always know there is a Jorgensen plan coming through when we've got these little elbows everywhere.

Bunch: One thing that we have to remember is that these are R-PZDs and not Conditional Uses so we have to go by what the existing ordinances require on these sort of things. If we have plans to modify this I think that there is an avenue to present that to the Planning Commission and forward it to the City Council to alter the methodology of development.

Brackett: Our point of view is that it is standard practice. We do do it a lot. I don't feel that it is a safety concern. If the Planning Commission does feel like it is something that they would like to see we would hope that it would be brought forth as far as city policy before we are in the process.

Ostner: This is late into the game and I'm not sure that it is fair to ask it of you now. I understand that staff and no one has brought this up until now.

Anthes: It is just something that we have been kind of commenting on in the background and we need to start talking about. You are the first.

Bunch: You are the guinea pig to make this thing go forward to present to the City Council to see what they think of it.

Ostner: Since this is going forward as a legislative act by the Council, this 46th Street I understand is a minor arterial.

Warrick: 46th Street is a local street.

Brackett: It was a collector street before Persimmon came through and that collector street was moved over to Broyles.

Bunch: That was the relocation of the water line and everything for Broyles.

Ostner: The high speed alley that is being inadvertently created is not your fault. You all are following our procedures. I think our development standards need looking at. Part of the street's purpose is to provide frontage and we are requiring no one to have frontage. You all had to duplicate frontage on both sides. No one can face the street. We've got three streets where one could work. I think that is expensive. I think it is backwards. It is usually presented on the point of safety that this street is going to be high speed and we don't want people coming out from their driveways. I would like to challenge that philosophy. Not every street is a high speed street. I believe with frontage it reduces speed. When you create an alley of course you are going to speed, why not? No one is backing out, no one faces it. Here again, this is not really relative to your project, you followed the procedures. I want to bring that up. I don't think that is good Planning. I don't think it is good for our city to create these high speed alley ways.

Bunch: I guess what would really be the key to it is what happens if 46th is extended to the south.

Sloan: It won't be.

Bunch: As it stands right now, Persimmon is going to be a fairly close parallel if we look on this, to Hwy. 16 that is going to go down to Shiloh and it will go over to Double Springs. Broyles is being rerouted.

Ostner: That comes right back to the question is does every street that functions over 40 miles per hour have to be restricted to no frontage? I disagree. We have got lots of streets in town right now that function that way safely.

Bunch: The question here is this one being restricted for traffic reasons as much as it is aesthetic reasons. Once we have, I know that the statement is made

on here that we are restricting the access to it. I don't know if this is going to be a high speed street but it is going to be a busy street.

Ostner: Then why do we restrict access at all if it isn't going to be high speed? Why do we build streets not just to get from one place to another but lots of different functions. I believe this street has one function to get somewhere in and out, not to have dialogue, not to have yards.

Bunch: If access were granted along that street and this street were moved over we would still have the same number of streets and same number of accesses.

Ostner: This system where backs of houses touch backs of houses is sufficient, there is one frontage. This system where the backs of houses all have a very expensive street. It is awkward at the edges of development.

Bunch: If this street were here and a road was moved over that backed up to this there still would be very little gain. It would be virtually the same situation that we already have.

Ostner: No, you wouldn't have the backs of houses facing a street.

Bunch: That is one reason we have the fence in because of the backs of houses but if the houses face the street and then you have the houses back up to this and move this road over you are still going to wind up with the same amount of roads and a similar number of lots.

Ostner: No you are not. This system right here with the backs of houses on the backs of houses, four rows of houses and two streets. More than twice as much asphalt, more than twice as much traffic. This is not really on the point. I wanted to bring that up as a point of discussion.

Warrick: I would just add that I think it was during the development of Persimmon Place that 46th Street was downgraded from a collector to a local street and we don't want to have all of those curb cuts on a collector street. When that subdivision to the west was designed it was with the intent that that would be a collector street and not to have that many curb cuts onto 46th Street with it being classified in that fashion. After it was preliminary platted 46th Street was downgraded and Broyles was upgraded because of other situations.

Ostner: I understand that. There are streets that carry more traffic faster than streets that we call collectors.

Warrick: You were just asking about why we had a fence against that street for Persimmon and for this one. This one I believe the developer just chose to

mimic what was happening across the street. That was not a city requirement that they not access 46th Street.

Ostner: It makes sense. It has already been done once so you need to finish the project.

Sloan: It complies with what they requested.

Ostner: I am just trying to bring up for discussion that just because of the fact that it is a collector I disagree that it needs to have restricted access. We have streets that are bigger than collectors, Old Wire off of Mission carries a ton of traffic and people live on it.

Sloan: I agree with you. Across the street right here, we've had this discussion already. We would like to mimic what's happening with this house all the way down this thing with the wrought iron fence. These will be acre lots with an individual automatic gate to each lot which their drive would come out onto a collector street. We feel like 16 lots is not going to be a tremendous deterrent to a street.

Ostner: I think frontage is a key. An 85' lot on a major street might be dangerous, a 200' or 250' lot there is a big difference.

Sloan: That is what we propose to do on this side is to access this street this way since we are basically building it again. That gives us the opportunity to try to keep the character of the houses that are already there and then go from there to the creek. Then we would hit the creek and have a natural barrier.

Ostner: With a larger lot you are less apt to back out. You are more apt to turn around.

Sloan: We would probably require an oval drive, just like this. Each lot would have to have an oval drive so they would be heading out forward.

Ostner: That is just common sense. America was built that way and we have sort of fallen away from that.

Bunch: Looking at how this area is developing overall, regardless of how 46th Street is designated, it is going to function as a fairly heavy traffic carrier.

Sloan: We are working with the two land owners here. One of them is a friend of mine and we are basically going to be handling the development of that eventually over the next couple of years and with John Nock to go ahead and get this street built through eventually all the way through. We have

sort of a gentleman's agreement to try to get this thing resolved immediately. We are trying to funnel our people over to Rupple Road.

Bunch: As Hwy. 16 gets widened, I think the next phase is to widen it out to Double Springs. Eventually there may be a light at Double Springs and a light at Rupple. As this goes through and then being a straight shot to Shiloh, the current use of this area is going to change considerably. Of course, with the sewer plant going down through here and with the change in Broyles being a north south down to the Farmington area and Hwy. 62 we are going to see some major reconfigurations of the traffic patterns in the whole sector.

Sloan: We are trying our best to keep people off of 46th Street for the neighbor's sake. We are going to improve it on our end of it. That is a point of contingency that I have is I would rather my money be spent building sidewalks for them all the way to Hwy. 16 than building our street out. Leave the street like it is, put a sidewalk down it, back off the curb and gutter and spend the same money. Cut the check to the city or we will build it here is how many dollars we are going to spend to improve this between myself and the other developer. Let us take it and do something all the way to Hwy. 16 whether it be sidewalks, fill in one ditch on one side or whatever we need to do. Right now the rules say we need to improve this street.

Bunch: What we need is Charlie in on our long term planning for this area of town because he is doing most of the work out there.

Sloan: We hope to be back. Our goal right now is between this development and we have another project that we are trying to get annexed in, I know we are going to be held up because of the annexations. Our goal is to put Persimmon from Double Springs Road to the Boys Club. We will take care of making all of those connections with the next two projects, John Nock's project and the McBride project. That is what we are trying to piece together right now so that we have a road running parallel from Hwy. 16 from Double Springs. A lot of that comes from Farmington so they could turn down Persimmon and then turn to go to Broyles verses coming back on 16 and around.

Ostner: Hwy. 16 needs another outlet.

Sloan: We are trying to solve one of the problems as far as traffic.

Bunch: This part of Shiloh is one way isn't it?

Sloan: It is one way going south.

Bunch: There is still Betty Jo and Rupple.

Sloan: Right.

Ostner: If the north bound people stayed on Wedington the south bound could use this.

Bunch: We are diverging onto long range planning.

Sloan: We don't mind talking about long range with you.

Bunch: Especially since you are heavily invested in this area of town this is to your benefit. Moving this forward are any of the conditions of approval sticking points with the applicant issues for you all?

Ostner: Yes, number five.

Sloan: I know what is planned. We have two different neighborhoods. We are going to build a street that will give you connectivity because we are building a collector street that is only a few hundred feet away. We don't understand why we should have to connect. He has a totally different concept of what he wants to build there verses what we want over here. We don't really want to connect the two subdivisions together. I went to one of your street meeting things they had. Streets can be used for other things besides driving on like kids and things like that. I feel like if you keep making connections people will find a short cut even though there is an easier street one block down the road they are going to keep cutting through in places. He already has two or three connections that he has to make to Meadowlands that are already there that he has to tie into. We didn't see, since we would be making a connection here or here, preferably we would not make a connection here. The neighbors really didn't care to have this connection but we didn't see any reason if we are building this street for you here why we should have to make a connection here. It is not like they are going out on Hwy. 265 to go from Savanna to one of the other subdivisions.

Bunch: How about an alternative transportation path through there and have them walk or ride a bicycle as opposed to a street connection?

Sloan: We wouldn't have a problem if we had an easement or something through there to connect.

Bunch: I would personally be more in favor of that than the automobile connectivity just for the same reasons that you discussed to have the concept of a neighborhood and if there is a different theme in the

development next to it to have some sort of multi mobile connection but not necessarily automobile.

Sloan: I live on a cul-de-sac and I have two little girls and they have road their bikes out there for years on that cul-de-sac and I feel like if you can sort of keep some of the traffic contained into some of these smaller areas that it gives the kids an opportunity just to feel like you are not in a high traffic place. That is the main thing that we were looking at. We didn't see any sense in connecting those two together.

Bunch: I always use the Tulsa model of that where every ten blocks either north, south, east or west there is a major thoroughfare, regardless of what it is called, arterial or a collector or whatever. Within those ten block square areas there is traffic calming and less access just for that reason to have a neighborhood and have a place for children to play and to learn to ride bikes and learn about traffic and that sort of thing. Those of us who are addicted to automobiles have the every ten blocks we know that there is something. We don't have to have a major cut through every two blocks.

Sloan: We don't have a problem with doing that. Then across the street we have talked with Parks and Trails about connecting this neighborhood down toward the creek which will eventually have a trail through it too. We are trying to work it out where it will be more of a bicycle walking friendly neighborhood. Obviously, for kids the big draw is the Boys Club sitting over here and access to get there. That was one of the things that the neighbors commented to me, just get my children a way to get to the Boys Club without having to go around and that is what our proposal was. We will work together and make sure that we get that.

Bunch: If there is some way of coming up with an alternative path down towards Persimmon with bicycle and walking and all that, it would be a lot safer if the kids could cut through.

Sloan: That is something that I would have to get with John to coordinate but I don't think he would have a problem with it.

Anthes: What is his concept? How is it different?

Sloan: He is doing rear entry garages, smaller homes, alley ways I believe is what he is looking at.

Casey: He is showing an alley back here to access the back of the homes in the preliminary drawings that I saw. The access would go onto a public alley.

Warrick: We have looked at the adjoining project concept in concept. It is obviously, not in process yet. Staff is also recommending a connection to

the east. Our recommendation would be that lot 11 extend to connect to the vacant tract of land between 25 and 30 acres to the east. Yes, there is a concept for the development of that project. However, that concept may never come to pass. I believe it will. I fully believe that that project will come forward. As Matt said, that developer is looking at some rear entry alley access type configurations. When we spoke with him, when staff made him aware of our intent to have a cross access between this development and his he didn't love the idea but he did state of course, if he was required to connect he would connect. He was following up this project as he is following up development to the north that have stub outs with intentional connectivity to this vacant tract of land for future development. As his development is coming in behind all of these others he is having to respond to those other decisions that were made with regard to connectivity with that tract of land. In reality it is a timing issue as to who comes first and who has to react based on other people's actions and other decisions of the Planning Commission. Staff's opinion is that it is not just getting people on foot from one development to the next. It is getting mailmen, it's getting the UPS truck, the trash truck, getting everybody who needs to travel from one development to the next off of the more major streets for convenience purposes but also just because it is reasonable to do it. We are planning a street system for the city, not for individual developments and we need to ensure that they respond to each other but that they also can protect the integrity of developments. I think that it is very important that when we look at this we have to look at those macro issues. This is the city street system that we are trying to ensure reasonable connectivity in. That is why we made the recommendation. It is obviously, a point of contention and Charlie and I have agreed to disagree on this one and we will continue to do so amicably. We are looking for the Planning Commission to make a decision with regard to this connection.

Ostner: I would tend to agree with Ms. Warrick that these being developed from a development to the east in essence says this is our street and then this person says we have ours and we have ours. In my mind that is not what a city is all about. A city is all about these are our streets. If this is built in such a way that these people can't use it even to drive to their friend's house it is not a macro vision. I think lot 11 is a great place to put the connectivity. I think he could still have a completely different look. I have driven from subdivision to subdivision sideways not out on the major streets and you can tell how that changes. That could be his alley access right there, I'm not sue. I'm in favor of condition number five and it is something we have held a lot of other developers to.

Anthes: Exactly. I feel that there are a lot of other developments in this area that we are putting the same condition on and we need to be consistent in those decisions.

Bunch: What about lot 13 then as opposed to 11 or 15? From an Engineering standpoint, Matt, would that cause any problems with the turns and the radii? It would give a traffic calming affect. 15 would definitely be a straight shot through. 13 or 11, I realize 11 doesn't go through to 46.

Ostner: This is already your traffic calming, offsetting intersections is second best in my mind when intersections line up it is much safer. There are fewer intersections, there is one instead of two. No one is going to want to go through all of these stop signs as a cut through to go fast.

Sloan: How many times do I cut through Wilson Park a day?

Ostner: That is different. Those aren't offset like these. There is nothing for a quarter or half mile. That is why we all do it. There is nothing that is happening that way.

Sloan: There is a street that I'm building that is five lots down.

Ostner: That is why traffic won't cut through I believe because we find the path of least resistance and you'll go to it.

Sloan: I believe people will cut through here, through here and go through his. Even though it is not logical to do it.

Ostner: If these were lined up I believe that could be a problem.

Sloan: That is just like saying these people won't go up 46th Street if we don't have that there. They will still go up 46th Street. That is the reason I can see the neighbor's point of view. If this is here and we are funneling traffic back that way there will eventually be a light at Rupple and that is what we are hopefully planning on the traffic for that purpose.

Ostner: It is strange but cut throughs can go both ways. There is a high speed cut through and a friendly neighborly cut through. Connectivity is all about cut throughs but it is all about friendly, low speed neighborhood cut throughs. It is not high speed I'm going to cut through and ruin those people's neighborhoods. I think lot 11 would do that too.

Bunch: I know that this has been a rather drawn out meeting but I think we have touched on some important issues here because this whole area of town, these are issues that we are going to be looking at in the future and I would like to thank Charlie for giving us the opportunity to look at these. We are going to see this more and more as this area develops out so I don't think that the time that has been spent today, I think may have been wisely spent because these are issues that are constantly in front of us and that are

going to be in front of more and more rapidly and particularly as Persimmon goes through. Now that the Boys Club is built that is a motivating factor. I think you could probably tell us more than anyone since you have had considerable development in this area. I know that you are having a rather rapid build out.

Sloan: It is. This is the growth of Fayetteville right now. The bigger growth is going to be out in this area. The builders are excited about it. We have home owners calling about this area. The Boys Club is a big attraction. It is for myself. I have two little girls that made me join the new club. That is a big drawing power and we have hopefully some great plans for another benefit for the Boys Club with the next development. We hope to do some stuff that we actually build some stuff for the Boys Club and give it to them for additional recreational facilities for them. We have the space and we have some other area that we are not going to utilize so that is what we are trying to work with the other two land owners.

Bunch: Build out rates on your developments over off Double Springs Road really accelerated.

Sloan: It is unbelievable. It is going to make a great neighborhood. There are beautiful homes.

Bunch: You were concerned with phasing those in and blinked your eyes and were doing final build out. Are there any other comments on the conditions Charlie?

Sloan: No, I guess I will give into Dawn and give on number five.

Warrick: I think it is a win/win situation.

Bunch: What if it is a gated community?

Sloan: I tried one several years ago and I didn't know what the Planning Commission's feelings were on gated communities because it is a situation where it could be done very easily. We are going to put fake gates up here to match what goes up across the street. Is that a no around here?

Bunch: I don't know, we haven't run it up the flagpole yet. One of the things we will need Charlie since this is a PZD we will need a height and better description on the fence, height and location.

Warrick: I think it is pretty well described in the elevation drawing. I would be interested in understanding how it relates to the fence across on the other side.

Sloan: I just got a phone call this morning and he said please try to coordinate something.

Brackett: The fence for Persimmon was required by the Bill of Assurance. This is a voluntary act by this development and we really don't want to go into extraordinary lengths of developing this fence at this time when really what we would like to do is work with the developer across the street.

Bunch: I guess we can do that as a PZD, just call it out as an architectural type fence and then allow some latitude or does that get into substantial change venue?

Warrick: If you approve it allowing some latitude then it wouldn't be a substantial change if they came back with something different. I think that it would be appropriate for the fence to be of sufficient height to provide a screen which is typically considered 6' to 8' and if you are going to suggest that it is at least predominantly brick or masonry in structure then whether the panels set in are wood or wrought iron or some other type of material we can work that out.

Sloan: I would love to have wrought iron to match across the street but then you are looking in the backyards, I don't want you to look in my backyard so then you need to panelize that.

Bunch: I'm trying to limit the red tape on it. Normally PZDs are kind of nailed down but I think we may have some latitude depending on how you present it where we can specify an architectural fence compatible with the fence across the street.

Anthes: If you could bring a photograph of the fence across the street that may help as well.

Ostner: As part of the negotiating I would be much more willing to hand this off into the hands of the staff if you all would agree to plant a tree every 40' with a group of shrubs every 20'.

Sloan: Hopefully all the corners will be landscaped. I was hoping to come out here and do a short wrought iron fence or something that matches here and then we can do flower beds. The same thing with the entry. Chris has a common area with the entry for planters and hopefully down here we can do some small landscaping and maybe a tree wherever the panel happens to hit with the brick panel.

Ostner: I think that would make a big difference. In fact, I would include that with the fence in my mind because that is what you see, you see the fence and

the landscaping. Two fences with no landscaping can be really oppressive.

Sloan: Landscaping will be there. That is to try to break it up. Brick fences look good at first and then you need something to break it up.

Ostner: You've got a couple of trees and then some landscaping.

Sloan: I didn't know I was going to have to furnish that but that's easy enough to draw that on a cad program, stick it in there and try to come up with something pretty quickly.

Ostner: Since this is a PZD everything becomes law.

Sloan: I will try to get somebody to work on a couple of renderings and come down with something.

Ostner: I would bet that more landscaping on paper would be more helpful.

Bunch: Actually he has a little extra time because of the holiday. This is Tuesday instead of Thursday and then the agenda session so you have time to work with your neighbors and then come up with a presentation. Let's get this one on the road.

MOTION:

Ostner: I will make a motion that we forward R-PZD 04-02.00 to the full Planning Commission.

Anthes: With the connectivity at lot 11?

Ostner: With condition number five talking about a street connection to the east being made at lot 11.

Anthes: I will second.

Bunch: Do we want to specify at lot 11 or do we want to leave that to Charlie to negotiate with staff between now and the full Planning Commission?

Brackett: We are going to put it on lot 11.

Bunch: I will concur. Good luck.

R-PZD 04-02.00: Residential Planned Zoning District (Cross Keys, pp 438) was submitted by Chris Brackett of Jorgensen & Associates on behalf of Charles Sloan and Sloan Properties for property located south of Wedington Drive at the corner of N. 46th and Persimmon Street. The property is currently zoned R-A, Residential Agricultural and contains approximately 38.48 acres. The request is to rezone the subject property to a Residential Planned Zoning District to allow for the development of a residential subdivision with 108 single family dwellings proposed.

Hoover: On to item number two on the agenda, R-PZD 04-02.00 Cross Keys. This is for property south of Wedington Drive at the corner of North 46th and Persimmon Street. Suzanne?

Morgan: The developer's engineers failed to comply with the notification requirements for this item and we are requesting that this item be tabled until such time that the notification has been completed.

Hoover: Thank you. Do we need to vote on this?

Warrick: In order for it to properly go through the process notification will need to be given in a different manner than it was originally and it will have to be heard again at the Subdivision level as well as Planning Commission. I think it is more of a procedural issue on the administrative side to ensure that it gets through that process properly. Mr. Whitaker, do you think that any additional action needs to be taken?

Whitaker: I think that since it was read as an item of the agenda and folks probably were expecting to hear something about it a motion to table and a vote would be appropriate for the record.

Anthes: I move to table R-PZD 04-02.00 to follow administrative procedures.

Bunch: I will second with

Hoover: Welcome to the Monday, February 9, 2004 meeting of the Fayetteville Planning Commission. Renee, will you call the roll please?

Roll Call: Upon the completion of roll call there were nine Commissioners present.

Hoover: Thank you. The next item of business is approval of the minutes from the January 12, 2004 meeting and the January 26, 2004 meeting. Do I have a motion for approval of the minutes?

Allen: So moved.

Church: Second.

Hoover: Call the roll please.

Roll Call: Upon the completion of roll call the motion to approve the minutes from the January 12, 2004 meeting and the January 26, 2004 meeting was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

R-PZD 04-02.00: Residential Planned Zoning District (Cross Keys, pp 438) was submitted by Chris Brackett of Jorgensen & Associates on behalf of Charles Sloan and Sloan Properties for property located south of Wedington Drive at the corner of N. 46th and Persimmon Street. The property is currently zoned R-A, Residential Agricultural and contains approximately 38.48 acres. The request is to rezone the subject property to a Residential Planned Zoning District and to approve the development of a residential subdivision with 108 single family dwellings proposed.

Hoover: Thank you. The first item of business is under old business, it is R-PZD 04-02.00 for Cross Keys. Suzanne?

Morgan: Yes Ma'am. The subject property is located south of Wedington Drive at the corner of N. 46th and Persimmon Street. The applicant is requesting a rezoning and a Preliminary Plat approval for a residential development with an R-PZD zoning district. The proposed use is single family residential with 108 lots proposed. Density for the entire site is 2.81 units per acre. Connectivity from this proposed residential subdivision is being provided west to 46th Street, south to Persimmon Street and east to a vacant tract of land for connectivity to future development. Street improvements include construction of Persimmon Street along southern property line and a recommendation from the Engineering Division to cost share for the developer to overlay the entire width of 46th street. Findings by staff include the applicant ha submitted a Bill of Assurance and Protective Covenants for this Cross Keys subdivision. The R-PZD is located on land identified on the General Plan for residential use and the

density will not negatively impact surrounding properties. The subdivision is also near the Boys and Girls Club and will be able to promote community for this area. Permitted uses, the applicant is requesting Use Unit 1, City Wide Uses by Right, Use Unit 8, Single-Family, and Use Unit 24, Home Occupations. Staff finds that a development with 2.81 units per acre is consistent with the General Plan and connectivity is being provided. Staff recommends that this be forwarded to the City Council with a recommendation for approval of the requested rezoning and Planning Commission approval of the proposed Preliminary Plat subject to 14 conditions. Some of which include Planning Commission determination of appropriate fence material if desired and appropriate timing for installation. The fence shall not encroach upon any rights of way or easements. Condition five, Planning Commission determination of street improvements. Staff recommends 14' from centerline of the 46th Street including curb, gutter and storm sewer and to modify condition seven to read "Allowed uses in this R-PZD will be restricted to Use Unit 1, City Wide Uses by Right, Use Unit 8, Single-Family, and Use Unit 24, Home Occupations. Staff has received signed conditions of approval.

Hoover: Would the applicant come forward please?

Jorgensen: Yes, my name is Dave Jorgensen, I'm sitting in for Chris Brackett who is on seminar all week long. We are here to answer questions and try to move this along in the process speaking on behalf of the owner. As Suzanne mentioned, we did sign all of the conditions. We are in agreement with all of the conditions.

Hoover: Thank you. At this time I will open up this R-PZD 04-02.00 to the public. Is there any member of the audience who would like to address this Planned Zoning District? Yes Sir, please come forward.

Adams: My name is Gary Adams, I'm a homeowner at 760 N. 46th Avenue which is the feeder street that goes down to this proposed development. The only problem I have is the fact that 46th Street was a feeder street, I suppose now maybe it has been changed, buy only by maybe definition. It didn't meet all of the requirements. It is still lacking in those requirements and yet we've got one new subdivision going in and we are asking for another one now to be ok'd and 46th is going to be one of the major arteries for both of these subdivisions and it is going to cause a lot of potential traffic problems out our way. We've got that concern. We wish something could be done with 46th Street. We were told when the other subdivision was going in that there wouldn't be a lot of dump trucks going down our road because it would be coming in from 54th Street. If you take a drive down our road today it is mostly red clay where hundreds of dump trucks have been going up and down 46th Street to the subdivision that is being built

currently. We do have a bit of a problem with respect to 46th Street. We feel like it needs to be developed before we have additional units put in there. Everything Charlie has told me about the project does sound like a good project. It is just that I wish the city would do something with respect to 46th Street. I know that originally Charlie didn't plan to have an outlet onto 46th Street but the city apparently required him to do that and it is going to be a pretty major problem I think whenever we get all of those houses into our area. I wish something could be done on 46th Street. Thank you very much.

Hoover: Thank you. Is there any other member of the audience that would like to address this Planned Zoning District? Seeing none, I will bring it back to the Commission. Staff, would you respond to that question about street improvements on 46th Street?

Casey: Street improvements are being recommended and proposed due to development along 46th Street but only the length of the project. The other streets involved with this entire construction, the entire width of construction of Persimmon along the southern boundary of the project and also the interior streets to the project. The thought behind this was with the next phase of development that we will hopefully see this year will connect Persimmon all the way to Rupple and Rupple will be one of the main thoroughfares. Also, Broyles Avenue to the west through the Persimmon Place subdivision that we saw last year, will be constructed all the way up to Wedington this year. It has already been bid. Construction should start at any time. We are looking at Persimmon almost 100% improved through that area all the way to Rupple, Broyles all the way from Persimmon to Wedington and then the section of 46th Street along the project side. There should be plenty of improved surfaces for them to exit out to Wedington on in the near future.

Hoover: Thank you. Subdivision, were there any specific items that we need to address or were all your concerns taken care of?

Bunch: I think most of the concerns were taken care of. There was one question, it is the interconnectivity with this and the potential subdivision to the east and I don't know if that has been addressed. We might have the applicant respond to that. Basically, we talked about street improvements, fence and that sort of thing. It is a pretty straight forward project.

Jorgensen: Thank you Don. I will try to address this connectivity. By any chance do you all have in your packet a picture of this project and the project that is immediately to the east of this? It would be a large sheet of paper. I was thinking that you all had that. We have a version that shows these connections. In lieu of that, if you will refer to your vicinity map that is on the Preliminary Plat that will help us. It is up there in the right hand

corner of the Preliminary Plat. If you will notice the darkened area is the 40 acre project that we are talking about right now, Cross Keys. Immediately to the west of that in the audience they have mentioned 46th Street. Immediately to the west of that is Persimmon Street. Matt mentioned that Broyles Street, you can see a dash going up to Wedington, that is going to be constructed starting this year. The connectivity that Don is mentioning is the project immediately to the east of that shaded area which is the remainder of Meadowlands Phase II and Phase III, it is also being referred to as Rupple Row, it goes all the way from this project to Rupple Road. This project right here has 2.3 lots per acre. The project to the east of this is I'm not sure what the density is, but it is definitely more than this, it is a completely different type neighborhood. I am not going to get into a dogfight on this connectivity issue but the developer of Cross Keys and also the developer of the project to the east wish that this connection not be made. I know it has been traditional that the Planning Commission has asked for connectivity for obvious reasons but there is two different types of neighborhoods. I will let Charlie Sloan address the differences in these neighborhoods. It was thought that there would be adequate connectivity by going down to the south down to Persimmon Street and then going east over to Rupple Road or you could go west and hit Broyles Avenue and I will let Charlie address that. He's got a better idea about that.

Sloan: Hi, I'm Charlie Sloan, I'm the developer on this project and the owner. After visiting with John Nock on his project proposed to the east of us we really didn't want to make a connection. We didn't mind doing a pedestrian connection but we felt like that on my project if you count there are four lots down from where the connection is proposed, I'm building Persimmon Street. We are going to build a collector street there. We felt like we were still in the spirit of connectivity, we don't feel like you have to get out and drive around like some of the neighborhoods where you have to go maybe a mile around just to get to the next neighborhood. We are talking just a few lots over. We just felt like with that connection that we would have people cutting through. John feels like more through his project that there was more of a chance that my people would cut through his project than his would come through mine. One of the things that we talked about was traffic going through there with that connection was the fact that I attended one of the seminars here about uses of streets and street designs. One thing streets can be used for besides driving on is for children to play in. As long as you don't have traffic that doesn't belong in that neighborhood cutting through there those streets could be used for more than just traffic and that is the reason we just felt like that connection wasn't necessary. I know we discussed this twice in the Subdivision Committee meeting. I know the policy is connectivity, it is just one of those things that we wanted to address and see, we felt like maybe that was something since we are building a road right here beside us that we

wouldn't have to connect. We didn't mind doing a walking which would encourage walking, bike riding or something like that between the two neighborhoods. His has rear entry garages is what he is proposing, which will have alleyways backed up to me. We will be more of a ranch style home, bigger homes. Technically you would leave my neighborhood and go right into an alleyway of his is what you would end up with. We just felt like we were two different type projects and we would just like to keep that separation so each one could sort of keep it's identity. Yet, we didn't feel like we were impacting. I think he has got three or four connections, two connections to the Meadowlands he has to make, two on Persimmon and I think one more on Rupple so he is going to have four or five connections coming into his neighborhood. That's all I can say on that particular reason. The other thing that I had talked with Gary Adams had been 46th Street. We are improving 46th Street on the south end of 46th Street. I think that the problems they are having are up on the north end. Once again, we didn't have problems, I don't know if this is the forum to address it. Money that we would spend on the south end could be spent more or less on the north end to maybe widen that for so many feet so when people pull off of Wedington it is not a narrow road. I don't care where the money is spent as long as it is spent in the best place verses us curb and guttering the south end which the problem is really not at the south end, the problem is more at the north end. Whatever we can do, we are proposing, it's not on the plans, we are going to go ahead and extend our sidewalk up to the next street to try to make a connection so it would be easier for that neighborhood to get onto our sidewalks to come on down to hopefully be able to walk to the Boys Club and make it a little bit easier for pedestrian traffic. That's all I've got .

Hoover: Thanks. Are there any other comments?

MOTION:

Ostner: I would like to make a motion that we approve R-PZD 04-02.00 to the full Council with the conditions as stated.

Hoover: I have a motion by Commissioner Ostner, is there a second?

Allen: I will second.

Hoover: Is there more discussion?

Bunch: I would like to offer an amendment to eliminate the vehicular access to the subdivision to the east and have it remain as a pedestrian and non-motorized vehicle access way.

Hoover: Does anyone want to second the amendment?

Shackelford: I will second it.

Hoover: We have an amendment by Commissioner Bunch and a second by Commissioner Shackelford to make the eastern connection pedestrian only, not vehicular.

Bunch: Not motorized vehicle. It could be bicycles, scooters.

Shackelford: For the record, that is the connection that lies between lots 10 and 11.

Hoover: First we are going to vote on the motion to approve as is on the drawings?

Williams: No, on the amendment first.

Hoover: Is there anymore discussion about the amendment?

Anthes: A question of the applicant. You say that Putting Green Drive if it extends to the east lines up with the alley in Mr. Nock's proposal?

Sloan: Yes, he would have a street extending on. Once you leave my property the first thing you are going to hit is his alley. He will run an alley parallel with my property line. I guess I didn't make that plain. Obviously, if I put a street to my property line he is going to pick up the street. I'm just saying the first thing that we hit are his alleys feeding the back of his properties and stuff like that.

Anthes: You would cross that alley but you would still be on a street?

Sloan: Right. He would have alleys feeding into that street. We agreed to put a fence up between us and everything else. I'm just saying as you pass through there he has alleyways running behind is what he is proposing from behind his houses with all rear entry. I'm just saying that that is sort of what we would be feeding into would be his alley ways there. Obviously, it would be a street going into another street. One of the things John is wanting to propose is because he is going to rear entries is to propose the 24' wide street, the smaller residential street. Here again, that is not determined by the numbers yet but that is what he is proposing. He is going to have a little bit narrower streets so that is another reason for him not wanting my traffic cutting through his neighborhood. There is one little loop when he puts everything together there is one little short cut that people might have a tendency to take to get to Rupple Road verses going out Persimmon and taking Persimmon over to Rupple Road and coming around. That is one of the fears that he had was more traffic. I thought John would be here tonight but more of my traffic going through his project.

Anthes: Staff, have you seen this project?

Warrick: We've seen a concept drawing of this project. It is not in process. If there is a connectivity requirement or if there is not the Planning Commission will be asked to review the project to the east of this site and determine the appropriate connectivity and layout.

Anthes: My question is have you seen the layout and are you satisfied that this connection can be met?

Warrick: Yes.

Anthes: Thank you.

Hoover: Is there any other discussion on the amendment?

Graves: I just have a question on the conditions of approval number four and five have some Planning Commission determinations included and the motion was to accept those conditions or include those conditions, we need to make a determination even if it is the staff is going to decide that or whatever, we need to make some kind of determination on that I think.

Hoover: Can we do that after we vote for the amendment?

Williams: Before the amendment but not before you vote for the whole thing.

Hoover: Right.

Graves: I think the amendment has to be voted on first.

Hoover: Is there any other discussion on the amendment?

Bunch: I would like to make one comment from the General Plan 2020, and this is in your packets on page 1.15, 9.8F, it says "Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services." Having an alternative transportation mode connection does promote alternative transportation and possibly would discourage people from just jumping in the car and driving over to the next door neighbor's to encourage walking and that sort of thing. There is still, if the amendment is approved, there is reasonably close access for vehicular traffic and I think that by changing that connection to an alternative transportation mode that it is in keeping with our 2020 Plan directives.

Hoover: Is there anymore discussion?

Ostner: We've discussed this at Subdivision, as might be apparent at this point. The reason I think that we should approve the drawing as drawn is that when we start doing little sidewalk cut throughs, which is what we are talking about. Changing this street connectivity, driving connectivity, to everything but driving, I believe quite the opposite happens. I believe it becomes for kids. I believe it becomes mostly for people who cannot drive or who are not driving. I think connectivity has a certain status. I think we are living in a car culture. We wrestle with that a lot but this is a car culture. If we start to let subdivisions enclose themselves without street connections, driving connections, like we did in the old days, our other streets get traveled more heavily by cars because there are no other options. That is really the point of connectivity is people say well, I have no choice, I have no other way to go, I have to get out on this street. We started doing connectivity to give people options because people do drive a lot. With a full street people have all of the options. They can drive because that is just what we do but they can also do everything else. They can walk on the sidewalk, they can take bikes and alternative transportation and that is the thing about connectivity that I believe is important. Our whole town becomes, for lack of a better word, a cut through, but we don't want it to be a fast cut through. If you have to get through and you have to take another way there is another way. I believe it should be a driving connection as it is drawn. That's it.

Allen: How would we proceed with this voting because Commissioner Ostner was the one that offered the initial motion.

Hoover: All we are going to vote on is the amendment right now not to do the vehicular eastern connection. Then we will proceed to the next level.

Shackelford: Obviously, I seconded the motion for the amendment so I'm in support of this. I agree with Commissioner Ostner that this will be a place that kids are going to use. I, on the other hand, I support that. I think this is going to make this area safer for the kids in both neighborhoods. This is an area that there are going to be a lot of kids walking and riding bikes with the close vicinity to the Boys and Girls Club. Whenever I looked at this I thought that was a good idea simply because there is pretty close connectivity to the south and east on Persimmon if you had to take vehicular transportation through here that this might be a safer alternative for the children of both neighborhoods by cutting down on some of the interior traffic on some of these smaller roads. That is kind of the thought process that I went through in my decision of whether or not I would support this.

Vaught: I have just two quick questions. It is my understanding that if we go to pedestrian only the right of way remains the same, we are not going to

shrink that down to like 6' wide that it is going to be a wider connection of some sort? Have you guys had that conversation with the developers?

Warrick: We don't require a right of way for a pedestrian connection. Usually it is an access easement.

Vaught: I would like to see it remain the width it is so you don't shrink it down and have fences on either side so it is a small little alleyway to get through between the two. Also, my concern is the connection on the other side that it remains of the same character getting them to the streets and sidewalks in the next addition. You could build alleyways all down there and that could dead-end to the back of houses if it is just a little access easement. I would like to see that continued through in the next development. I do like the idea of making it pedestrian only, or non-vehicular only. I do think kids will primarily use it but I don't think that's a bad thing. I think that could be good with the vicinity of the Boys and Girls Club and some of the other things going in this area and the heavy residential development in this area.

Hoover: Is there any other discussion? We have an amendment to do no vehicular access on the eastern connection, that would be a yes vote.

Bunch: That would be the eastern extension of what is shown as Putting Green Drive between lots 10 and 11 and east of Mulligan Drive.

Ostner: Yes means for alternative transportation only?

Hoover: Yes. Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to amend the conditions of approval to eliminate the eastern connection of Putting Green Drive was approved by a vote of 5-4-0 with Commissioners Anthes, Ostner, Hoover and Allen voting no.

Thomas: The motion passes five to four.

Hoover: Thank you. Looking at the Planned Zoning District as a whole. We have a motion but we have two discussion items. Item number four, staff would you respond to this? Is there a recommendation on what kind of fence? I thought usually that would be decided on before it got here.

Warrick: The applicants presented a proposal, you should have drawings in your packet. The question is should there be a fence and should it look like what they are proposing.

Anthes: On page 1.15 of our packet, calling from the General Plan 2020 regarding community character, 9.19d clearly states "Discourage perimeter walls and guard houses around the perimeter of new residential developments and promote "connectivity" to increase accessibility and provide more livable neighborhoods." We have a strange condition here in that we are building three streets where we really should be building two. These backyards could easily adjoin each other without the street and creating this alley condition going through with a raceway with fences on either side. Can you tell us, at Subdivision when this was seen we didn't know what was happening on the other side of the street from this development, do we know now?

Warrick: We know now that the applicant for Persimmon Place Subdivision, the Bill of Assurance that they provided when they were zoned for that property to be developed for the single family subdivision, Persimmon Place, one of the conditions in that Bill of Assurance was that they construct a masonry wall adjacent to 46th Street on the edge of the property. Part of that had to do with concerns of the neighbors with regard to noise and the appearance of the subdivision. They have in house submitted to the Planning Division a request for the Council to consider reconsideration of that Bill of Assurance to provide a more aesthetic fence wall that is more consistent with what is being proposed for Cross Keys. I have asked them to bring us that information so that it can be provided to the Subdivision Committee as well as the Planning Commission before it is forwarded to the full Council because it does have a lot to do with what happened through the Planning process on the Persimmon Place project. One of the reasons that I believe these two developments ended up backing up to 46th Street, which is not necessarily, a desirable condition based on the information that you just sited out of the General Plan, is that when Persimmon Place came through the Preliminary Plat process 46th Street was designated a collector on the Master Street Plan. As that project was approved and shortly thereafter in timing, that street was downgraded from a collector status on the Master Street Plan to a local street and the collector status was then granted to Broyles Road which is on the opposite side of Persimmon Place west of the project. That had to do with a better connection getting from Wedington Drive all the way south to 6th Street but it did affect what had already been approved through the Preliminary Plat process for Persimmon Place. That is kind of where we are with that process. These two projects, you are right, we do have that section of the General Plan that discourages perimeter walls. There is concern that with both of these subdivisions having large tracts of land just walled off on either side of 46th Street that we will have a condition that is not as conducive to community as we would prefer.

Hoover: If I'm understanding the plans correctly, because they have all their backyards facing the street is the need for the fencing. That is not the preferred way but I can see the reasoning behind it.

Anthes: It is because of the fact that we have this three street condition instead of a two street condition which you would normally see in this instance. Knowing that and knowing that the people that purchase these homes would probably rather have some sort of screening, the idea that that would be as they are shown masonry with a wood infill that might have a little bit more transparency to it, seems a little nicer than a huge masonry tunnel going down between those two properties.

Sloan: Precisely. I just wanted to address it. We started out trying to only duplicate what had already been passed before just for compliance sake. We didn't want to fight or do battle again. Once we sort of designed it and looked at it and went and looked at some fences, a masonry fence is pretty stark. It wasn't what we wanted. We were trying to figure out some sort of textures. You do have the back of the houses looking at you and I know in my home you don't want to see my backyard. You want me to have a fence up so that is the reason we were trying to figure out what we could do. Basically, do partially brick, partially shadowbox fence of some design and the main thing was landscaping. We talked to Commissioner Ostner about having trees every 40' or 50'. We went back and talked to the owners of Persimmon Place and said could we not work something out that compliments each other so we don't have one side looking like one thing and another side looking like something else and so they were gladly in agreement to do it. I said put a little bit more emphasis on landscaping and everything. Across the street we are coming back with a proposal that on the south side of Persimmon Street all the way from Broyles Road possibly almost to the Boys Club that will all be white wrought iron fencing. We don't want to block the view of everything to the south. We are trying to do something with this one that sort of fits that project that will come forward later on that compliments it and that is the reason, one of the things for the curved wall at the intersection so we don't have a square wall. Create more visibility and landscape that corner so that although it is not the entry. What you are seeing is perspective of a drawing sitting at 46th Street and Persimmon looking east on a road that hasn't been built yet. We are trying to make that a focal point on the corner so it is not as stark and just a square box and not just boxed off so we were just trying to look at some different products to use there. We told staff we didn't mind working with them on what we came up with between the two projects, something that is pleasing with the neighborhood. We are visiting with the neighborhood. This started from one of the neighbors saying look, I don't really want that wall. The person that wanted that wall is no longer really there, I've bought him out. Now

maybe we will have an opportunity to relook at the thing if everybody is willing to come up with something that is a little bit better of a plan.

Anthes: Will your P.O.A. maintain this wall?

Sloan: Yes, just as it would the walkway space and we have no problem leaving the same spacing on the walk way between the two projects.

Anthes: That is item four right?

Hoover: Yes. Is there any other discussion about the fencing? Onto item number five, staff's recommendation for improvements 14' from the centerline of 46th Street.

Warrick: I would ask that as the Planning Commission is making those determinations that you also determine that Persimmon Street on the south be fully constructed. It is not listed on there but is listed in the findings.

Hoover: Do you want that to be item fifteen or include that with item five?

Warrick: It is pertinent with item five that it also include the construction of Persimmon Street along the south property line to 28' with curb and gutter.

Hoover: Are there any comments about staff's recommendations. Are we in agreement or does anyone have a problem?

Vaught: I would rather see the road next to this fully developed instead of having half of it developed on the other side of 46th and leaving the other side next to this addition not fully developed. I would like to see the whole road finished out rather than take the money and shift it further north on the road as the developer mentioned. I think that that will come in time as well as more development comes through. I would like to see the road completed.

Hoover: Staff, do you have a comment on that?

Warrick: I believe that is consistent with our recommendation.

Bunch: In that same view, a question for staff. Is the other side of this being comparable improvements being put in by Persimmon Place?

Warrick: Yes, along 46th Street they have the same requirement.

Shackelford: Did we get a second to the original motion?

Hoover: We did but I can't remember who it was.

Thomas: It was by Commissioner Allen.

Hoover: I guess we need to ask the first and the second are you in agreement with Persimmon Street on the south being constructed?

Ostner: Yes, to change condition number five to include staff recommends 14' from the centerline of 46th Street including curb, gutter, and storm sewer and 28' along Persimmon along the south edge of the property.

Hoover: Is there anymore discussion? Renee?

Roll Call: Upon the completion of roll call the motion to forward R-PZD 04-02.00 to the City Council was approved by a vote of 9-0-0.

Thomas: The motion carries by a vote of nine to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: March 2, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

R-PZD 04-02.00: Residential Planned Zoning District (Cross Keys, pp 438) was submitted by Chris Brackett of Jorgensen & Associates on behalf of Charles Sloan and Sloan Properties for property located south of Wedington Drive at the corner of N. 46th and Persimmon Street. The property is currently zoned R-A, Residential Agricultural and contains approximately 38.48 acres. The request is to rezone the subject property to a Residential Planned Zoning District allowing for 108 single family dwellings, a density of 3.56 units per acre.

STAFF RECOMMENDATION: Approval.

Dawn L. Warrick — 2/13/04
Division Head — Date

2/19/04
City Attorney — Date

2-18-04
Department Director — Date

Finance & Internal Services Dir. — Date

2-19-04
Chief Administrative Officer — Date

2/19/04
Mayor — Date

Received in Mayor's Office — Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 2/17/04

City Council Meeting of March 02, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director TC.

From: Dawn T. Warrick, AICP, Zoning and Development Administrator DTW

Date: February 12, 2004

Subject: Residential Planned Zoning District for Hickory Park (R-PZD 04-05.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating the Residential Planned Zoning District (R-PZD) for Hickory Park. This action will establish a unique zoning district for development of a 4.429 acre tract located west of Crossover Rd and north of 2730 E. Township Street (St. John's Lutheran Church). The request is to rezone the subject property to a Residential Planned Zoning District with a total of 14 single family lots.

BACKGROUND

The applicant requests a rezoning and preliminary plat approval for a residential development within an R-PZD zoning district. The proposed use is single-family residential (use unit 8), with 14 units on approximately 4.429 acres. Density for the entire site is 3.16 units per acre. The site is located north of Township St. and east of Crossover Rd. Currently the property is zoned P-1, Institutional and identified as residential on the General Plan 2020. This site is currently vacant. Surrounding areas are zoned RSF-4, R-A, and P-1 and contain single family homes with St. John's Lutheran Church located to the south.

The proposed subdivision will access Crossover Rd and generate approximately 134 vehicle trips per day. Internal streets are a combination of public and private drives with the primary street being a 350 foot long cul-de-sac. Shared drives and build-to lines will be utilized within this development. A POA will be established to maintain private drives and entry features.

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on Monday, February 09, 2004. The Planning Commission modifed conditions to eliminate the build-to lines on lots 4, 7 and 8.

Planning Commission recommends that the City research a cost share of sidewalk construction along the esat propery line of the lot south of this development.

BUDGET IMPACT

None.

2/17/04

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED (R-PZD 04-05.00) LOCATED NORTH OF 2730 E. TOWNSHIP STREET, CONTAINING 4.429 ACRES MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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

Section 1: **That the zone classification of the following described property is hereby changed as follows:**

From P-1 Institutional, to R-PZD 04-05.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. **That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on February 9, 2004.**

Section 3. **That this ordinance shall take affect and be in full force at such time as all of the requirements of the development plan have been met.**

Section 4. **That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.**

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 04-05.00

A PART OF THE SW ¼ OF THE SW ¼ OF SECTION 31, T-17-N, R-29-W DESCRIBED AS BEGINNING AT A POINT WHICH IS N01°25'41"E 504.20 FEET FROM THE SW CORNER OF SAID SECTION 31, SAID POINT OF BEGINNING BEING A SET IRON PIN; THENCE ALONG THE EAST BOUNDARY OF CEDARWOOD ADDITION, N01°25'41"E 281.03 FEET TO A SET IRON PIN; THENCE ALONG THE SOUTH BOUNDARY OF GLENWOOD ADDITION, N74°07'53"E 514.84 FEET TO A FOUND IRON PIN; THENCE ALONG THE WEST RIGHT OF WAY OF ARKANSAS STATE HIGHWAY NO. 265, S02°28'36"W 531.81 FEET TO A SET IRON PIN; THENCE LEAVING SAID HIGHWAY, N88°51'16"W 130.63 FEET; THENCE N50°21'20"W 160.64 FEET; THENCE N88°51'14"W 224.99 FEET TO THE POINT OF BEGINNING, CONTAINING 4.4291 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of February 09, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
	Matt Casey, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	February 4, 2004

R-PZD 04-05.00: Residential Planned Zoning District (Hickory Park, pp 294) was submitted by Millholland Company on behalf of St. John's Lutheran Church of Fayetteville for property located at 2730 E. Township Street. The property is zoned P-1, Institutional, and contains approximately 4.429 acres. The request is to rezone the subject property to a Residential Planned Zoning District and to approve the development of 14 residential lots. Planner: Suzanne Morgan

Findings: The applicant requests a rezoning and preliminary plat approval for a residential development within an R-PZD zoning district. This item must be heard at City Council pursuant to the requirements for a PZD. The proposed use is single-family residential, with 14 units on approximately 4.429 acres. Density for the entire site is 3.16 units per acre. The site is located north of Township St. and east of Crossover Rd. Currently the property is zoned P-1, Institutional and identified as residential on the General Plan 2020. This site is currently vacant.

The proposed subdivision will have one access to Crossover Rd. Forty feet of right-of-way will be dedicated from the entrance of the subdivision to the landscaped island roundabout. The two extending drives are proposed as private drives to be the responsibility of the developer or a neighborhood property owners association. The subdivision is proposed to have a 6' solid privacy and retaining wall surrounding the east property along Crossover, a 13' wide landscaped island at the entry way of the subdivision, and a landscaped island with a mail kiosk at the terminus of the right-of-way.

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Single family res. – Glenwood Addition (2.47 units/acre)	RSF-4, Residential Single-family – 4 units per acre
South	St. John's Lutheran Church	P-1, Institutional
East	Single family residential	R-A, Residential Agricultural
West	Single family res. – Cedarwood Addition (3.17 units/acre)	RSF-4, Residential Single-family – 4 units per acre

Right-of-way being dedicated: 40' for interior right-of-way, and 55' from centerline of Crossover Rd.

Trip Generation Calculations: 14 single family detached dwellings will produce 134 two-way trips per day. Crossover Rd is a principal arterial and can sustain a volume of 20,600 trips per day. Current traffic counts on Crossover and Township are 16,000 trips per day according to the AHTD 2002 traffic count.

Adjacent Master Street Plan Streets: Crossover Rd. (principal arterial)

Tree Preservation: A report from the Landscape Administrator is included in the staff report.
Existing canopy: 100 %
Required canopy: 25 %
Preserved canopy: 26.82 %

Public Comment: Staff has received several calls regarding neighborhood concerns with drainage, traffic, tree preservation, and safety issues in regard to the round-about.

Background: The applicant submitted this proposal on January 15, 2004. It was presented to the Subdivision Committee on January 29, 2004 and forwarded it to the Planning Commission. Discussion included shared drives, maintenance of the underground detention pond, tree preservation, and the landscape island at the entrance of the subdivision.

Recommendation:
Forward to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed preliminary plat subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district for R-PZD 04-05.00 with all conditions of approval as determined by the Planning Commission.

2. An ordinance creating this R-PZD shall be approved by City Council.

3. A Final Plat is required to legalize the lot configuration, filed pursuant to City of Fayetteville requirements.

4. Property line adjustment shall be filed prior to final plat approval.

5. Revised covenants to include maintenance requirements as found in section 166.06 of the UDC and revisions to the lots with shared drives to reflect the approved plat shall be filed with the final plat.

6. Use shall be restricted to use unit 8 only.

Standard Conditions of Approval:

7. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

8. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

9. Payment of parks fees in the amount of **$7,770** for 14 single-family lots shall be required prior to Final Plat.

10. Street lights shall be installed along all street rights-of-way spaced a maximum distance of 300' apart.

11. Sidewalk construction in accordance with current standards to include a six foot sidewalk and nine foot green space along Crossover Rd. and a four foot sidewalk with four feet of greenspace along all proposed streets.

12. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

13. Preliminary Plat shall be valid for one calendar year.

PLANNING COMMISSION ACTION: **__yes__ Required**
_X_ Approved **_____ Denied**

Date: **February 09, 2004**

Shackelford/Vaught 2 w/ recommendation that the City research a cost share of the sidewalk construction along the east property line of the church (South of the proposed development). 9-0

Comments:
Additional Condition: Eliminate build-to lines on lots 4, 7, + 8

The "CONDITIONS OF APPROVAL", beginning on page one of this report, are accepted in total without exception by the entity requesting approval of this development item.

_____
By

_____
Title

_____
Date

Put the private roads + shared drives in an access easement for the FPL

Public Comment from Mr. Bob Siggfoos, Mr. Dan McCarley, Mr. Doug Hemingway, and Mr. Robert ___

Findings associated with R-PZD 03-07.00

Sec. 166.06. Planned Zoning Districts (PZD).

(B) *Development standards, conditions and review guidelines*

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The subject property is adjacent to property zoned RSF-4 to the north and west. To the north is Glenwood Addition, approved in 1988 with a density of 2.47 units per acre. Cedarwood Addition, platted in 1981, is west of the site with a density of 3.17 units per acre. St. John's Lutheran Church is located to the south and zoned P-1, Institutional. Land to the east of the site is zoned R-A, Residential Agricultural, with single-family dwellings. The subject property currently zoned P-1 Institutional and has consists of 4.429 acres with 14 single-family lots proposed for an overall density of 3.16 units per acre.

(2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: The site has 100% canopy coverage with 26.82% preserved canopy proposed. The applicant has proposed erecting a 6 foot stone wall along Crossover Road to be used as a screen between the road and the housing. Man-made screening along Crossover Rd is consistent with the other residential subdivisions along Crossover Road.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Connectivity from this proposed residential subdivision is being provided east to Crossover Road. Forty feet of right-of-way dedication is proposed within the subdivision from Crossover Rd. to the roundabout, at which point two private drives extend to the east and west to provide access to the lots.

Shared drives will be utilized between lots 1 and 2, 6 and 7, 11 and 12, and 13 and 14 to decrease the number of curb cuts. Pedestrian access is provided with a four foot sidewalk and four foot greenspace along all private and public streets within the subdivision. A six foot sidewalk with nine feet of greenspace is proposed along Crossover Rd. for the length of the property. The developer also proposes a landscape island at the entrance of the subdivision and a landscaped roundabout with a mail kiosk at the terminus of the right-of-way within the subdivision.

Access is provided from Crossover Rd. with a 14' drive isle into the subdivision and a 20' exit drive isle which will provide sufficient width for right and left turning lanes and access for fire vehicles in accordance with the International Fire Code requirements.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Each lot shall be for single family use and provide the required two off-street parking spaces per unit.

(5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The land use meets all the requirements for open space, buffer or green strip provisions of the chapter in the code.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalk construction shall be in accordance with current standards to include a six foot sidewalk located at the edge of the right-of-way along Crossover Rd. with a nine foot green space and a four foot sidewalk with a four foot greenspace along all proposed streets within the development.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights shall be provided along Crossover Rd. and within the development with spacing not to exceed 300 feet.

(8) *Water.* As required by §166.03.

FINDING: Water shall be extended to serve the subject property.

(9) *Sewer.* As required by §166.03.

FINDING: Sewer shall be extended to serve the subject property.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The applicant is proposing two private street extensions along Mockernut Crossing which extend both east and west from the terminus the along Shagbark Bend right-of-way. The western extension is approximately 80' in length and the eastern extension is approximately 105' in length. Both are 40' in width with 24' of pavement. The maximum number of units which could use each would be five. All public rights-of-way shall be dedicated to the City of Fayetteville and constructed to City standards.

The applicant has submitted covenants that allocate the responsibility of maintaining the private drives to the POA. The covenants shall be modified to include the information in section 166.06 D (10) (b) regarding private streets within a residential PZD.

To reduce the number of curb cuts, the covenants required private drives for lots 11 and 12, 13 and 14, and 7 and 8. These shared drives differ from what is shown on the plat and the covenants shall be modified to reflect the approved plat.

(11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the

nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: N/A

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The site has 100% canopy with 26.82% preservation proposed. Mitigation is not required. Please see the attached report from the Landscape Administrator.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: N/A

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No view shed has been identified in this area.

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that_the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the

Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.
(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant has submitted Protective Covenants and Restrictions for Hickory Park. (See attached)

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposed R-PZD of 14 lots is located on land identified for residential use on the General Plan 2020. The density and use is similar to adjacent subdivisions and will not negatively impact surrounding properties. The proposal is unique in that there are build-to lines and specific building types and materials called for in the covenants. Shared drives will be utilized and garages will be rear/side entry.

The proposal meets the following Residential Guiding Policies in the General Plan 2020:

9.8.a Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. Covenants provided by the developer will be included in the R-PZD ordinance. This ordinance will be forwarded to the City Council for approval.

(C) R - PZD, Residential Planned Zoning District.

(1) Purpose and intent. The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed residential planned zoning district allows single-family use which is compatible with surrounding property. The property is currently zoned Institutional (P-1) and would allow for City-wide uses by right and cultural and recreational facilities. The density proposed will not significantly increase the amount of traffic to cause congestion in the area served by a principal arterial (Crossover Rd/Hwy 265) and a collector (Township) to the south.

(2) Permitted uses.

~~Unit 1 City-wide uses by right~~
~~Unit 2 City-wide uses by conditional use permit~~
~~Unit 3 Public protection and utility facilities~~
~~Unit 4 Cultural and recreational facilities~~
~~Unit 5 Government facilities~~
Unit 8 Single-family dwellings
~~Unit 9 Two-family dwellings~~
~~Unit 10 Three-family dwellings~~
~~Unit 12 Offices, studios and related services~~

~~Unit 13 Eating places~~
~~Unit 15 Neighborhood shopping~~
~~Unit 19 Commercial recreation, small sites~~
~~Unit 24 Home occupations~~
~~Unit 25 Professional offices~~
~~Unit 26 Multi-family dwellings~~

FINDING: The proposed single-family dwellings are a permitted use under use unit 8.

(3) Condition. In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The PZD proposed is entirely residential in use.

RECOMMENDATION: Approval of R-PZD with conditions.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 04-05.00 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning of the existing Institutional (P-1) area to the proposed development with residential single-family use with a density of 3.16 units per acre is consistent with the General Plan 2020 that identifies this area for residential use. Single-family use is compatible with existing and planned surrounding single-family residential homes and the surrounding zoning.**

The proposal is consistent with the following principles of the General Plan 2020 which are:

- ***Increasing transportation efficiency.***

  Finding: The developer will dedicate additional right-of-way along Crossover Rd. to comply with the Master Street Plan and construct a sidewalk along Crossover Rd for the entire length of the property as well as along the interior streets.

The proposal is consistent with the guiding policies for Residential Areas identified in the General Plan 2020 which are:

9.8.f Site new residential areas accessible to roadways, alternative

transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

9.8.j Implement the Master Street Plan and incorporate bike lanes, parkways and landscaped medians to preserve the character of the City and enhance the utilization of alternative modes of transportation.

9.8.i Establish performance zoning design standards to mitigate adverse impacts of contrasting land uses with residential land uses.

The following is from The General Plan 2020 regarding Community Character:

9.19.a Protect and enhance Fayetteville's appearance, identity and sense of place.

9.19.d Discourage perimeter walls and guard houses around the perimeter of new residential developments and promote "connectivity" to increase accessibility and provide more livable neighborhoods.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed density is consistent with the existing surrounding zoning.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning will increase traffic but should not appreciably increase traffic danger or congestion with the surrounding collector and principle arterial streets.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469

TO: Suzanne Morgan, Associate Planner

FROM: Rebecca Ohman, Park Planner

DATE: January 27, 2004

SUBJECT: Parks & Recreation Plat Review Comments

****

Meeting Date: January 29, 2004
Item: R-PZD 04-5.00 Hickory Park, pp 294
Park District: NW
Zoned: RPZD
Billing Name & Address:

	Land Dedication Requirement	***Money in Lieu***
Single Family	____@ .024 acre per unit = ____ acres	14 @ $555 per unit = $7,770
Multi Family	____@ .017 acre per unit = ____ acres	____@ $393 per unit = $____
Mobile Home	____@ .024 acre per unit = ____ acres	____@ $555 per unit = $____
Lot Split		____@ $555 per unit = $____

COMMENTS:

- PRAB recommended accepting money-in-lieu of land on December 1, 2004. Parks fees are due in the amount of $7,770 for 14 Single Family lots.
- Fees are due before issuance of final plat.
- Please list the owner/developer and contact information.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

SC Meeting of January 29, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

TREE PRESERVATION and PROTECTION REPORT

To: Milholland Company

From: Craig Carnagey, Landscape Administrator

Copy: Suzanne Morgan, Associate Planner

Date: January 27, 2004

Re: Hickory Park R-PZD

ITEM #:

BACKGROUND:

Requirements Submitted:

✓	Initial Review with the Landscape Administrator
✓	Site Analysis Map Submitted
✓	Site Analysis Written Report Submitted
✓	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	4.429
square feet	192,932
Existing Tree Canopy	
acres	4.429
square feet	192,932
percent of site area	100%
Existing Tree Canopy Preserved	
acres	1.187
square feet	51,745
percent of total site area	26.82%
Percent Minimum Canopy Required	25%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species. The general accounting of existing tree groups on this site finds a mix of deciduous hardwoods ranging in age from young to mature with significant species of Post Oaks, Black Oaks, and Shagbark Hickories. The health of most individual species is considered fair to good. The even

distribution across the site or desirable trees for preservation creates a constraint upon any development of this site. Any form of construction activity here will necessitate the removal of some desirable groups of trees for preservation.

Whether the design incorporates the required Tree Preservation Priorities.
Due to the slope, this site is considered to be entirely covered in high priority canopy. An attempt was made by the developer to limit the impacts of the proposed street, and to avoid significant trees. However, the proposed density of this site will require a significant amount of existing canopy removal.

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.
The degree of potential tree canopy loss on this site is significant. The removal of trees to build the street infrastructure and accommodate utility easements will result in a 34% loss of cover. With the building of homes, another 39% will potentially be removed. The removal of 73% of a sloped site with significant trees evenly dispersed across the site could result in extensive environmental degradation throughout this site.

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.
This site has remained relatively undisturbed for the past half century while development occurred on all sides. The neighborhood has become accustomed to this site as a natural area that provides a buffer from the traffic found along Hwy. 265. The removal of tree canopy will impact this, and other natural values of the area.

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.
A recommendation to reduce the overall width of the street right of way to reduce the impact of construction on trees has been incorporated into the design by this developer.

Whether the size or shape of the lot reduces the flexibility of the design.
Given the amount of density the developer is proposing, the opportunity to cluster lots on this site is reduced by its limited size.

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.
The majority of trees and groups of trees on this site were found to be in fair to good condition.

The placement of utilities, structures, and use of the property, in relation to the tree or group of trees.
Utility easements are shown to be placed in the rear of lots 1-11, eliminating the potential to maintain a canopied buffer between adjacent properties and future homes. A sewer easement between lots 5 & 4, 7 and 8 will unnecessarily require the removal of significant trees. The street termination at the east end of 'Mockernut Crossing' will eliminate two significant trees. Several significant trees will be removed (including a 23" dbh Shagbark Hickory) along the proposed street 'Shagbark Bend'.

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.
Some trees will need to be removed in order to provide both sewer and other public utilities.

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.
The trajectory of the proposed street 'Shagbark Bend' cuts downward (perpendicular) across the existing slope, while the other street does run parallel with the slope. Several significant trees are proposed for removal to accommodate the building of both streets.

Construction requirements for On-Site and Off-Site Alternatives.
Minimum impact to all remaining canopy within the building setback should be required in order to avoid the further degradation of natural resources.

The effects of proposed On-Site Mitigation or Off-Site Alternatives.
No mitigation has been proposed by this developer.

The effect other chapters of the UDO, and departmental regulations have on the development design.
This is a Planned Zoning District which has as a purpose to provide the developer with a degree of flexibility in how this site is designed. Another purpose with regard to tree preservation is to minimize disruption of existing natural features.

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:
Not applicable.

The impact a substantial modification or rejection of the application would have on the Applicant
The applicant has stated that the requested density is the only feasible option for development to occur on this site.

Mitigation Method Approved:
No mitigation plan has been submitted, nor is one required.

Recommendation:

1. Reduce the overall density in order to provide a cluster development that will not so severely impact the existing tree canopy.
2. Route proposed streets in a way that best avoids loss of significant groups of trees, and works with existing topography.
3. All homes built should strive to minimize the impacts to trees, and preserve as much canopy as possible. Submittal of a covenant running with the title of each lot that incorporates language to achieve this is recommended.

Conditions of Approval:

1. The removal of utility easements along the rear of lots 1-6, and 8-11 in order to preserve a canopied buffer for adjacent properties be indicated.
2. The proposed sewer easement be routed to avoid a greater number of significant trees.

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469

TO: Suzanne Morgan, Associate Planner

FROM: Rebecca Ohman, Park Planner

DATE: January 27, 2004

SUBJECT: Parks & Recreation Plat Review Comments

****

Meeting Date: January 29, 2004
Item: R-PZD 04-5.00 Hickory Park, pp 294
Park District: NW
Zoned: RPZD
Billing Name & Address:

	Land Dedication Requirement	***Money in Lieu***
Single Family	_____@ .024 acre per unit = _____ acres	14 @ $555 per unit = $7,770
Multi Family	_____@ .017 acre per unit = _____ acres	_____@ $393 per unit = $_____
Mobile Home	_____@ .024 acre per unit = _____ acres	_____@ $555 per unit = $_____
Lot Split		_____@ $555 per unit = $_____

COMMENTS:

- PRAB recommended accepting money-in-lieu of land on December 1, 2004. Parks fees are due in the amount of $7,770 for 14 Single Family lots.
- Fees are due before issuance of final plat.
- Please list the owner/developer and contact information.

FAYETTEVILLE

RECEIVED
FEB 0 3 2004
PLANNING DIV.

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

February 3, 2004

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **R-PZD 04-05.00: Residential Planned Zoning District (Hickory Park, pp 294)** submitted by Millholland Company on behalf of St. John's Lutheran Church of Fayetteville for property located at 2730 E. Township Street would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 2-3-2004

REZONING ✓ ANNEXATION_____
RPZD HICKORY PARK
REZONING # 04-05.00 OWNER ST JOHNS EPISCOPAL
ANNEXATON#_____ OWNER_____
LOCATION OF
PROPERTY_____

NEAREST FIRE STATION AND
LOCATION FIRE STATION #5 B33 CROSSOVER

RESPONSE TIME FROM FIRE STATION # 5 TO
LOCATION OF
PROPERTY 2 MINUTES 15 SECONDS.
TRAVEL MILES FROM FIRE STATION # 5 TO LOCATION OF
PROPERTY 1.5.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS_____

EXISTING FIRE HYDRANTS? IF SO
LOCATION_____

WATER SUPPLY WITH HYDRANTS
NEEDED? Hydrants & Access would be needed.

ADDITIONAL
COMMENTS_____

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS

REGISTRATIONS:
PE: AR, MO
PLS: AR

January 2, 2004

Project No. E-687

FAYETTEVILLE
125 West Mountain Street
Fayetteville, Arkansas 72701

ATTN: Planning and Engineering Division
RE: Hickory Park - Subdivision

Dear City Staff (Dawn Warrick and Matt Casey):

The accompanying application and supporting data is for your review and approval of the referenced project, a 14-lot residential subdivision.

The property is a tract containing approximately 4.43 acres being purchased from St. John's Lutheran Church.

The project site is currently zoned P-1, Institutional.

This application request is for a Planned Zoned District in keeping with the general surrounding area of single-family residences (RSF-4, Four Units per Acre). Also this application request includes a property line adjustment (application inclosed).

There is an existing 4" sanitary sewer service line to the church that will be relocated to the proposed new sanitary sewer system. Dave Jurgens of the City's Water and Sewer Maintenance Division has been contacted and supplied with a preliminary plat to review the requested City service connections for his comments.

The owner/developer proposing the project is Tracy Hoskins. Mr. Hoskins intends to develop a subdivision community having an identity of old world flavor, stability and quality, a feeling of intimacy. In accomplishing this desired results, building set back adjustments are requested as well an a narrower street right-of-way. A 28' roadway surface is maintained with sidewalks on both sides of the roadway.

The preservation of site's tree canopy is an important aspect of achieving the intended results. The site has been preliminarily reviewed with the landscape administrator, Craig. Craig is in support of a narrower road right-of-way to assist in the preservation and protection of as much of the tree canopy as possible.

RECEIVED
JAN 2004
PLANNING DIV.

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS

REGISTRATIONS:
PE: AR, MO
PLS: AR

The lot lines have been placed for the preservation of as many significant trees as possible, and for the construction of most of the homes facing to the project center with limited front yard, access to the community square. The front lot line adjustment is requested to assist in the placement of homes closer to the sidewalk, the center square, assisting to preserve and buffer the development from the surrounding existing homes who also desire the buffer and as much of the existing tree canopy to remain as possible. Grading on the lots in minimized.

Your comments and assistance in achieving the intended goals set for the development of this fashionable community subdivision is greatly appreciated.

Respectfully submitted,
Milholland Company

Thomas M. Jefcoat, ASLA
Projects Manger

cc: Tracy Hoskins

RECEIVED
JAN 0 2 2004
PLANNING DIV.

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net

PROTECTIVE COVENANTS AND RESTRICTIONS FOR HICKORY PARK FAYETTEVILLE, ARKANSAS

Tracy K Hoskins (Developer) does hereby establish and create the following Protective Covenants, Restrictions and Architectural Control, which shall apply to all lots as shown on the recorded plat of the Hickory Park, found in Plat Book ____, page ____.

BE IT KNOWN BY THESE PRESENTS, that whereas XXXXXXXXX, trustee of the XXXXXXXXXXX U/T/D DateXXXXXXXXXXX, as owner and developer, do hereby enter the following covenants and restrictions:

DEFINITIONS

1. **"Property"** shall mean all the real property and improvements that are subject to these Covenants and Restrictions.

2. **"Owner"** shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title in any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

3. **"Lot" and "Lots"** shall mean and refer to any parcel of land shown upon any recorded Plat of the Property upon which there has been or may be constructed a single-family residence.

PROPERTY AND LOT RESTRICTIONS

1. **GENERAL LIMITATIONS**: The subdivision and building codes of the City of Fayetteville, Arkansas, as they presently exist or are hereinafter amended, shall be and are hereby made applicable to the Property. All dwellings, buildings, fences, walls, structures, storage buildings, swimming pools, and improvements of every kind shall comply with said ordinances as they exist on the date of their construction. Any conflict between City ordinances and the provisions of these Protective Covenants shall be resolved in favor of the more restrictive provision. Building, architectural, and design specifications shall be in accordance with the regulations set forth in the Fayetteville Zoning Ordinance designated R-PZD (Residential).

2. **SINGLE-FAMILY RESIDENTIAL LAND USE AND BUILDING, TYPE:** Lots shall only be used for single-family residential purposes. "Single Family" means one or more persons occupying a single dwelling, provided that unless all such persons are related by blood, marriage or adoption, no such family shall contain over three persons. No structure shall be erected on any Lot which exceeds three stories in height. No prefabricated, manufactured, mobile or modular housing shall be placed on any lot.

3. **MINIMUM SQUARE FOOTAGE**: All dwellings shall be a minimum of 2,200 square feet of heated floor space (excluding garage). If the residence is multi-storied, the first floor shall be a minimum of 1,600 square feet of heated floor space (excluding

garage).

4. **GARAGES:** Each dwelling shall have a garage for a minimum of two (2) cars with dimensions of not less than twenty-two (22) feet by twenty-two (22) feet. No carports will be allowed. No garage openings may face a public or private street. All garages must rear or side entry. Under special conditions, this covenant may be modified by the HPAC (Hickory Park Architectural Committee). All garages, whenever possible should be located to the rear of the structure.

5. **YARD SPACE RESTRICTIONS AND BUILDING LOCATION:** The most forward point on the front of the house, inclusive of porches, shall be at the property's front building setback line. Under special conditions, this covenant may be modified by the HPAC.

6. **ROOFS:** All structures constructed on the Property must use tile, wood shake or 40-year composition architectural shingles, and must have a minimum of an 8/12 pitch. Secondary roofs, such as shed or veranda types may be a minimum of 4/12 pitch with the prior approval of the HPAC.

7. **EXTERIORS:** The exterior of all structures must be at least 80% brick or stone. All chimneys shall be brick, stone, or authentic stucco. No vinyl, metal, concrete board or EIFS (synthetic stucco or "DRYVIT"), will be permitted. Though vinyl windows are permitted, the HPAC encourages the use of wood type windows.

8. **ARCHITECTURAL CONTROL:** No ranch, contemporary, modern, a-frame, log, or gambrel style structures will be permitted. Hickory Park is considered to be a traditional neighborhood with an emphasis on **EUROPEAN, ARCHITECTURALLY DESIGN HOMES.**

All floor plans, elevations, specifications, plot plan showing the orientation of any structure, driveway and sidewalks, and proposed materials must be submitted and approved by Tracy Hoskins representative, Hickory Park Architectural Committee, prior to starting construction. The HPAC will have 10 business days to approve the project or require modifications. The HPAC again will have 10 business days to respond each time documents are submitted.

9. **YARDS / LANDSCAPING:** All yards shall be fully sodded in front and in back within sixty (60) days of a certificate of occupancy being issued by the City of Fayetteville. All dwellings shall be landscaped with a landscaping package that is appropriate for the design of the dwelling.

10. **LOT MAINTENANCE:** All Lots shall be kept in a sanitary and attractive condition, and the Owner or occupant shall keep all weeds and grass thereon cut and

neatly maintained and shall in no event use any Lot for storage of material or equipment except for normal residential purposes (except for during construction of residences or other structures.) Construction sites shall be kept neat, safe, and clear of debris at all times. Construction materials should be kept to the rear of the lot, obstructed from view, whenever possible. No burning of garbage, trash, or refuse is allowed (Except for during construction of residences or other structures and with the approval of the Fayetteville Fire Department).

11. SIGHT DISTANCE AT INTERSECTIONS: No fence, wall, hedge, or shrub which obstructs sight lines at intersections in the subdivision shall be permitted.

12. HOME OCCUPATIONS, OFFENSIVE USES OR COMMERCIAL USES: Home occupations, as defined and set forth in the ordinances of the City of Fayetteville, shall be prohibited. Further, no activity which may become an annoyance or nuisance to the neighborhood or which shall in any way unreasonably interfere with the quiet enjoyment of any Owner of a Lot or which degrades property values or distracts from the aesthetic beauty of the property shall be conducted thereon. No repair work, dismantling, or assembling of any motor vehicle or boat shall be done on any Lot unless in a fully enclosed garage or other structure, not in view from adjoining Lots or the street, and if only for noncommercial purposes. Further, no part of any Lot shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such nonresidential purpose. No childcare businesses to be allowed if more than four (4) unrelated children are involved. This area is for residential purposes only.

13. STORAGE OF AUTOMOBILES, BOATS, TRAILERS, OTHER VEHICLES AND EQUIPMENT: No automobiles, boats, trailers, motor homes, campers, recreational vehicles, motorcycles, buses, inoperative vehicles of any kind, cap rigs off trucks, or boat rigging shall be parked or stored permanently or semi-permanently on any public street right-of-way, yard area, or on driveways. Permanent or semi-permanent storage of such vehicles or items must be completely screened from public view either within the garage or behind a solid fence. For the purposes of these Protective Covenants, the phrase "semi-permanent" shall be defined as remaining on or about the same Lot without movement for forty-eight or more consecutive hours. No eighteen wheel vehicles or any other vehicle requiring a commercial driver's license may be parked on any public street or any portion of any Lot except to deliver merchandise or materials to residents or construction sites.

14. VISUAL SCREENING: All clotheslines, equipment, garbage cans, woodpiles, refuse containers, storage piles, and household projects such as equipment repair shall be screened by fencing, so as to conceal them from view of neighboring Lots or streets. All rubbish, trash, and garbage shall be kept in sanitary refuse containers with tightly fitting lids and shall be regularly removed from the Lots and not allowed to accumulate thereon.

15. TEMPORARY STRUCTURES: No trailer, tent, shack, garage, barn, recreational

vehicle, mobile home, or other outbuilding shall be placed, constructed, erected or allowed to remain on a Lot if it is being used for human habitation either temporarily or permanently.

16. **STORAGE BUILDINGS:** No detached outbuildings may be constructed without prior written consent of the HPAC. If consent is granted, detached storage buildings may only be placed to the rear of the house, no closer to side lot line than the sides of the house and be a minimum of twenty (20) feet from the rear yard line, and must be enclosed inside privacy fence. All storage buildings shall use same roof and wall materials as used on the house.

17. **FENCES:** Fencing of front yard is prohibited. No fence shall be erected that is closer to the street than is the garage side door. If no garage side door, no closer to the front than the rear of the house. No fence shall be erected on adjoining side street that is closer to the street than the building set backline, which will be 25 feet from the curb, whichever is greater. No chain link fencing shall be permitted. All wood privacy fences shall have the good side turned toward the outside of the lot. That is, the framework that supports the fence is to be facing inward toward the backyard. No privacy fencing shall exceed 6 feet in height. Any fencing, walls, or landscape walls located between the street and structure must be constructed of brick or stone (complementary of the structure), and must be approved by the HPAC

18. **SATELLITE DISHES:** All satellite dishes limited to eighteen inches in diameter shall be placed to the rear of the residence, no closer to side yard than the rear of the house and must be enclosed in privacy fence. Basketball goals are restricted to back yards only.

19. **HEATING AND COOLING DEVICES:** No structure on any Lot shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed from the street or adjoining Lots (this restriction does not apply during the construction of the structure).

20. **LIVESTOCK AND POULTRY:** No animals, livestock, or poultry of any kind shall be raised or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept or maintained for any commercial purposes.

21. **EASEMENTS SIDEWALKS AND DRIVES:** Easements for installation and maintenance of utilities shared driveway entries, and drainage facilities are reserved as shown on the recorded Plat. No incinerator structures, buildings, fencing, or similar improvements shall be built or maintained within the area of the any easements. Owners are hereby put on notice that any structures, driveways, sidewalks, or plant material in the easements are subject to removal at the expense of the Owner(s) of the Lot on which the structure, driveways, sidewalks, or plant material is located. In effort to minimize curb cuts, common drive entries will be shared by lots numbered seven and eight; eleven and twelve; thirteen and fourteen. Shared drive entries are also

encouraged on all other lots. Each individual lot owner shall construct a four foot wide sidewalk, four feet from the back of curb. Sidewalks shall be of a light broom finish with expansion joints eight feet on center. Driveways shall be of decorative type and have brick pockets, patterned concrete, etc.

22. **MAILBOXES:** No mailboxes will be installed upon any property. A mail kiosk is provided for each property owner, located at the center roundabout.

23. **NO LIABILITY**: Tracy Hoskins, the Developer, the HPAC, nor any other Owner shall be liable for damages to anyone submitting plans and specifications for approval, or to any Owner of a Lot affected by these Protective Covenants by reason of a mistake in judgment, negligence, or disapproval or failure to approve or disapprove any such plans and specifications and no approval or required modification of plans and specifications submitted shall be considered a warranty of any nature whatsoever pertaining to the suitability of such plans and specifications. Every person who submits plans and specifications for approval agrees that no action or suit for damage will be brought against Tracy Hoskins or the HPAC, its members, or any Owner(s).

24. **DURATION OF COVENANTS:** These Protective Covenants shall run with the land for a minimum period of thirty (30) years, and shall be automatically extended for successive periods of five (5) years without further action unless terminated by a Vote of a majority of the Owners of Lots in the Property. Each lot owner will have one vote for each lot owned. The developer shall have three votes for each lot owned.

25. **SEVERABILITY:** Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any court, otherwise, shall not invalidate or affect any of the covenants and restrictions, or any part thereof, set forth herein, but they shall remain in full force and effect.

26. **BINDING EFFECT AND AMENDMENT OF COVENANTS:** All Owners shall be deemed to have agreed and covenanted with the Owners of all other Lots within the Property, and with their heirs, successors, and assigns to conform to, and observe the restrictions, covenants, and stipulations contained herein.

27. **HICKORY PARK PROPERTY OWNERS ASSOCIATION:** The Hickory Park POA is responsible for the upkeep, maintenance, and repair of drainage easements, private streets, landscape islands and walls, and any common areas or green spaces. Each lot owner will be assessed and annual fee of $___.__, due and payable by January 10th of each year. The Developer shall be the director/overseer of the POA until such time, that by majority vote of the property owners, another is appointed. Again, each lot owner will have one vote for each lot owned. The developer shall have three votes for each lot owned.

IN WITNESS WHEREOF this instrument has been executed this _____ day of

_____, _____.

_____

Ownwe/Developer

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) SS.
COUNTY OF WASHINGTON)

On this day, before me personally appeared XXXXXXXX, to me personally known, who acknowledge that she is the trustee of her respective trust, and that she, as such trustee, being authorized so to do, has executed the foregoing instrument for the purposes therein contained.

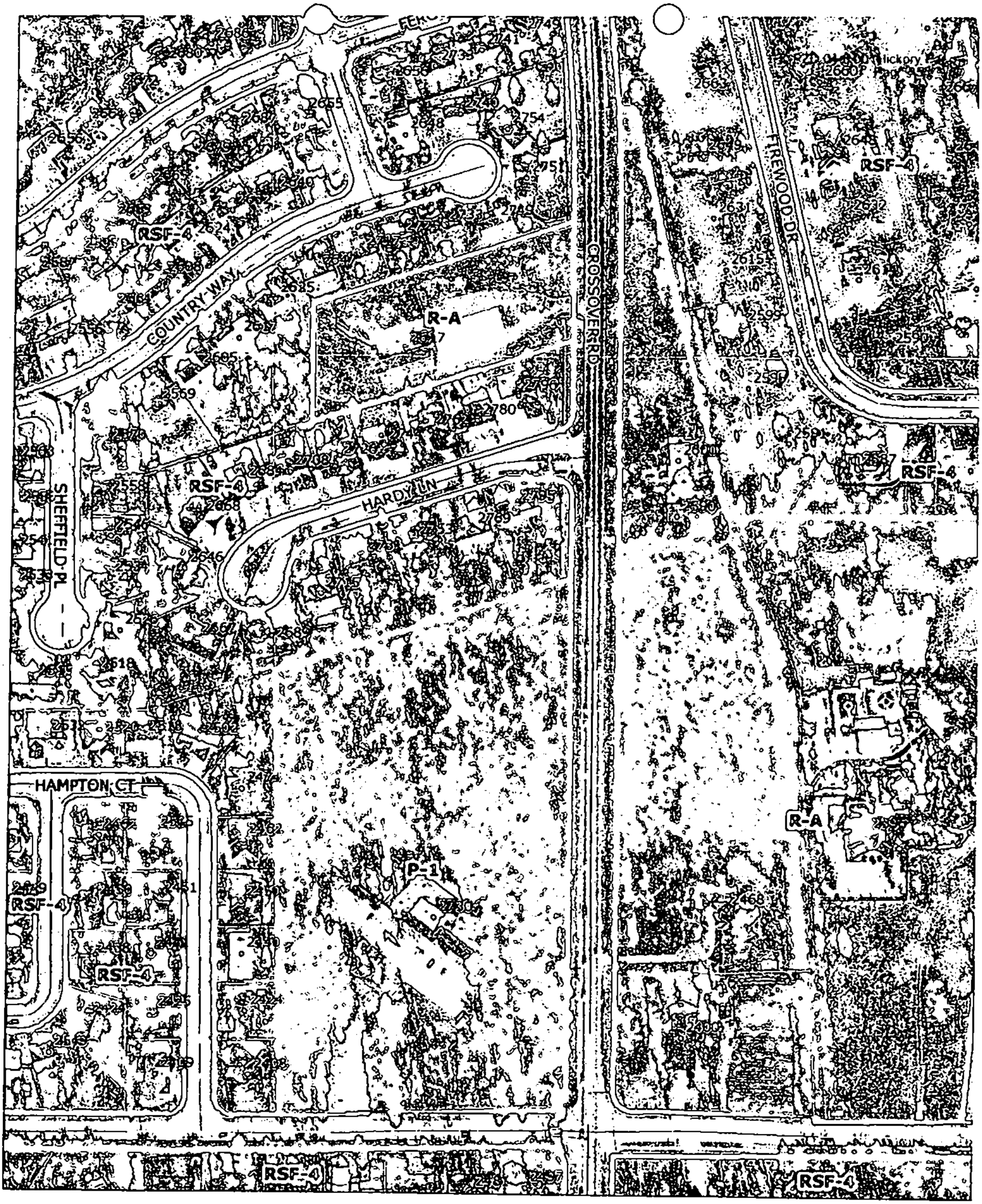
Witness my hand and seal this ____ day of _____, _____.

_____

Notary Public

My Commission Expires:

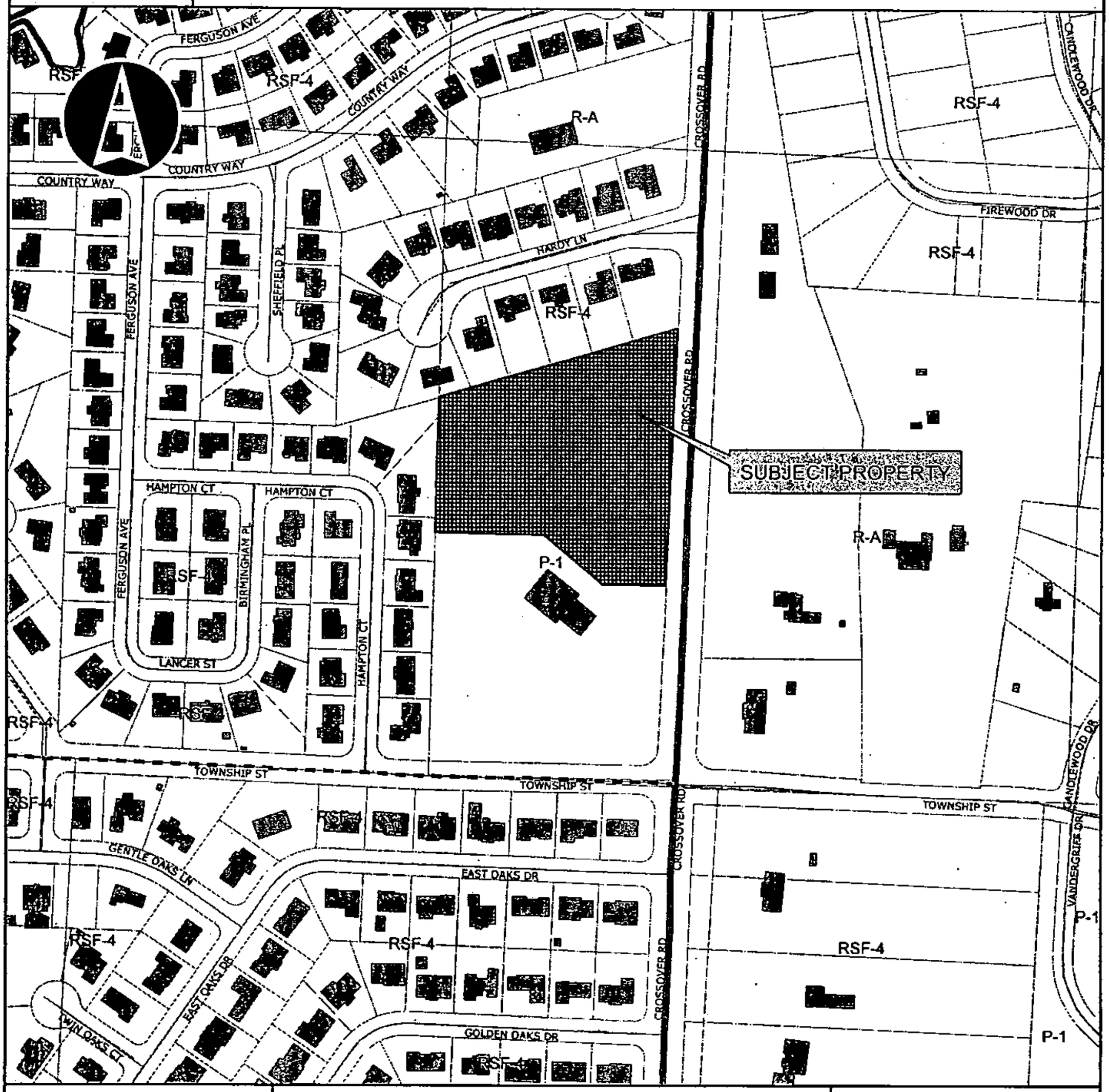
_____


COUNTRY WAY
CROSSOVER RD
FIREWOOD DR
HARDY LN
SHEFFIELD PL
HAMPTON CT
RSF-4
R-A
P-1

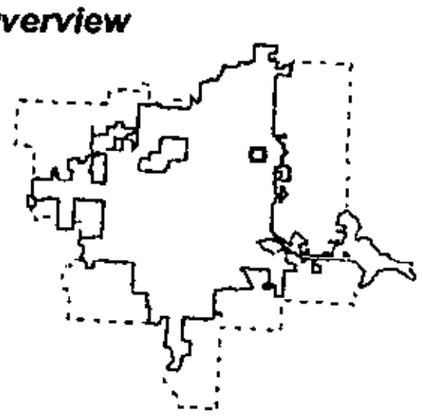
RPZD04-05.00

Close Up View

HICKORY PARK



Overview



Legend

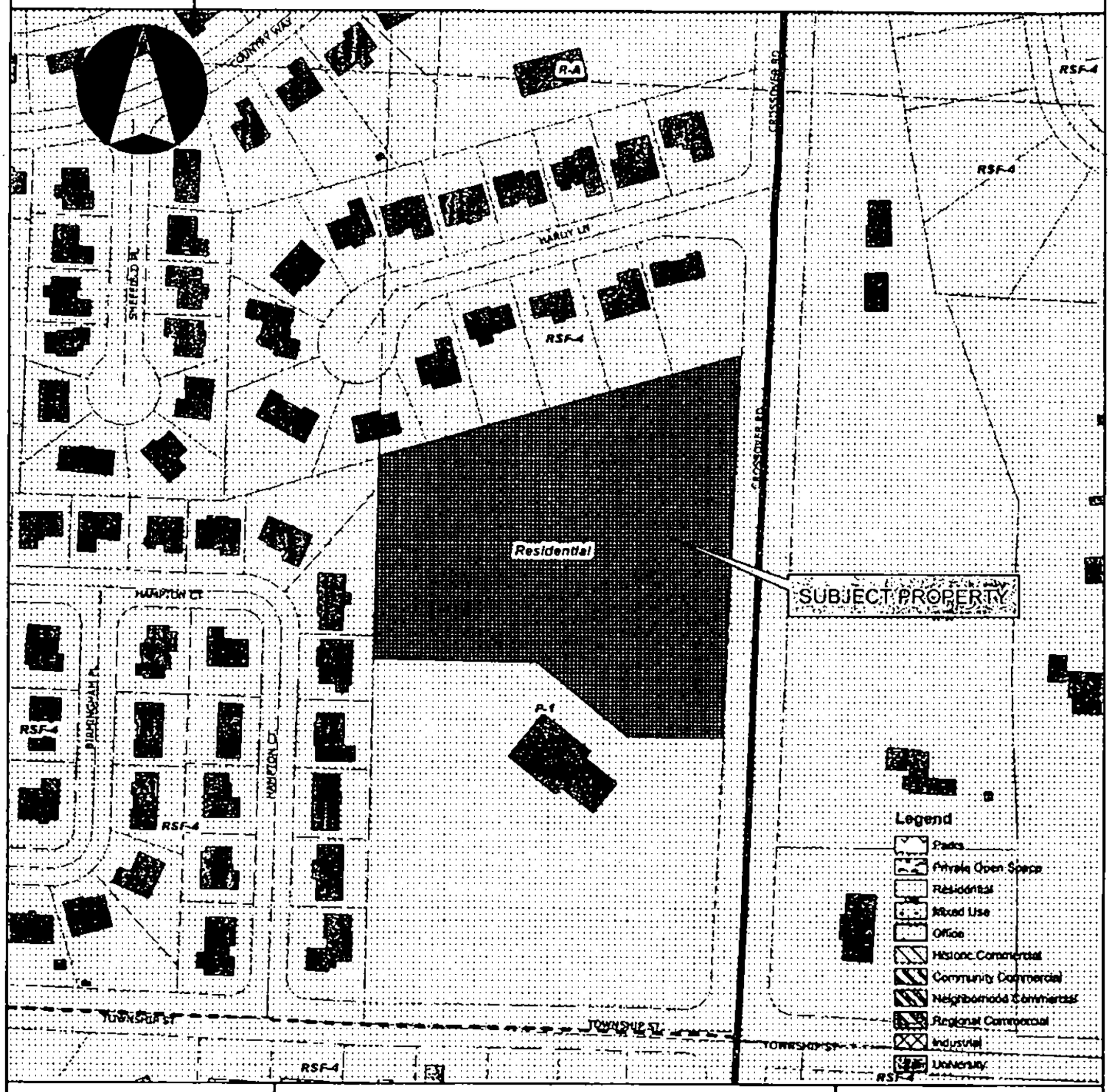
RPZD04-05.00 — Overlay District
Master Street Plan — Freeway/Expressway
Master Street Plan — Principal Arterial
Minor Arterial
Collector
Historic Collector
City Limits
Outside City
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile

0 125 250 500 750 1,000 Feet

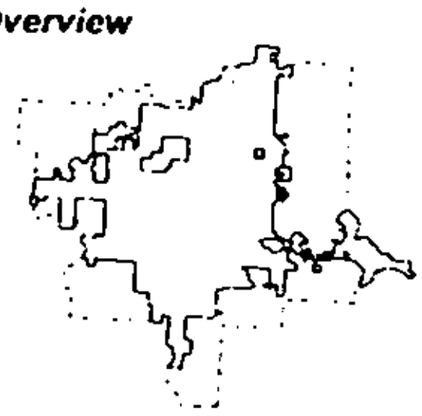
R-PZD04-05.00

HICKORY PARK

Future Land Use



Overview



Legend

Subject Property

R-PZD04-05.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

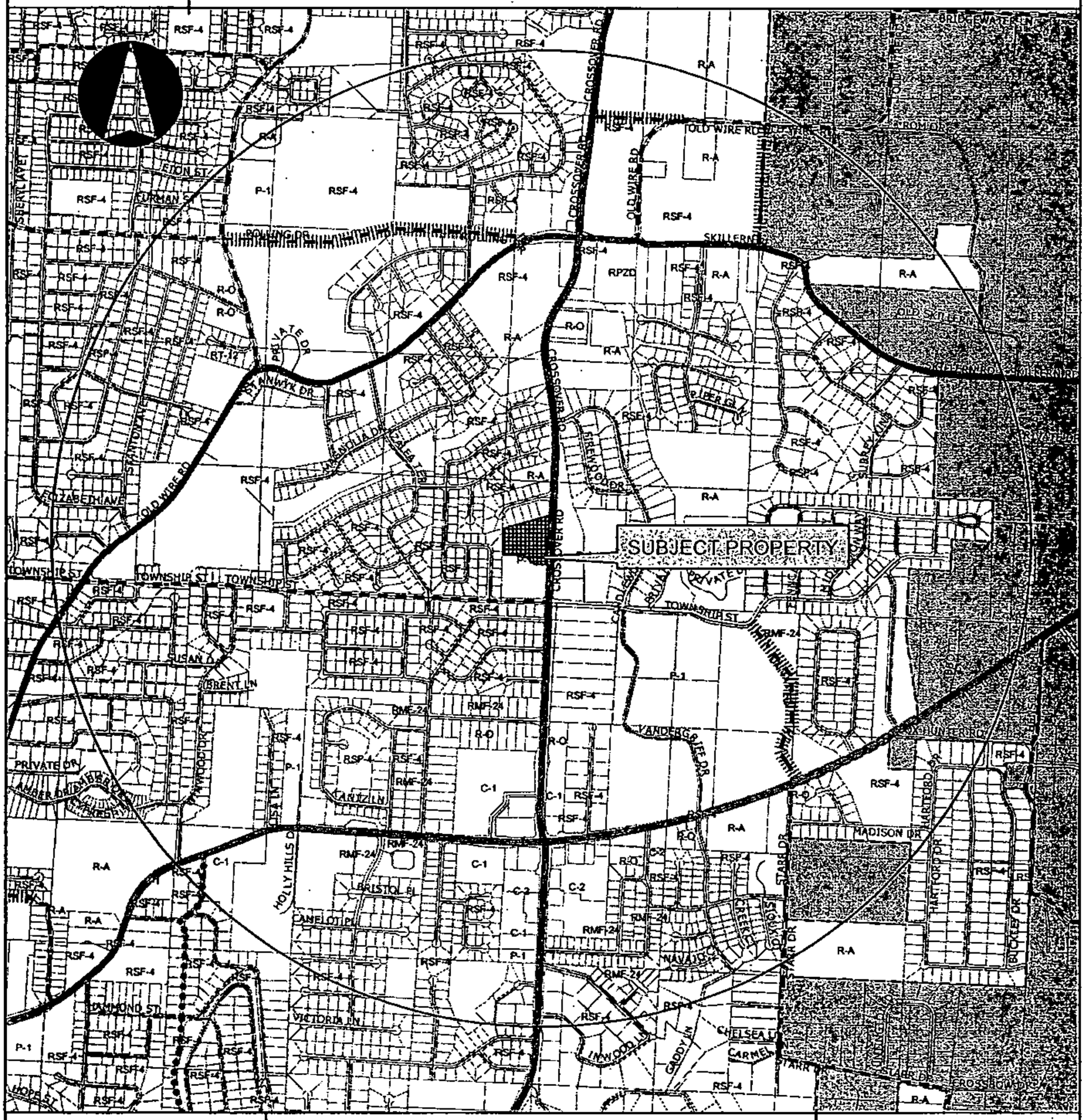
0 75 150 300 450 600

Feet

RPZD04-05.00

One Mile View

HICKORY PARK



Milholland Engineering & Surveying
205 West Center Street
Fayetteville, Arkansas 72701
Phone: (479) 443-4724 Fax: (479) 443-4707
E-mail: MCOengr@swbell.net

LETTER OF TRANSMITTAL

Date: February 12, 2004	Job No: E-687
Attention: Planning Department	
Re: Hickory Park	

To:	City Of Fayetteville
	125 W. Mountain St.
	Fayetteville, Ar. 72701

WE ARE SENDING YOU __X__ Attached ____ Under separate cover Via _____ the following items:

____ Shop Drawings ____ Prints ____ Plans ____ Samples ____ Specifications

____ Copy of Letter ____ Change Order ____ _____

COPIES	DATE	NO.	DESCRIPTION
15	2-12-04	E-687	Preliminary Plat (11X17)
15	2-12-04	E-687	Tree Preservation Plan (11X17)

THESE ARE TRANSMITTED as checked below:

__X__ For approval ____ Approved as submitted ____ Resubmit _____ copies for approval

_____ For your use ____ Approved as noted ____ Submit _____ copies for distribution

____ As requested ____ Returned for corrections ____ Return _____ corrected prints

____ For review & comment ____ _____

____ For Bids Due _____, 200__ ____ Prints Returned after Loan to us

REMARKS

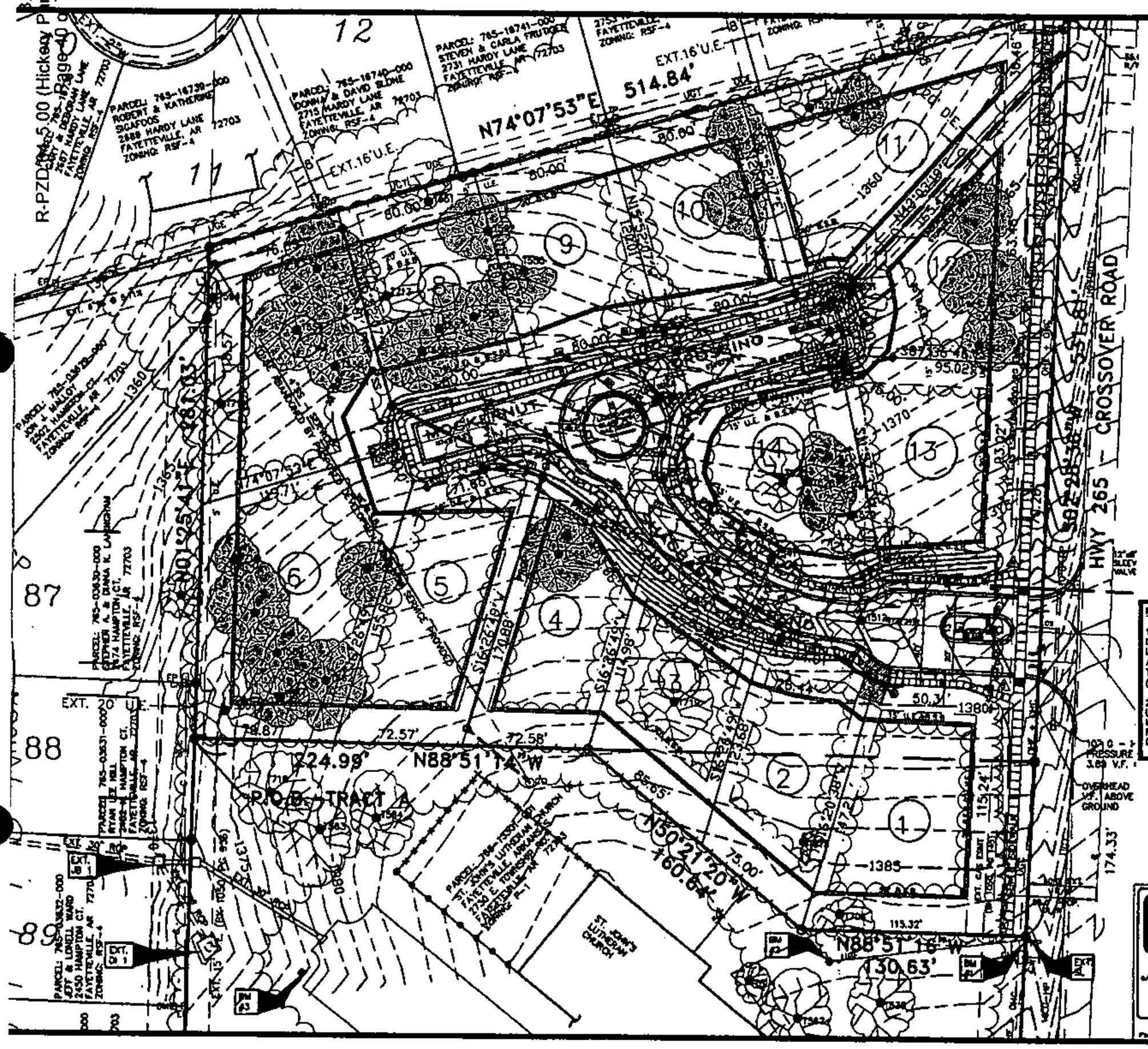
For City Counsel.
Please call if you have any questions 443-4724.

COPY TO: File

SIGNED: Kallat Kline FOR
Melvin L. Milholland, Owner/PE/PLS

If enclosures are not as noted, kindly notify us at once

R-PZD 04-05.00 (Hickory Park)



TAG No.	TRUNK DIA.	DESCRIPTION	AVG. CANOPY RAD.	GENERAL HEALTH	ACTION
512	22"	POST OAK	22'	FAIR	REMOVE - IN STREET
513	22"	POST OAK	18'	FAIR/POOR	REMOVE - IN STREET BACKSLOPE
514	16"	POST OAK	14'	FAIR	REMOVE - IN STREET BACKSLOPE
515	14"	POST OAK	14'	GOOD	PRESERVE
516	11"	POST OAK	14'	FAIR/GOOD	IN BUILDING ENVELOPE - NOT COUNTED
517	11"	POST OAK	14'	FAIR/GOOD	IN BUILDING ENVELOPE - NOT COUNTED
518	11"	POST OAK	14'	GOOD	REMOVE - IN UTILITY EASEMENT
519	11"	POST OAK	18'	POOR/FAIR	PRESERVE
520	11"	POST OAK	18'	POOR	SALVAGE - CANOPY OVER U.E.
521	12"	POST OAK	18'	POOR	REMOVE - IN STREET BACKSLOPE
522	11"	POST OAK	18'	FAIR	SALVAGE - CANOPY OVER U.E.
523	11"	POST OAK	18'	FAIR	PRESERVE
524	11"	POST OAK	18'	FAIR	SALVAGE - CANOPY OVER U.E.
525	11"	POST OAK	18'	FAIR	OFFSITE
526	11"	POST OAK	18'	FAIR	REMOVE - IN STREET
527	11"	POST OAK	18'	FAIR	REMOVE - IN STREET BACKSLOPE
528	11"	POST OAK	18'	POOR	REMOVE - IN STREET
529	11"	POST OAK	18'	POOR	REMOVE - IN STREET
530	11"	POST OAK	18'	FAIR/GOOD	SALVAGE - CANOPY OVER U.E.
531	11"	POST OAK	18'	GOOD	PRESERVE
532	11"	POST OAK	14'	POOR	PRESERVE
533	11"	POST OAK	14'	POOR	REMOVE - IN UTILITY EASEMENT
534	11"	POST OAK	18'	FAIR	IN BUILDING ENVELOPE - NOT COUNTED
535	11"	POST OAK	18'	FAIR	IN BUILDING ENVELOPE - NOT COUNTED
536	11"	POST OAK	18'	FAIR/POOR	PRESERVE
537	11"	POST OAK	18'	FAIR/POOR	IN BUILDING ENVELOPE - NOT COUNTED
538	11"	POST OAK	18'	FAIR/POOR	IN BUILDING ENVELOPE - NOT COUNTED
539	11"	POST OAK	18'	FAIR	PRESERVE
540	11"	POST OAK	18'	FAIR	REMOVE - IN UTILITY EASEMENT
541	11"	POST OAK	18'	FAIR	SALVAGE - CANOPY OVER U.E.
542	11"	POST OAK	18'	FAIR	SALVAGE - CANOPY OVER U.E.
543	11"	POST OAK	18'	GOOD	OFFSITE
544	11"	POST OAK	18'	FAIR/POOR	OFFSITE
545	11"	POST OAK	18'	GOOD	SALVAGE - IN UTILITY EASEMENT
546	11"	POST OAK	18'	FAIR	PRESERVE
547	11"	POST OAK	18'	POOR	OFFSITE
548	11"	POST OAK	18'	FAIR/GOOD	PRESERVE
549	11"	POST OAK	18'	FAIR	PRESERVE
550	11"	POST OAK	18'	FAIR	REMOVE - IN UTILITY EASEMENT
551	11"	BLACK HICKORY	18'	FAIR	REMOVE - IN STREET BACKSLOPE
552	11"	POST OAK	18'	GOOD	REMOVE - IN UTILITY EASEMENT
553	11"	POST OAK	18'	GOOD	REMOVE - IN STREET
554	11"	BLACK HICKORY	18'	FAIR	PRESERVE
555	11"	BLACK HICKORY	18'	POOR	REMOVE - IN UTILITY EASEMENT
556	11"	BLACK OAK	18'	FAIR/GOOD	REMOVE - IN STREET BACKSLOPE
557	11"	BLACK OAK	18'	POOR	SALVAGE - CANOPY OVER U.E.
558	11"	BLACK OAK	18'	FAIR	SALVAGE - CANOPY OVER U.E.
559	11"	BLACK OAK	18'	FAIR/POOR	OFFSITE
560	11"	BLACK OAK	18'	FAIR	IN BUILDING ENVELOPE - NOT COUNTED
561	11"	DOGWOOD	14'	GOOD	OFFSITE
562	11"	DOGWOOD	14'	FAIR	PRESERVE

NOTES:

1. ONLY "SIGNIFICANT" TREES AS DESIGNATED BY THE FAYETTEVILLE LANDSCAPE ORDINANCE ARE LISTED, AND OTHER TREE(s) AS REQUESTED BY THE LANDSCAPE ADMINISTRATOR (SPECIFICALLY #815).

2. REMOVAL OF ANY SIGNIFICANT TREES LOCATED WITHIN BUILDING SETBACK MUST BE APPROVED BY THE HICKORY PARK ARCHITECTURAL REVIEW COMMITTEE.

LEGEND

- SS — SANITARY SEWER LINE
- W — WATER LINE
- EXISTING CONTOUR
- PROPOSED GRADING
- 6' SOLID PRIVACY AND RETAINING WALL
- EXISTING TREE
- TREE PROTECTION FENCING
- SIGNIFICANT TREES LOCATED WITHIN BUILDING SETBACK
- AREA OF SIGNIFICANT TREE PRESERVATION AND EXISTING TREE PROTECTION

mc Milholland Company

PROFESSIONAL ENGINEERS

SURVEYING SPECIALISTS

HICKORY PARK

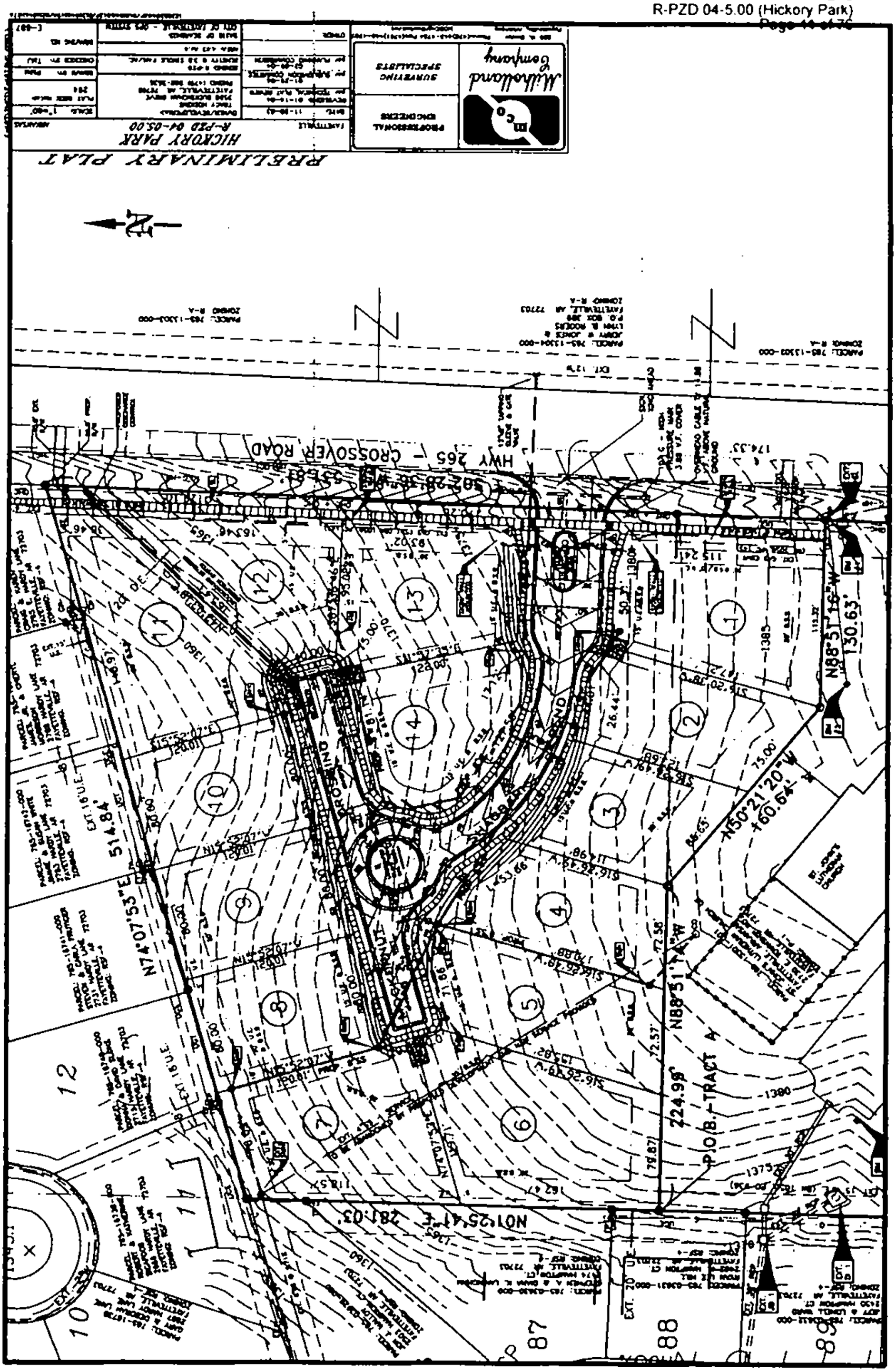
FAYETTEVILLE R-PZD 04-05.00 ARKANSAS

OWNER/DEVELOPER:
TRACY HOSKINS
2388 BUCKINGHAM DRIVE
FAYETTEVILLE, AR 72703
PHONE (479) 966-3436

ZONING R-PZD
DENSITY @ 3.8 SINGLE FAM./AC.
AREA 4.43 AC.±

SEWER BY CITY OF FAYETTEVILLE - GRS SYSTEM

SCALE: 1"=60'
PLAT BOOK No. 294
DRAWN BY PWM
DATE 05-09-04
DRAWING NO. E-687


PRELIMINARY PLAT
HICKORY PARK
R-PZD 04-05.00
HWY 265 – CROSSOVER ROAD
N88°51'16"W
130.63'
N50°21'20"W
160.64'
N88°51'16"W
224.99'
P.O.B. - TRACT A
N01°25'41"E 281.03'
N47°07'53"E
514.84'
S02°28'36"E
35.83'
CUL-DE-SAC
ZONED R-A

B.3

R-PZ 04-3.00 (Hickory Park) PP 42 of 76

TRACT A DESCRIPTION:

A PART OF THE SW 1/4 OF THE SW 1/4 OF SECTION 31, T-17-N, R-29-W DESCRIBED AS BEGINNING AT A POINT WHICH IS N01°25'41"E 504.20 FEET FROM THE SW CORNER OF SAID SECTION 31, SAID POINT OF BEGINNING BEING A SET IRON PIN; THENCE ALONG THE EAST BOUNDARY OF CEDARWOOD ADDITION, N01°25'41"E 281.03 FEET TO A SET IRON PIN; THENCE ALONG THE SOUTH BOUNDARY OF GLENWOOD ADDITION, N74°07'53"E 514.84 FEET TO A FOUND IRON PIN; THENCE ALONG THE WEST RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY NO. 265, S02°28'36"W 531.81 FEET TO A SET IRON PIN; THENCE LEAVING SAID HIGHWAY, N88°51'16"W 130.63 FEET; THENCE N50°21'20"W 160.64 FEET; THENCE N88°51'14"W 224.99 FEET TO THE POINT OF BEGINNING, CONTAINING 4.4291 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

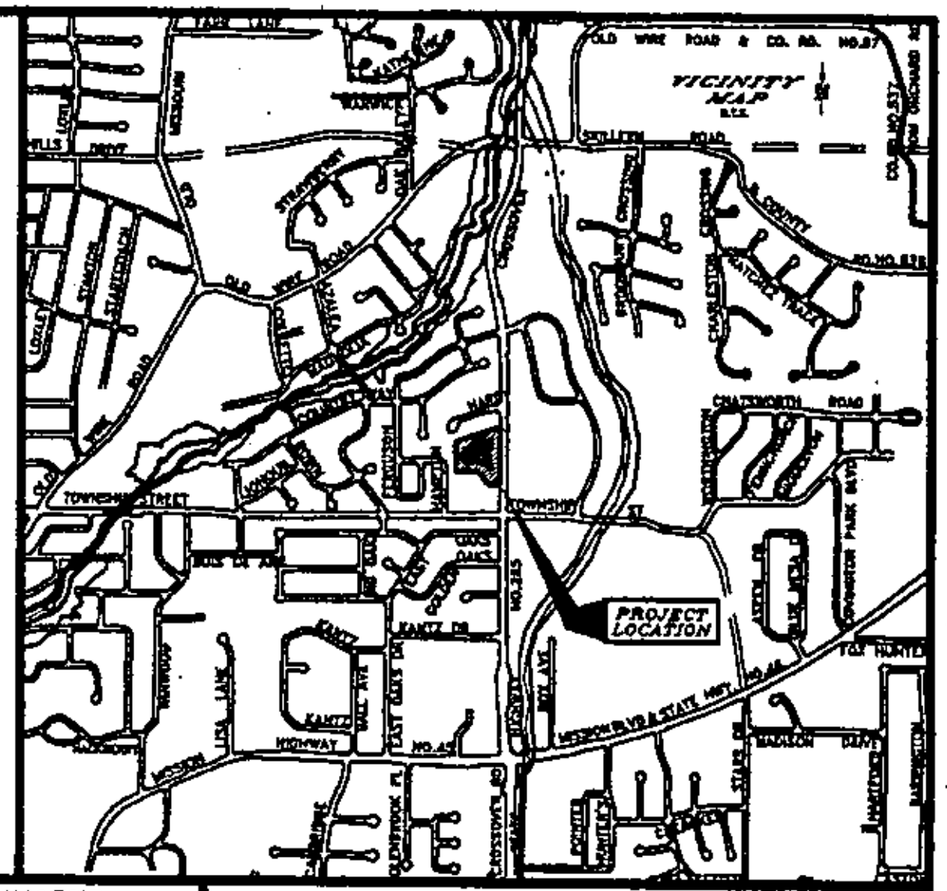
GENERAL NOTES:

1. ACCORDING TO FLOOD INSURANCE RATE MAP, EFFECTIVE DATE JULY 21, 1999, MAP NUMBER 05143C0103D, SAID PROPERTY IS NOT IN THE 100-YEAR FLOOD AREA.

2. IN ACCORDANCE WITH CITY ORDINANCE SEC. 166.13 ALL UTILITIES SHALL BE PLACED UNDERGROUND. EXCEPTIONS - EXISTING POWER LINES OF 12kv OR ABOVE.

3. LOT ACCESS FROM INTERIOR STREETS ONLY.

4. FRONT BUILDING SETBACKS ARE BUILD-TO LINES EXCEPT FOR LOTS 4, 7, AND 8 FOR TREE PRESERVATION; AND LOTS 13 AND 14 AS APPROVED BY THE HICKORY PARK ARCHITECTURAL REVIEW COMMITTEE.



LEGEND

- STATE MONUMENT
- CONCRETE MONUMENT
- FOUND IRON PIN
- SET IRON PIN
- FIRE HYDRANT
- SANITARY SEWER MANHOLE
- STREET LIGHT
- SANITARY SEWER CLEAN OUT
- BUILDING SETBACK LINE (FRONT SETBACK IS A BUILD TO LINE)
- UTILITY EASEMENT LINE
- DRAINAGE EASEMENT LINE
- SS — SANITARY SEWER LINE
- W — WATER LINE
- GAS LINE
- UNDERGROUND ELECTRIC
- UNDERGROUND CABLE TV
- UNDERGROUND TELEPHONE
- EXISTING CONTOUR
- PROPOSED GRADING
- CURB & GUTTER
- SIDEWALK
- 6' SOLID PRIVACY AND RETAINING WALL

CENTERLINE CURVE DATA

C1: R = 150.00' T = 108.29' L = 187.59' Δ = 71-39-17

CURVE DATA

A: R = 30.00' T = 30.00' L = 47.12' Δ = 89-59-59

B: R = 30.00' T = 30.00' L = 47.12' Δ = 90-00-01

C: R = 30.00' T = 10.01' L = 19.32' Δ = 36-53-28

D: R = 30.00' T = 16.32' L = 29.89' Δ = 57-05-28

BENCHMARKS

BM #1
COTTON SPINDLE IN POWER POLE
ELEVATION @ 1389.04
NORTHING=648270.20
EASTING=685599.39

BM #2
CHISLED 'X' AT NE CORNER TRANSFORMER PAD
ELEVATION @ 1388.30

BM #3
FIRE HYDRANT TOP NUT
ELEVATION @ 1381.80
NORTHING=648184.79
EASTING=685181.15

USE
UNIT No. 8
SINGLE-FAMILY DWELLINGS

TREE DATA

	AREA	
EXISTING CANOPY =	192,932	100%
REQUIRED PRESERVATION =	48,233	25%
CANOPY PRESERVED =	126,795	65.72%
CANOPY REMOVED =	66,138	34.28%
CANOPY WITHIN BUILDING SETBACK =	75,050	38.90%
FINAL CANOPY PRESERVATION =	51,745	26.82%

LOT INFORMATION CHART

LOT No.	S.F. AREA	BUILDING SETBACKS FRONT	REAR	SIDE
1	14,029.12	15'	20'	8'
2	9,632.32	15'	20'	8'
3	9,105.68	15'	20'	8'
4	10,213.97	15'	20'	8'
5	11,708.21	15'	20'	8'
6	15,278.71	50'	20'	8'
7	13,709.32	35'	20'	8'
8	9,669.84	15'	20'	8'
9	9,600.79	15'	20'	8'
10	9,600.59	15'	20'	8'
11	14,655.26	40'	20'	8'
12	10,599.96	35'	20'	8'
13	11,408.17	15'	20'	8'
14	10,370.08	15'	20'	8'

Bunch: The next item on the agenda is a Planned Zoning District for Hickory Park, it is R-PZD 04-05.00 submitted by Milholland Company on behalf of St. John's Lutheran Church for property located at 2730 E. Township and I guess also bordering on Hwy. 265. Suzanne, would you give us the staff report on that please Ma'am?

Morgan: The applicant is requesting a rezoning and Preliminary Plat approval for a residential subdivision within an R-PZD zoning district. This item must be head at the City Council. The proposal is for a single family residential subdivision with 14 units with single family homes on approximately 4.42 acres. Density for the entire site is calculated at 3.16 units per acre. The site is located north of Township Street and east of Crossover. It is zoned P-1, Institutional and the site is currently vacant. The proposed subdivision will have one access to Crossover Road. Forty feet of rightof way will be dedicated from the entrance of the subdivision to the landscaped island roundabout. The two extending drives are proposed as private drives to be the responsibility of the developer or a neighborhood property owner's association. The subivisionis proposed to have a 6' solid privacy retaining wall surrounding the east property along Crossover and landscaped island at the entry way of the subdivision as well as a landscape island with a mail kiosk at the terminus of the right of way. Surrounding land use and zoning to the north is single family residential, the Glenwood Addition which is 2.47 units per acre, it is zoned RSF-4, to the south is St. John's Luthre Church with the P-1, Institutional zoning. To the east is single family residential use with the zoning of R-A, Residential Agricultural and to the west is Cedarwood Addition, single family residential, 3.17 units per acre and zoned RSF-4. Right of way to be dedicated is 40' for interior right of way and 55' from centerline of Crossover Road, there is currently 40' along Crossover with an additional 15' proposed to be dedicated. Trip generation calculations, 14 single family detached dwellings will produce 134 two way trips per day. Crossover Road is a principal arterial. Tree preservation, there is currently existing 100% required canopy is 25% and preserved is 26.82%. Staff has received several calls regarding neighborhood concerns with drainage, traffic, tree preservation and safety issues in regard to the round about and there has been a meeting between the developers and the neighbors. Staff is recommending that you forward this to the full Planning Commission with conditions. There are a total of 16 conditions of which condition two, the Fire Department has expressed the need for a 20' interior drive pursuant to International Fire Codes. Staff is recommending a left turn lane onto Crossover. Also, the removal of utility easements along the rear of lots 1-6, and 8-11 in order to preserve a canopied buffer from adjacent properties be indicated. The proposed sewer easement be routed to avoid a greater number of significant trees. Covenants should be filed with the plat and it is my understanding that they will be getting those to us with the next revision submittal. There is a property line adjustment in process which needs to be approved prior to the Final Plat. This Property Line

Left on 1st reading 3/2/04 mtg

Adjustment is to adjust the southwest corner just a bit further south than what it is currently shown. Condition ten, payment of parks fees in the amount of $7,770 for 14 single family lots prior to issuance of the Final Plat. Item eleven is no structure shall encroach upon any easement. Items twelve through sixteen are standard conditions.

Bunch: Thank you Suzanne. Matt, are there any additional engineering comments or staff report?

Casey: Not at this time. I'm sure that there will be plenty of questions that we will have an opportunity to discuss but no comments at this time.

Bunch: At this time if you all will introduce yourselves and tell us about your project.

Jefcoat: I'm Tom Jefcoat with Milholland Engineering representing the owner and developer of the proposed subdivision, Tracy Hoskins. The proposed subdivision, is, as stated, 14 single family lots north of the St. John's Lutheran Church.

Bunch: At this time we will take public comment. Is there anyone in the audience who would like to address the issue of Planned Zoning District for Hickory Park? If you would, please come forward, I don't know if we have a sign in sheet there or not but if you would please sign in, tell us who you are, and give us the benefit of your comments please.

Sigapuss: My name is Bob Sigapuss, I live in the Glenwood Subdivision, Hardy Lane. I am probably the representative of most of the people that live on the paraperial areas. Most of the people are not retired and have the benefit to coming to this meeting. I will speak my own mind and then add what I think was the result of the citizen's meeting on Monday night. I have three major areas I want to address here. First, existence of wetlands. At least one acre of that land in there is what I used to call as a kid, swamp. It is very low and, it is spongy, it has an ecosystem in there that I think environmentalists would say it is wetlands for sure. Under the definition of the Corp. of Engineers and EPA it is a wetlands. I suppose in determining whether it is a wetlands or not maybe it is the size of the property that is of concern. This is at least one acre. I've walked it several times and it definitely is not a stable piece of land. It occupies lots 11, 12, and 13. Not all of the lots, but a good portion of lot 12. That land where my definition of wetlands exist is about 46" below the grade of Crossover. It sits way down. Mr. Casey said that he would talk about drainage a minute ago, it is a drainage area of sorts. There is a kind of ditch that comes in a northeasterly direction across. It almost starts at the proposed interior street to the northeast corner of the property. If any of you have walked in there you can probably identify it as kind of an unusal part of that whole acreage area. I think that ought to be addressed by the

Corp. of Engineers or maybe you have one in the city, someone who specializes in wetlands. Lord knows, the city has had enough wetland issues in recent years so there probably is expertise far beyond my lamen's definition. The second problem I have is Crossover. That is a major problem. It took me seven minutes this morning to get out on Crossover from Hardy Lane. When I pulled up the hill, you go up a grade toward Township, a fellow behind me was tooting his horn and he gave me the preverbial digital because you can't gun your car up fast enough to get to 45 miles per hour. That is the speedlimit on Crossover, 45 miles per hour. The distance between the proposed entrance to Hickory Park from Township is about 450' more or less andit is about 450' from the entrance to Hardy Lane. That is a very short distance. From 7:00 a.m. until 9:00 a.m. and from 2:30 in the afternoon until 7:00 it is wall to wall cars on Crossover. It wouldn't be so bad if there were only cars but there are trucks. It is a major truck route between Hwy. 412 and the south part of Fayetteville. Why they use that as a heavy truck route I don't know, they are probably cutting off Hwy. 71 and 540. The city has made a lot of statements in recent years. The Mayor talks about the growth, smart growth, and the recent traffic study by the consultants talked about access management, it talks about an access management ordinance. Director Tim Conklin set the access management as a priority for 2004. They also discuss traffic congestion. The congestion that exists between Township and Mission and Township back up beyond Hardy Lane to Old Wire and occasionally, the traffic backs up, if you can believe it, to Joyce Blvd. When it backs up it goes a snail's pace. With 14 homes and 138 entrances and exits a day, that doesn't seem like a lot. Living on Hardy Lane, which has16 homes, we have far more than 138 entrnaces and exits a day. Some of the families have three cars and everybody in thefamily has a car. This ought to be examined a little further. Having a turn lane and just painting a white stripe, left or right, whichever is not enough. That middle lane on Crossover is narrow. When you come down that grade from Township heading towards Old Wire that traffic starts to really move. 45 miles per hour is the least that people go, they exceed that speedlimit. At night time when you are coming from south to north on Crossover and you are trying to turn into Hardy Lane the oncoming cars coming from the north to the south, they don't know what is happening there, they see these lights in the middle of the road and my god, a guy is trying to pass a car you know and here a person in a car like myself, you look in your rearview mirror and you say if you had one more coat of paint on your car you'd have a crash. The trucks are particularly dangerous there. The other night at the meeting, most of the people, probably 25 people, most of them saw Crossover as a major concern. Mr. Jefcoat agreed, I think Mr. Hoskins did also. Suggestions were made that there is a remedy but the remedy may not be too popular with St. John's Lutheran Church. That is an access off of Township behind the church's parking.

Jefcoat: I must object. I did not at any time agree or suggest or give any inference

that the church was willing, or that an access across the church's property was acceptable.

Sigapuss: I didn't say that because, I'm saying that is a remedy.

Bunch: Let him have his say and then you will have your opportunity to rebut.

Sigapuss: To deny that Crossover is not a dangerous situation is putting your head in the sand. The traffic consultants talked about that and they talked about a remedy would be a four lane at some point in the future. I talked to the Highway Department and there is no plans for Crossover for years ahead. Unfortunately, pre-planners, pre city administration and other people in the county missed the boat when they took the outer beltway off the planning map. That would've taken a lot of stress off of Crossover. Ok, so much for that, incidentally, the City Council's goals retreat last year talked about mobility, street quality, improving those things and giving attention to the city's open greenspace. This woods is an ecosystem, pure and simple. There are foxes in there, deer, all kinds of things. It is a virgin forest that has never been touched. I have approached a few people in town who are interested in urban forests and it is the same old answer, there is no money. There is nobody around really to put out the money to buy that thing. The third and last issue is the plan itself. I am not a city planner, however, at one time 45 years ago I was on the city Planning Commission for the city of South Pasadena, California, so I know how it is to have to listen to all this detail. It is the internal street, if you can look at your map there, you will see this Mockernut and Shag Bark Lane, I asked the developer the other night, how will they get the garbage trucks and the fire trucks in those areas? There are four lots that have access onto that narrow street, Mockernut. Hardy Lane, which has 28' width and a pretty wide cul-de-sac street, garbage trucks have to back up twice to get around that. That is going to be far easier than what is proposed here in this Hickory Park. The developer the other night said that that has been approved. The city said that's ok. If I were a prospective buyer I would say I'm not going to be crowded in there, what if I have guests, where do they park? There is no provision for parking. In the proposal itself, they talk about an open area. That open area is about 30' in diameter, that is not much of an open area. Hardy Lane is 90' and that looks kind of small. I think that as a Planning Subdivision Comimttee, you might take a look at that possibility of congestion. From a developer's point of view and marketing point of view I would say does this present any problems to the developer in marketing those lots. I don't know. They talked about a new concept, this PZD is something that they had seen in Atlanta and other eastern cities and it was a new kind of thing to Fayetteville. It seems to me that this is cramping the development substantially. On that point, I shall end this thing and give the developers a chance to rebut what I've said. Thank you.

Bunch: Thank you. Is there anyone else who would like to address us on this issue of Hickory Park? Is there any other public comment? Seeing none, I will bring it back to the Commission for comments and motions. First, Tom, now would be an opportunity for you if you have any answers to the comments that were made in the public comment section. Go ahead and respond to them if you would like to.

Jefcoat: On his three points that he made, the only one that I really, I can address all three. The access onto Crossover, Crossover is a busy street and it always has been a busy street. I'm sure backup does go all the way back to Joyce at times, which is a considerable distance away. Development is always going to increase the traffic flow on Crossover. I think that there is a traffic light there at Crossover and Township which does slow the traffic and does give an opportunity for some amount of safety. There is an existing curb cut that the highway has approved on the church property here that is closer to the light. There is a center turn lane on Crossover which is an additional safety factor. We are only talking about 14 lots here to generate that closeness to the light. That entrance or existing curb cut that the church has would be abandoned and this curb cut would be applied for through the Highway Department.

Bunch: Are you talking about that curb cut that appears to be there but it doesn't connect to anything?

Jefcoat: Yes.

Ostner: Ok, south of this proposed?

Jefcoat: Yes.

Bunch: Right in this vicinity I guess.

Ostner: Here is their new property line, right there?

Jefcoat: Yes. We are removing ourselves from the traffic signal somewhat.

Bunch: That begs the question what is the involvement of this piece of property and the church if you are allow to petition for their curbcut. Is that part of the deal in buying this piece of property from the church to develop or is it being developed on behalf of the church? How does that work?

Jefcoat: I think that that particular curb cut was provided for future development circulation around the church for future development of this lot. It will no longer be needed when this lot develops.

Allen: Before we move on from the public comment, I wondered if you felt that anything productive did come from your conversation with the neighbors.

Jefcoat: Yes, we had about 35 people there and I think that we had some very pleasant discussion with a lot of the people. We only had a few that are really opposed to any development at all. That was well expressed as being totally against development. Mr. Hoskins would like to speak on that and I think that the neighbors were very receptive to the plan as presented in general. There were some comments about access sidewalks and comment five, about the removal of the easement, those easements are not there. That is on preservation one thing that we have done, is give the buffer of greenspace all the ay around the outside of the property so those easements are all internal now. That was one of the design changes that were made from Tech Plat.

Hoskins: My opinion of the meeting the other night, the opinions that I got from the surrounding folks, I don't believe this gentlemen's comments were the concensus. On the contrary, I think most people are very, very receptive to the development. They have a lot of questions, we answered a lot of questions and I personally felt the majority of the neighbors were in support of the subdivision.

Jefcoat: As far as the other comments, the wetland issues, there are three criteria for wetland issues and I am a wetlands delineator and have projects submitted to the Corp. and I would not recognize that area as a wetlands. It does not have the hydric soil, the hydroponic vegetation is not there. It may have the hydrolics there to support wetlands but that is only one of the three criteria. I am not sure that the hydrolics are really there. The last comment about the tightness of the subdivision, that is one of the design features that Tracy is trying to create here, a sense of community facing all the houses inward, pulling the house fronts closer to the street, providing sidewalks on both sides of the street almost making a town square situation. There is give and take both ways as far as we do have an 80' cul-de-sac, we have worked those traffic problems out, our circulation problems out with Engineering and we've talked our way through some of it and as a developer, and Tracy is not just developing the subdivision, he is building homes in the subdivision. He is in the process of drawing up the covenants so that shared driveways fence building fronts, some of those issues he will probably address in the covenants and in the building process.

Bunch: Tom, as a person who has been involved in wetland delineation processes, can you speak a little bit to the age of this land relative to the potential development of wetlands? I know that on the proprety that the City of Fayetteville had that was formally called Wilson Springs, that that had formally been pasture land and was reverting to wetlands, comments have been made about the age of this forest area so how does that play in if this were a potential wetland if it would've been a pasture then in time it could revert to a wetland but if it is an older forested area what are the wetland

considerations there?

Jefcoat: First of all, it would have to be inundated or saturated and in this area they are certainly not inundated by flooding and it doesn't remain saturated for a long period of time. The existing trees have not developed a rooting system that shows above ground or that is surfacing itself to find the hydropnics root system for sustaining growth, they are well rooted into the ground so you do have a forested area and not a hydroponic situation where plants are surviving in an inundated or saturated condition. While it is forestland, it is not an emerging wetland.

Bunch: In other words, if it were an emerging wetland it has had plenty of times to have emerged and made itself evident since apparently the age of these trees is pretty old. I know some comments were made that it was a virgin forest so if that would be the case then if it were a wetland it would already be not only fully developed but it would be present at this time.

Jefcoat: You also may note that the soil conditions here, this is a very rocky site and there have been rocks are evident on the surface and things and there is a fairly good amount of perculation there, it is not like the water saturates.

Bunch: Are post oaks normally associated with wetlands? It looks like the predominant trees that we have are postoaks in this area, that is one of the ones that populates hillsides, I don't know how they do in wetlands.

Jefcoat: I think the designation for a postoak is FAC, which is a mid-range, it can work either way. It is not an oblique, it's not an OBL classification so you couldn't submerge it in water but it will stand some saturation but not total saturation.

Bunch: Is there anymore comment on the issues that came up with public comment or can we move onto the conditions of approval? I guess since this is a PZD just by definition it will have a hearing here, at the full Planning Commission and then a minimum of three readigs with the City Council. I think in the recent past the City Council has had some auxiliary meetings so there will be a minimum after this meeting, four more opportunities for public comment to address these issues. Part of that is because some of the people are unable to attend an 8:30 going onto 11:30 meeting in the morning but those other meetings will be evening meetings. Staff, can you tell us and Engineering, on the Fire Department, how does this cul-de-sac or public right of way with private streets on either side and a hammerhead, how does that relate to the Fire Department?

Casey: At Plat Review the Fire Department did recommend a 20' wide entrance, it is shown as 14'. I think there has been some correspondence between the applicant an the Fire Department since then. I've not heard the

outcome of that.

Bunch: You are talkinga bout the entrance off of Hwy. 265?

Casey: Yes, right there with the landscape island. One thing, before I get too involved, the public street just includes the cul-de-sac, this crossing is just a private driveway.

Bunch: That is pretty much what my question was about, the 40' radius on that cul-de-sac, is that sufficient?

Casey: That is what our street standards calls for. The Fire Department at times have asked for more. It is nothing that we have in our standards to require at this time. I don't recall if that was a comment at Plat Review. Do you remember if they had asked for that?

Jefcoat: They were interested in having a 20' lane at the entrance and that was addressed at several different levels. One was that there be a left turn lane or that the exit lane be widened to 20' or another lane put in there. You could either take it out of theisland or take it out of lot one. If it was 20' wide that would be a 6' addition to there what's shown. That would be two 10' lanes, one for turning right, one for turning left. That would give the fire truck it's 20' entrance into the 28' road system. However, most fire trucks you would suspect would be coming from the south since Crossover has a centerlane, there is plenty of turning radius to be straight to come in and I submitted to the Fire Department that with the left turn lane if you were coming in you are going to be going in an exit and they said well we get in anyway we can and I said well, if you are going to get in anyway you can and you are straight, maybe jumping the curb and driving on the sidewalk for this short distance, 100' or 60' long then that might not present a problem because it is a short distance. We had conversations with the fact that we are adding additional hard surface, runoff is an issue, trying to save as much greenspace as possible, you are just adding more asphalt. Plus, if you eliminated the island and made that smaller, you are distracting from the purpose, the intent of the developer to do something maybe a little nicer than a huge solid asphalt three lane entrance. A lot of those aspects have been talked about back and forth across the table. I think it has been satisfied that the fire truck could get in and that the access for that short distance would be successful.

Ostner: I just have one comment on that. I don't think those islands are the best solution for this street. I think it needs to be just 36' wide, 12' in and two 12' lanes out, a right and a left. In other words, lose the median.

Jefcoat: You are talking about a 36' entrance, right now it is 41'.

Ostner: It is 41' right now but there is an island in the middle, which I see as

problematic to Crossover mainly. When the Fire Department says that they need wider lanes, I wish these lanes were narrower and not the entrance. I think entrances by safety and by function need to be wider and then let it get narrower inside. That is just my take on that intersection. The left turn would be resolved and the Fire Department issue is resolved and it gets narrower so you pull that landscaping out and put it on the sides.

Jefcoat: Well, you are talking about a big, wide, harbor looking spance of asphalt to enter into a subdivision.

Ostner: You already need a left turn lane, this is not going to do it so you are going to have to change this already. 41' could change to 50' if you made that a double lane out.

Jefcoat: You are saying that you have to have a left turn lane, why are you saying that?

Ostner: That's the way I understood it from the traffic being so heavy, this guy trying to turn left could take 20 minutes and everyone would be waiting. That is the way I understood that we need a left turn lane there by function.

Bunch: Does Hardy have a left turn lane?

Jefcoat: No it does not.

Bunch: When was Hardy built?

Sigapuss: 1989.

Casey: Another thing that Suzanne and I discussed yesterday that involves this landscape island is the driveway access to lot 1 and 13. You are not providing enough space if you are entering off of Crossover and you need to turn left into lot 1 you've got your 10' from the property line requirement before the driveway starts and then a 24' wide.

Jefcoat: We talked that over with Suzanne also and we are in agreement that shortening that island up would make the drive entrance to lot 1 more attractive and better and it would also shorten the distance coming in there so we would certainly revise the island to be shorter on the west end. We would like to keep the landscaping back there.

Casey: Lot 13, would the driveway be coming off the private portion of Mockernut or off of the public right of way?

Jefcoat: We've actually talked about the builder/developer, that being accessed

both ways through there. It is very feasible that lot 13 would orientate itself and have its entrance off of Mockernut Crossing but it is very feasible for a drive to go all the way through. By shortening the island up 10' that would certainly give access to both of those lots and resolve that issue.

Ostner: I think it would be a lot safer if it only came from Mockernut. This is going to be a really quick turn in with heavy traffic on Crossover. Personally, I was going to ask if access be restricted to Mockernut only.

Bunch: We are also looking at lot 1. It is the same thing as turning into here, a person entering here if this is shortened, coming around that making a bad turn coming into lot 1 whether than going up and going around the mail kiosk.

Hoskins: At worst, the driveway to lot 1 would be on the property line between lots 1 and 2. As Tom said earlier, for the restrictive covenants we are planning on encouraging shared driveways so we will have as few cuts along the street as possible. The whole idea of the subdivision is to put some more green into it, save the trees, etc. If we want more of the same of what we've got here on North College then we can make that concrete or pavement all the way across that if you want more of what you've got out here.

Bunch: Since this is a PZD that is within the realm of our review and it would be helpful to, as opposed to not only having it in the covenants, but to show it on the drawing and it could be a requirement. That is a very important piece of information is to show a shared driveway between 1 and 2 and maybe between 14, it wouldn't be fair to those people to restrict them that much.

Hoskins: That is not a problem with showing it at least on these lots up front.

Ostner: I think all the lots need to show the driveways. I'm excited that this is a PZD and you are doing something different but I'm not sure how 11, 12, and 13 are going to have driveways. Benton Ridge we made show the driveways and it helped a lot to understand. I like the idea of doing a short 15' building setback in the front.

Bunch: While you are on the same issue look at lots 4, 5, and 6.

Hoskins: It is a shared drive.

Ostner: I think it needs to be on the drawing.

Jefcoat: We addressed that with Suzanne about putting it on the drawing. A couple of issues come up, what if that changes, what if the builder shifts it to the other side of the lot or some other idea we haven't predicted.

Ostner: With this process the design is happening up front.

Jefcoat: I understand that.

Bunch: Without a shared driveway here I would be in favor of saying that we could send this forward but with a do not recommend vote on it. This is entirely too tight right in here to have two driveways and that wold have to be part of the document package.

Jefcoat: I agree but my main objection was that if you show a shared driveway here and then the shared driveways wind up being either here or here you don't want to predict which ones of these begin to share driveways. One of those three lots could have its own drive and the other two could be shared. Certainly shared driveways need to be there.

Ostner: Here at the approval process, if we leave it just in text.

Jefcoat: I am not saying leave it in text, I just don't want it to be predetermined.

Ostner: What if these two guys build it and then those two guys don't, they want to build over there, then suddenly we don't have them.

Bunch: What if lot 7 decides they want a single drive then 5 and 6 have to, we are still in a situation of predetermining. It could be you could predetermine and say in here but this is still too narrow. If you have visitors coming in or someone that's lost driving around through the area, depending on these driveways, you are looking at a situation of possibly backing up around a blind curve or blind turn. That brings up the issue of what is this line. According to your legend it is a 6' solid privacy and retaining wall. You are using the same legend so we don't know what this is. Definitely this is your curb and gutter here. What is it?

Jefcoat: That is a low retaining wall, it should not be there. Yes, we could predict the shared driveway here which is probably the best because these two lots certainly have a frontage that they can develop a separate driveway on. Rather than say a shared driveway either here or here, if the one shared driveway is predicted here and one of the other lots would have to be there. It is likely that these two will share a driveway and these two and those two. We can go ahead and predict that and put that on the drawing.

Bunch: That is pushing 14 an awful lot, you are saying that you would make a driveway here or that you would do it here between 13 and 14?

Jefcoat: I'm only saying that there would be a shared driveway here, not that this guy wouldn't want another driveway out here somewhere.

Bunch: You are showing 40', actually a 28' road but you are still looking at a situation without knowing where these driveways are that people potentially could get lost coming in there and backing around this or pulling up in here and having to back out of it unless they pull up in somebody's driveway. I understand the concept of using a modified hammerhead with a turn around.

Jefcoat: We want to eliminate the amount of driveways in that area because we want the integrity of the sidewalk and the uniformity of the whole area.

Bunch: Every compromise has it's price. In order to preserve more landscaping and trees and to slow traffic, then you are also creating a harder turn around situation.

Jefcoat: I think our major trees are in this area and in this area so our common drive should be here. The same way with our trees located where they are the shared rive should be here and here.

Bunch: On Lot 13 with access on both sides, what is considered a front as far as building setbacks? As a PZD we determine the setbacks in advance. What is your thinking? The way this is shown if this was a driveway in that area you would have a house right up in this corner. What are your thoughts there? Give us a little bit of the benefit of your thinking on how you drew the setbacks in and also in relation to potential shared drives.

Jefcoat: Actually, I would think 13 would want to face the front just for prestige sake. 14 being a corner lot has a lot of options as to which is their front area. There again, you are sort of looking at a three sided porch with several fronts here and the through drive in the back is sort of the envision of that lot. 13 and 1 and these along this side would certainly not face the common square we would like to see but because of arrangement. We could put a building setback in this area. It is not likely that someone would build a front ended house in that depth. We could move this back further for a straighter line across there.

Bunch: One of the things that comes to play with this is the access and also in dealing with the driveways. We use as a model and as a guideline of development procedures, even though it is a PZD, these are single family homes, the minimum lot frontage is 70'. First off, you are not showing us, I don't know what my numbers are telling me here on interpreting the drawing as far as the frontage of these different lots. Do we show a line along a building setback line which is normally what we accept on corner lots with a narrow frontage. What we are doing here is a compromise where we are deviating from accepted practice because it is a PZD and because there are special considerations. To me it is a cumulative affect.

Warrick: I would say to that regard Commissioner Bunch, when we do look at

standard RSF-4 zoned subdivisions, there is an exemption granted to the frontage for cul-de-sac lots. These very much resemble what you would see as a cul-de-sac lot configuration in a standard subdivision. Staff did not see a problem with regard to that. We do encourage the use of shared drives and I think it is appropriate to show where we can predict those shared drives for tree purposes and also to cut down on having driveways go everywhere off the end of these accesses.

Bunch: One of my concerns here was also for clarity and for ease of reading the drawings because the next step goes to nine people and then the step after that goes to nine more people so that it is more user friendly from the drawing standpoint for people to understand what they are looking at.

Jefcoat: That is one reason, like Dawn said, we have shown the building setback here so that you do have more frontage here and we've done the same thing here. On that particular lot it was not done in that way because of the front on there we didn't feel it was necessary. We certainly have the 70' frontage was taken into account and that is the reason we did the setbacks where we had to get the 70'.

Ostner: I still think for me that I need to see footprints, not pulled out of a book, house plans that are to be built, but maximum squares that are buildable that would be realistic.

Jefcoat: When you say anywhere in the building setback is buildable area then you have done that and that's what we've done.

Ostner: Is this guy really going to be square to this street or is he going to turn it?

Jefcoat: That is his choice.

Ostner: I know but it is such a tight area and it is a PZD and they are getting, I noticed, similar to cul-de-sac frontages, but it is going to require driveway coordination, which feeds into house coordination.

Hoskins: These are private street anyway. This is on a public street.

Ostner: I'm just saying to coordinate the driveways for me to understand this you almost need some sort of maximum footprint, not a buildable line.

Jefcoat: That is a maximum.

Hoskins: Somebody could potentially fill that hole with a house, it would be a big house but they could do it.

Ostner: How does that work with the driveways?

Jefcoat: That is the reason that we have done this example of greenspace and we have said that we are preserving right a 27% where in reality when the house is built that is the worse case scenario should that whole buildable area be used.

Ostner: I understand that. I am just saying the driveway coordination and house coordination are not completely separate issues, they work together. If you coordinate some driveways maybe it will just work itself out.

Bunch: This drawing disagrees with what has been stated on driveways because you are showing.

Jefcoat: If we determine the driveways. There again, the driveways are not taken out of your greenspace. We can do that, yes. That is not a normal occurance.

Bunch: Just for consistency, if you are talking a shared driveway here then obviously, if it is called out tha that is a shared driveway then obviously this greenspace comes out of this but it will free up other areas for greenpsace.

Jefcoat: I think it may be a toss up as to whether we show a shared driveway or show a shared driveway. Which ever way Tracy feels more comfortable with predicting the development of those individual lots is where we show it. I think we are in agreement here that rather than just say that we are going to share driveways is to at least show it.

Bunch: That is one of the costs of the flexibility of the PZD in order to have this type of configuration. Part of that compromise is you pay for it by saying ok, this is where we are going to put the driveway. That is the tradeoff.

Hoskins: The essence of the concern is that we implement shared driveways and basically that each lot owner only has one entrance basically. In other words, do we have to determine at this point which lot lines get that shared driveway or can we put in the restrictive covenants that they have to share a driveway on one side or the other with their neighbor?

Bunch: If you wanted to do it that way if a builder came in and said he wanted to buy these two lots then that would force these two to share.

Ostner: If those two have already shared then this guy isn't left with anything but a single.

Bunch: These right in here is a moot point.

Ostner: We just said all lots have to share and if it is not coordinated up front.

Bunch: Lot where there is a frontage issue if you will.

Jefcoat: Ok.

Ostner: That is my concern.

Bunch: Our concern is the access to the individual lots and if we are to go favorable on this we are allowing less than normal frontage so it is important that we say ok, if we are doing that then we need to provide access to those and that is what we are trying to accomplish is the tradeoff between the lesser frontage and guaranteeing access.

Hoskins: Are you talking about at the setback or at the street?

Bunch: Well, there is reduced frontage here, this property line and this property line for a driveway to be put in if this is an unshared driveway. What we are saying is that there has to be a scheme or a plan for providing access to the lots with minimal frontage, even though this is a private road, minimal frontage on the road.

Jefcoat: We've got four lots there and four lots here so I guess we could split it between the two lots.

Hoskins: We'll fix it whatever it is.

Bunch: That would help as we get further down the line because right now it is rather confusing. On the same deal, let's look at this underground detention pond and who's responsibility that is and where the access is to maintain it since that is going to come very much into play with these driveways. Could you tell us a little bit on how that system works and how it will work in relationship to the driveways and what kinds of loads can be imposed on it?

Jefcoat: Right. Your two inlet boxes are here. We were going to use the stormtech system within this end of the drive and include the volume in the pipe and the cleanout would be in front of the outlet structure here so you would have access to the underground facility and the two outlets there and the one cleanout at the pipe.

Bunch: Would these have manholes on top of them for access here as well as the cleanout? What affect would that have on placing the driveway between lots 11 and 12 on top of that?

Jefcoat: That part would be concrete pipe.

Bunch: So that is concrete pipe and it wouldn't really matter but there could be a shared driveway immediately above that?

Jefcoat: Yes.

Bunch: Matt, are you with what we are talking about here?

Casey: It would just need to have some sort of private drainage easement then dedicated for the detention system to be able to be maintained since we are not creating a separate lot like you normally see in a subdivision.

Bunch: We are also looking at drainage, I guess the existing contours of the land are all draining in the traditional fashion but all the roads and everything are drained to this system?

Jefcoat: Yes. One of the issues brought up in themeeting was that these people receive drainage off of this and it does cause them a problem at some time. The development actually will capture and decrease the runoff affect that these peole have and that these people do. The only persn that receives runoff that doesn't get benefit from the development would be this particular lot and he was at the meeting and we talked about that.

Bunch: These driveways and everything go into the road?

Jefcoat: Yes, the contours all come that way so the road would actually act as an interceptor. All the runoff would be concentrated and captured and let out similar to where it is going now except the valley does come through these lots. We are actually having that water situation.

Ostner: I know we've already touched on Hwy. 265 but I think for the full Commission that a better drawing than this needs to show overview.

Bunch: Staff provided that didn't they?

Ostner: I know, this just happens to be in our packet and this is all I've got. I need something that shows your proposed development and stuff surrounding it. I know that the other committees that have to look at it are going to want to see something more too.

Warrick: You have this too.

Ostner: I know, but that's confusing.

Warrick: We will draw that line for you, this is what you will have in your packet also. Is this not sufficient to what you will need?

Ostner: I don't think it is going to be sufficient for others.

Warrick: I need more direction then because this shows all of the houses and all of

the surrounding subdivisions.

Ostner: If that showed this.

Jefcoat: If we overlaid that onto this?

Warrick: You want to see the lot layout on this?

Ostner: I want to see the curb cut at least into that scale, that would be perfect, I think everyone is going to want to see how this falls into traffic. I would call that an overview drawing.

Bunch: Ok, then the drawing that you have here Tom, how does that relate to conditions of approval five and six?

Jefcoat: The utility easements have been removed from the rear of lots so there are no utility easements. The previous layout showed the sewer going in the back of those lots. That was in order that we didn't have manholes in the street and we eliminated as much unsightliness as we could, but in order to provide the buffer zone and to have less disturbance with the trees and things we brought everything to the front so there are no utility easements in the back of the property.

Bunch: That creates a buffer between this and the properties behind it.

Jefcoat: Right, it also creates a buffer between the church. All the outside we kept the integrity of the existing trees. I must point out that this is a thickly covered site and what we've shown is the significant trees. That is not to say that there are not 21" trees and 18" trees there because there are. These are only the significant trees there. There are just multi-trees, while this may be a 24" post oak there may be 10 21" post oaks in that same area.

Bunch: The green is representative of existing canopy with the existence of significant trees highlighted.

Jefcoat: We have shown the building setback so it is possible that these trees would be lost. Because these are significant trees hopefully not.

Bunch: What about these down through here since this is a utility easement? You are showing that as a green.

Jefcoat: Some of those, we were going to preserve as many as we can through that. We are not going to just clearcut the whole easement. That is these two locations, we've got significant trees here that we are certainly going to try to protect because of the root structure here and here. We have them listed as preserved, not necessarily lost. We tried to accommodate all of our

utilities down here.

Bunch: When you are saying remove that are in a building envelope, can you interpret that for us?

Jefcoat: Yes, where it falls within the building envelope we have slated it as removed because it could be removed because it sits in the building setback.

Bunch: Not from the standpoint of a contractor looking at this coming in and saying oh my goodness, that says removed, it is in the building envelope, I have to remove it?

Jefcoat: No, it is a potential removal and that was terminology that we worked out with the Landscape Administrator. He wanted us to present the very worst case scenario.

Bunch: For purposes of calculation?

Jefcoat: Right so it is the worse case scenario. It is obvious that this one is in the middle of the lot and it most likely would be lost.

Bunch: Just maybe a note. Like I said, there is going to be a minimum of 18 people looking at this and probably many, many more.

Jefcoat: That would be a good note to put on there as to why that is the worse case scenario.

Bunch: To clarify the ones where it says remove.

Ostner: Some people say "not counted towards total." Just lose the removed word and say "not counted towards total."

Bunch: There is a lot more clarity that way.

Jefcoat: Lot 5 and 6 that we discussed, the last one I guess is no structures in the easement. That has to do mainly with the stonewall proposed out front. This retaining wall shown in the circle, what we've done there is that is about an 18" wall to level the island up and to give it some character. It is going to be a landscape island and to give it a little better look we leveled it up with an 18" wall and it is obvious because of the two contours. Had it been a 6' retaining wall we would've had many more contours. The nomenclature is wrong and we will straighten that out.

Bunch: Would that be a stone façade to match?

Jefcoat: To carry unity and to act together. It would be installed like this. That

sort of sets the character. It draws the unity throughout the development so that would be the same character as that. This retaining wall we were talking about a 5' to 6' stone wall. We did what Matt suggested, we took it out of the easement where you've got the right of way, the 5' strip for the wall and then your utility easement so it is not in a utility easement but we do show and would like to do some curbed entrances which crosses the easement. The gas line is out in the road right of way and the only utilities in the easement would be the overhead electrical. Since it is all the water and all the sewer is not in that easement the only utilities that would be in that easement would be the overhead electrical cable and things so if we provided conduit on either side of that wall in the easement we would like the curvature of that wall to cross that easement.

Bunch: You are adding conduits should sometime that overhead be buried?

Jefcoat: That overhead would be buried for this development.

Bunch: Matt, is that acceptable, just like a street crossing to have the quads in under the fence?

Casey: I think I'm comfortable with the wall crossing the easement and not running with the easement because it is a lot easier if a utility had to do some work, to put a new line in to go under that wall than to run right beside it if they are having to dig down several feet deep. I think crossing would be acceptable.

Jefcoat: Good. We have conduit under the road so what we will do is just extend it on beyond the sidewalk.

Ostner: You mentioned a maximum height for the stonewall to be 5', is that so you've got something pictured of how it steps down and follows this grade?

Jefcoat: We are not going to level the top of it, we are just going to run it with the grade. You don't have that severe of a slope there that you would want to stair step it down. It would be contoured with the existing grade.

Bunch: What sort of covenants do you have as far as house size, we are looking at compatibility issues with adjoining properties in areas so what sort of, you have house construction, house size, could you give us a preview of that? Will you have those available for the full Planning Commission?

Hoskins: We are working on the Restrictive Covenants as we speak. To give you an overview, the minimum square footage on the houses will be about 2,200 to 2,300 sq.ft. We are expecting more like 3,000 sq.ft. houses, all brick or stone, no E.I.F.S., no hardyboard siding, no vinyl siding, no aluminum siding, no vinyl soffit, etc., all natural materials, we are looking

at the gas lamps on the fronts of the houses and streets, we are looking at that but we haven't determined that yet. Minimum 8 pitch roofs, all rear or side entry garages, nothing facing the street. This is slated to be a European design type subdivision, in other words, lots of tudor and sweeping rooflines, wood windows, etc. Garage doors being carriage style garage doors instead of sealed or whatever. Those are the things that we are leaning towards, of course, a lot of it is still up in the air, but that is the intent of the subdivision.

Bunch: The covenant on the rear or side entry garages would go quite well with the issue of the driveways.

Jefcoat: Yeah. We also talked about private fences being setback from the front part of the house to half the distance of the house.

Hoskins: Right, no fences would come up to the front corner of the house.

Jefcoat: It is good for the appearance of the subdivision to have all house fronts and no visible fencing along the fronts of the houses.

Ostner: If you are looking for that kind of high end European style design have you considered narrowing these streets, they are 28' back to back, that is ample for three cars to pass, it is pretty wide.

Jefcoat: If you narrow the streets you get back to circulation problems, trash cuts, vans, visitors. The wider the street and still keeping an intimate feeling.

Bunch: What about on street parking, is that allowed?

Hoskins: That is another issue as well, the width of the streets is for on street parking right?

Jefcoat: I think in the covenants you said that there would be no on street parking, it is understood, we talked about hours of on street parking and whether it is 24 hours maximum so you don't have permanent on street parking.

Bunch: One of the concerns again would be in this area. Of course, that is a private drive but still, from a safety standpoint and emergency vehicles and access, that is a concern, whether it is a public or private right of way.

Jefcoat: Right, we wouldn't want to narrow the streets anymore than what we've got. We have thought through a lot of this.

Bunch: In this area definitely not but that works into the overall scheme and I think that people are going to be asking those questions so we want to preview them here to give you an opportunity to be prepared to answer them.

Ostner: Part of the thought behind the 28' street is that it is in essence three lanes, two driving, on parking. It doesn't matter, it's just a comment.

Bunch: Ok, I'll bite on one thing, how did you come up with the name Hickory Park when there is one hickory tree in it?

Hoskins: I had a better idea but they didn't like my idea so I let them come up with the name.

Bunch: Staff or Commissioners, is there anything that needs to be addressed as far as what we are sending forward if we do send this forward? Commissioner Allen, you've been extremely quiet on this particular one, any recap of the details that Alan and I have gotten into, can you give us an overview of it?

Allen: I think everything has been clearly stated.

MOTION:

Ostner: I will make a motion we forward R-PZD 04-05.00 to the full Planning Commission.

Allen: I second.

Bunch: I will concur and I guess that is with there were many things that were brought up today I think to which you will be responding so I think that would be a good comment to make that it would be as discussed in this meeting.

Allen: A reminder to the neighbor and to the other neighbors that if they are available to come to the hearing at the Planning Commission.

Bunch: We are adjourned.

R-PZD 04-05.00: Residential Planned Zoning District (Hickory Park, pp 294) was submitted by Millholland Company on behalf of St. John's Lutheran Church of Fayetteville for property located at 2730 E. Township Street. The property is zoned P-1, Institutional, and contains approximately 4.429 acres. The request is to rezone the subject property to a Residential Planned Zoning District and to approve the development of 14 residential lots.

Hoover: The next item on the agenda is R-PZD 04-05.00 for Hickory Park.

Morgan: This project was submitted by was submitted by Millholland Company on behalf of St. John's Lutheran Church of Fayetteville for property located at 2730 E. Township Street. The request is to rezone the subject property to a Residential Planned Zoning District and to approve the development of 14 residential lots on approximately 4.429 acres. Density for the entire site is 3.16 units per acre. The property is currently zoned P-1, Institutional and is identified as Residential on the General Plan. The site is currently vacant. To the north is Glenwood Addition zoned RSF-4 with 2.47 units per acre. To the south is St. John's Lutheran Church with P-1, Institutional zoning. To the east is single family residential usage with an R-A zoning designation. To the west is Cedarwood Addition, zoned RSF-4 and has approximately 3.17 units per acre. The existing canopy on this site is 100% and preserved is 26.82%. Staff has received calls from the neighborhood with concerns regarding drainage, traffic, tree preservation and safety issues. Staff has made the following findings: The proposed density is compatible with surrounding properties. In addition, the applicant has proposed erecting a 6' stone wall along Crossover to be used as screening between the road and the housing. There are currently manmade screenings along Crossover and this is somewhat consistent with the other subdivisions along Crossover. In addition, connectivity is being proposed from this subdivision to the east to Crossover Road. Shared drives will be utilized between lots one and two, six and seven, eleven and twelve and thirteen and fourteen in order to decrease the number of curb cuts. Pedestrian access is also provided along the sidewalks with the interior streets as well as Crossover. The developer is also proposing a landscaped island at the entrance of the subdivision and a landscaped round about with a mail kiosk at the terminus of the right of way within the subdivision. Access is being provided to Crossover Road with a 14' drive aisle into the subdivision and a 20' exit drive aisle, which would provide sufficient width for a right and left turn lane. Use Unit 8 is the proposed use for this subdivision. The proposal is unique in that there are build to lines and specific building types and materials called for in the covenants. Shared drives will be utilized. Staff is recommending to eliminate the build to lines on lots 4, 7, and 8 in order to preserve a greater amount of canopy. The proposed zoning, it is in the opinion of the Fayetteville Police Department that the Planned Zoning District will not substantially alter the population density and thereby undesirably increase

the load on police services or create a traffic danger or congestion in the area. Based on these findings, staff is recommending that this be forwarded to the City Council with a recommendation for approval of the requested rezoning and Planning Commission approval of the proposed Preliminary Plat subject to 13 conditions. Staff has received signed conditions.

Hoover: Thank you. Would the applicant come forward?

Jefcoat: I'm Tom Jefcoat with Milholland Company representing St. Lutheran's Church. The applicant is also Signature Homes, Tracy Hoskins. We do accept the conditions of approval, they have been signed. The condition of build to lines on lots 4, 7, and 8 will be added to the plat and also on the tree plat we have a correction to make on not to count the trees in the building envelopes. Those two corrections will be made. Other than that, we are in agreement with the conditions.

Hoover: At this time we will open up this PZD to public comment for Hickory Park.

Sigafuss: I'm Bob Sigafuss, I live on Hardy Lane. I'm sorry my old friend Mr. Estes isn't here tonight because he generally agreed with comments I made in the past. Hopefully, I can make something constructive of this whole decision. I would like you to take a look at the big picture, particularly the traffic considerations. East Fayetteville is under a lot of pressure. I noticed up front your goals for 2008 number four says "Improve mobility and street quality." I hope that doesn't mean you are going to start to think about that in 2008 because it has been a long standing problem on Crossover Road. Crossover is the eastern corridor of Fayetteville. College Avenue is the center and I-540 is the west. In the last couple of years this street has become a mess. 24 hours a day there is truck traffic constant. From 2:00 in the afternoon to 7:00 in the evening there is heavy traffic. This entrance to Hickory Park is only 450', maybe less, from the traffic light of Township. It is only 450' from the entrance to Hardy. Hardy is a dead-end little subdivision. There is no outlet. Hickory Park there is no outlet other than off of Crossover. This leads to a lot of problems with safety. When I make a left turn into Hardy Lane sometimes you think that you are going to meet your maker because you are in the center lane, there are three lanes, one north, one south and one center. You have that little turn and you have an instant to get across because the traffic is so heavy. With Hickory Park you are going to be much closer to the congestion and I would think that it is going to be a very difficult thing to maintain a pattern of flow on that state highway is this project is approved. Candlewood is an interesting project, it is a very nice project. They have an entrance on Crossover, they have an entrance on Township, it is an ideal situation, you can get in and out. Hickory Park

you are in and you notice from your plans it is a very narrow confines in that project. I'm not going to talk extensively about the nitty gritty because that apparently has already been accomplished. I would hope that the church, which is now the owner of the property, would rethink the highest and best use of that property. If they are willing to grant an easement off of Township, and there is room for a 28' road off of Township and at least allow an extra entrance to the project it would make this project much more feasible. That's only one of the considerations I have. The second is the question of the marsh area. 4.4 acres, of that I would estimate one acre, maybe a little more, is a swamp. It occupies lots 11, 12, and 13. Mr. Jefcoat, the engineer for Milholland disputed that at the Subdivision Committee meeting. He said he had expertise in matters of wetlands and marshlands and this was not a problem. I would like to differ with that opinion and I would like to ask the staff, how many of the staff has been in that marshland area? Ms. Morgan, Mr. Casey?

Morgan: I've been to the site but I've not walked it.

Casey: I have not walked the site.

Sigafuss: How about when you visited the other day, the Planning Commission? Did you get down into that marshland? It is a serious marshland. It is something that ought to be looked at by some third party, not take Mr. Jefcoat's word for it. He has a certain vested interest in this project. I would like at least before this project moves forward to the City Council for somebody to take a look at it and convince those of us who think that this is a wetland that it is not and it is going to be safe to develop lots 11, 12 and 13. Two parcels on Hardy Lane abut this marshland. The corner lot and the second one in on Hardy. Even during dry periods you can walk in there and the ground is spongy and it has a certain vegetation on it which looks like what the Corp. of Engineers decides is a wetland. I would think that you'd want to take a look at that first. Second, ask the principals of the church what they considered when they put this land up for sale. I know for a fact that a number of developers have looked at this land over the years and have turned it down because they felt that it was too difficult to develop and the traffic pattern there may affect the marketability of those homes. I tend to agree that it might affect the marketability of these homes. I think three of these homes are directly behind the wall off of Crossover and that drop off to the marshland is at least 3' below the grade of Crossover. It is down, it slopes to the northeast corner of that parcel. That you must address to satisfy my concerns. The church is asking for a rezoning. That is a very important serious matter. They have been living with this land, I think it is 10 acres total for their property, practically tax free for 30 years or more. Have they thought about other uses? Have they thought about maybe approaching one of the urban forest groups to take it off their hands? Have they thought about

maybe selling it to a single home owner? There is precedent on Crossover between Township and Mission, there are three or four homes that sit down there on large acreage, very nice places. It is possible that someone could come along and pay the church a fair price for it's land. I hope the church, I don't know their circumstances and why they are choosing to sell the land, it is probably financial, but whatever they are, I would like the church officials to approach the Planning Commission and the City Council and tell them why they are selling this land. I don't think you should just look at the plat and criticize or add suggestions. It is more the big picture as I said at the beginning. Please don't rush this thing through to the City Council and remember item number four, 2008, improved mobility and street quality. You are not adding to the betterment of Fayetteville by this decision. You may be going the other way. I would say either change the design or turn down the project. Thank you.

Hoover: Thank you. Is there any other member of the public that would like to address this Planned Zoning District?

McCartney: Hi, I'm James McCartney, this is my first time here. I live in Glenwood as well with Bob. What I was thinking is when you are considering this residential area here by the church that you would think about the way that Glenwood is closed off and unable to go anywhere in the neighborhood unless you go by car on Hwy. 265. What I would like to see is a continuation of the sidewalk that is in front of our development to go to the west side of Hwy. 265 and continue onto Township so that we can go to Gulley Park, potentially cross the street and go to McNair Middle School and Vandergriff. It would seem like that the financial resources are there and also the construction equipment to do something like that at this point in time. It would not be just in front of the proposed subdivision because that would also be a dead-end but it would also continue on the east side of the Lutheran Church all the way to Township. That's what I would suggest doing so that people can get out from both of those subdivisions, walk up to Township, walk down Township, go to Gulley Park to go to the concert or take the kids to the playground and what have you. Thank you.

Hoover: Thank you. Is there any other member of the public that would like to address this Planned Zoning District?

Hemingway: My name is Doug Hemingway and I'm a member of St. John's Lutheran Church. We were approached by this developer to purchase our property and I said let's see a plan. What he has done is he has designed an excellent plan. The church is most happy with it. We would like to see this really happen. The church is all for it and I would like to commend the city and the engineering staff and the developer for coming up with an excellent PZD. This is just a small piece of land where everything is

confined to a center village style and it represents what a PZD to me is. I would like to hear some more comments of how you feel about the design itself. We think it is quite excellent.

Hoover: Thank you. Is there any other member of the public?

Mainfort: Robert Mainfort, 2408 N. Hampton Ct. My property is located essentially southwest of the proposed project area at the corner of Hampton Ct. and Township. The speaker before last raised a couple of issues that I would like to address. For starters, there is absolutely no comparability between the proposed development we are discussing tonight and Candlewood. This represents 14 single family units. Candlewood the last time I walked through there has at least several more structures than that. Most residents of the area I think are not concerned with matters of access because of Crossover. The other matter ties in with accessibility and basically creating access off of Township. This would go more or less through my backyard and that of about six other people who would not be pleased by this. More over, I would suggest that the speaker before last is being somewhat hypocritical in proposing this when on the one hand posing that certain areas he considers marshlands and then proposing an access road that would destroy a very large amount of habitat currently preserved. Both the church and the developer we think have been good neighbors on this and I strongly suggest that we proceed with this. Thank you.

Hoover: Thank you. Is there any other member of the public? Seeing none, I will bring it back to the Commission and staff. I guess first would you address traffic on Hwy. 265 and accessibility?

Warrick: I will take that, at least to start. Hwy. 265 is a principal arterial, it is a state highway. It is designed when it is fully built to it's principal arterial standard to sustain the volume of over 20,000 vehicle trips per day. The current Arkansas Highway and Transportation Division count on this particular strip of Hwy. 265 in this location is approximately 16,000 vehicle trips per day. A single family home generates between nine and ten vehicle trips per day. This subdivision would generate fewer than 140 vehicle trips per day on a count based on I.T.E., the Institute of Traffic Engineers software and reporting mechanisms. The developer has proposed an entry that allows for a single access into the development, a one way entrance and there is a wide enough exit to provide for a two lane exit, a right turn and a left turn. Incidentally, that also allows for the necessary vehicle width for fire protection. The applicant has thought about the option to allow for stacking distance if people are stacked up at a peak hour. This portion of the city, like I mentioned, Hwy. 265 is a highway. It is located in a highly residential area, there are several schools in the area. There are peaks and there are times when there is a wait in order to move. Traffic movements are slower at certain times.

That is not uncommon. You will always have peak times and off peak times so just as far as the numbers are concerned and as far as our evaluation of the situation staff is not concerned that 140 vehicles will detrimentally impact the traffic flow in this particular area.

Hoover: Thank you. I guess I would like to direct the discussion to the suggestion of a sidewalk connecting this subdivision down to Township, which I personally thought was an excellent idea.

Vaught: My question would be for the City Attorney. Can we require improvements like that on a project like that, not a part of this site?

Whitaker: We probably cannot, however, of course, we do have money in the sidewalk fund and it might be a very good time if this project goes through, to do a cost share with their developer who will already have his equipment out there and can probably build that sidewalk in a cost share with the city much more economically at the time that this would develop as opposed to some other time. I certainly share your agreement with Vandergriff being close and the park being close, that pedestrian access to those areas would be very helpful.

Vaught: Would that be a recommendation that we would make to the City Council for a cost share then?

Whitaker: It would be a little bit too early to do a cost share, that would have to be when the project was finally approved and coming back after final approval when they start building it but certainly your recommendation that at that point in time that the city consider a cost share would be appropriate.

Hoover: I guess I'm confused. Are you saying that it would be alright to suggest that with this?

Williams: Certainly I think you can suggest it now. At this point it is pretty early in the game to get to the final thing but I think that you can certainly make that suggestion as part of your recommendation.

Warrick: I believe that if the Planning Commission wishes to see that connection and a cost share consideration you need to make a definitive finding. This is the Preliminary Plat for this subdivision. They will build off of this approval. When you see it as a Final Plat it will be constructed, installed and complete. This is the time to look at those types of requirements.

Hoover: Can we have the applicant come back?

Vaught: This is an R-PZD so City Council will see it next. They won't start construction until after the City Council approves it so if we recommend, can we make it a condition or is it just a recommendation?

Warrick: It is a recommendation. The City Council can certainly make it a condition if they deem that to be appropriate.

Williams: The problem with trying to make a requirement not on the site that is being built on is I think we might be possibly overstepping our bounds on what the impact of this housing development of 14 houses and a sidewalk of that length, because we should also have it along the front of the church too along Township, I think that would be out of proportion to the impact that they would be incurring here and also it would be on somebody else's property and so in this case we need cooperation with the church to make sure that we have enough right of way to build the sidewalk with them and want their cooperation as opposed to trying to make it an actual requirement of this subdivision. Within this subdivision along Township we certainly can but beyond that I would make it a recommendation as opposed to requirement.

Hoover: In the past we have required some offsite improvements.

Williams: I've not seen an offsite sidewalk improvement.

Hoover: There are other improvements. I don't think that a sidewalk is necessarily different from a road or something else.

Williams: Those have always been based also on a rational nexus and proportionality of how much this development will require for a bridge or something is what you are thinking about. Here, we haven't done a rational nexus test to see what that would be when you look at all the sidewalks within the subdivision and then also the sidewalk that will be required along Township within the subdivision. Then to say that they must build a sidewalk along the church's property, which is much longer here, the church has already developed. We don't know for sure if we even have the land at this point in time so I think that it would be a little bit premature to try to require that. I think this can be worked out but I would recommend that you do it in a recommendation instead of trying to require it at this time since we don't have the facts and figures at this point to make that kind of determination.

Hoover: I'm correct in assuming in a PZD we have the right to request or recommend what we think is compatible with the neighborhood and all the series of lists of items that we have?

Williams: You certainly have a right to recommend this. I think that probably with the Planning Commission unanimously recommending this and the support from the neighbors that it will be done. I would rather see that as a recommendation as opposed to some sort of requirement that we have to follow and meet other tests in order to make that a requirement.

Hoover: We might get a response from the applicant.

Jefcoat: It is a two fold problem if not more. The sidewalk would be on property not owned by the applicant. The church would have to agree to the property as was stated, we are looking at close to 500' of sidewalk offsite if you go down Township. If you connect to Township you are looking at 200' of sidewalk. You are looking at a considerable amount of sidewalk. The applicant most likely would certainly consider a portion of that cost share and a proportional amount, certainly not half and half. There are some other considerations. While you may recommend that, it certainly would be nice to see the sidewalk at least continued to Township, the question is to how much of that responsibility belongs to the client. That is not for us to recommend or say at this point.

Hoover: Are there other discussion items on this?

Anthes: Standard condition of approval number eleven, I believe we just saw another project tonight where we required a 4' sidewalk with a 6' greenspace and this says a 4' sidewalk with a 4' greenspace. Can you speak to why we would do one or the other?

Casey: Our requirements are that the sidewalk be located at the right of way. The greenspace will vary from project to project depending on the right of way width. I believe this is a 24' street. We have minimum greenspace requirements but the ordinance actually says it should be located at the right of way so that's why we see the varying greenspaces sometimes.

Anthes: You can't really plant a tree in 4' but you can in 6'.

Jefcoat: I might address that to help clarify that up some. It also preserves trees outside the sidewalk so that is one reason we are trying, we have got a very thick canopy and a lot of trees here. That additional footage outside the sidewalk helps us protect some of those existing trees.

Anthes: Because you are clearing the other part anyway, is that what you're saying? Another question is on page 4.5 at the bottom, talking about the International Fire Code requirements for the egress from the subdivision, are we meeting the code with the turn around and the mail kiosk in that area?

Casey: The proposed cul-de-sac does meet our current minimum street standards as far as radius.

Anthes: My next question is there was a pretty considerable amount of language in the tree preservation protection report that had some strong recommendations about reducing density, cluster developments, rerouting streets, build to lines, using words like significant, unnecessarily requiring, my question is of staff and Subdivision Committee, whether these concerns expressed by Mr. Carnagey have been incorporated in any way by the developer.

Carnagey: This development does meet the minimum requirements of our tree preservation ordinance. As you see in my report, there are recommendations that I have forwarded. However, the conditions of approval that I submitted to Subdivision Committee have been met by this applicant and therefore, because they meet the minimum requirements staff has no reservations about forwarding this project at this time.

Anthes: Those are all of my questions, thank you.

Bunch: Just some comments from Subdivision. Just like Commissioner Anthes questioned the tree report was prior to Subdivision and prior to additions and changes by the applicant. There have been a considerable number of alterations. There was a meeting with the neighborhood that incorporated some changes. Another thing that has been changed is the landscape island has been shortened in its east/west dimension to allow better access to lots1 and 13. Also, the width of the outbound has been altered to allow left turn lanes. Shared drives have been added and this was to offset the utilization of some very narrow frontages and accesses on particularly lots 13, 12, 11, 7 and 6. If you will notice in the covenants as well as in the findings and on the drawings, there are shared drives that have now been added. This is to improve the access to the lots but also to eliminate having a maze of concrete at the end of each one of these streets where there might be a 24' driveway on a 25' frontage and that sort of thing. It is an unusual concept to have a public street that ends in a cul-de-sac and then to have hammerhead private streets going from that. Also, one of the things I noticed is it has underground detention ponds. These are some of the things that we discussed at Subdivision was the accessibility to cleanouts for the underground detention system. Also, the access with the shared drives and such with the private drives. That has all been addressed in the covenants as far as the maintenance and that sort of thing. This is a project that has had quite a bit of attention. The developer worked with staff considerably and made quite a number of changes. They worked with the neighborhood and they also worked with Subdivision Committee and there have been changes so it is definitely one

utilizing what a PZD is for where there are multiple inputs and the changes are incorporated.

Hoover: Thank you for the report.

Ostner: Can you elaborate about the build to lines, where they are?

Jefcoat: The build to lines are the front building setbacks only, except for lots 7, 8 and 4 where we have significant trees on the fronts of those lots. The build to line has been eliminated on those front building setbacks to try to come up with an alternative to save those trees.

Ostner: It is the front setback line is to pull the buildings to the street?

Jefcoat: Yes.

Ostner: Since there are so many trees, I'm curious, how many provisions are being made for these trees or are any trees supposed to remain after the lots sale or is it just up to the lot owner to go ahead and develop as he or she wishes?

Jefcoat: There is an architectural review committee setup in the covenants and they would have the right to approve any significant tree that was removed from inside the building envelope. In order to meet our minimum canopy, all trees within the building envelope, including the significant trees, were not considered in the count in order to meet our minimum canopy, therefore, that is the worse case scenario if all the trees within the building envelope were to be removed. Also, we have left a buffer strip. Normally utilities such as sewer would be along the rear property lines, these have been located in the front, utilities have all be pulled to the front which in the case of the north side of the subdivision, is the high side. That sewer line there will be constructed at a deeper depth than you would normally find on a short line like that in order to preserve the trees along the back and to give an additional buffer benefit to the neighbors to the north. There have been considerable considerations.

Shackelford: As I look at this property I think that it is in accordance with some of the surrounding properties, in particular, Hardy Lane. If you look at the development that happened in the late 1980's and early 1990's just south of this property it is a single entrance road with 16 units, pretty much a carbon copy of what we are talking about doing here. I think we have gone through great lengths to make the best compromises in this area we can to allow development and still maintain the integrity of the overall neighborhood. I am going to go ahead and make a motion that we recommend approval of R-PZD 04-05.00 with the addition of the language that we recommend the city research a cost share for sidewalk

construction on the east side of the church property and the south side of the church property along Township.

Vaught: I will second.

Hoover: We have a motion by Commissioner Shackelford and a second by Commissioner Vaught, is there more discussion?

Bunch: Yes. Could we ask the representatives from the church what they would be willing to contribute on this if it is going to be a neighborhood effort to try to get sidewalks in and access Gulley Park. The city wanted to make, we are asking the city in a sense to cost share and we are asking the developer to take a look at cost share, what contribution would the church be willing to make on this?

Hoover: I think that we can't do that here, I think that will happen at City Council, am I correct?

Williams: You can ask them, I don't know if they can speak for the church. I don't know if they have someone here that can actually do that. I don't think it would be binding.

Bunch: Just to get the dialogue started since there was a representative of the church here that spoke to us in the public comment session and also to look at the principal of neighbors working together and since the church is the seller of the property they do have a vested interest in it.

Hemingway: At the neighborhood meeting that we had this was brought up and it was quickly stopped when I said we'll put in our share. That is when the neighbors were requesting the sidewalk. We said we'll put in our share. There was no more discussion of a sidewalk. These people that are requesting a sidewalk, we are not opposed to a sidewalk, we are just opposed to spending a whole lot of money to do it. If there can be some kind of agreement with the neighbors that want this we will be happy to put in our share. That is what we have come to the conclusion of saying, does that seem fair to you all?

Hoover: Thank you. Is there any other discussion?

Jefcoat: I would like to address one other thing that the client has brought to my attention. We are interested in just the sidewalk going to Township on the east side of the church. I'm not sure the church would like to see the sidewalk on the south side of the church and that has nothing to do in the process of the client. Also, while we are doing the assessment consideration, it has been pointed out that the users of the sidewalk, those

in the Hardy Lane subdivision should be assessed their equal portion for the sidewalk also.

Hemingway: I would just like to state that there is a sidewalk now on Township on our side so it would just be the east side.

Shackelford: I was not aware that there was a sidewalk on the south property line so I would like to change my recommended motion to strike that part of it that we research a cost share on the south property line along Township.

Hoover: Is that ok with the second?

Vaught: That's good.

Hoover: Is there any other discussion? Renee?

Roll Call: Upon the completion of roll call the motion to forward R-PZD 04-05.00 to the City Council was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: March 2, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

R-PZD 04-05.00: Residential Planned Zoning District (Hickory Park, pp 294) was submitted by Millholland Company on behalf of St. John's Lutheran Church of Fayetteville for property located north of 2730 E. Township Street. The property is zoned P-1, Institutional, and contains approximately 4.429 acres. The request is to rezone the subject property to a Residential Planned Zoning District allowing 14 single family dwelling units, a density of 3.16 units per acre.

STAFF RECOMMENDATION: Approval.

Laura J. Warrick — Division Head — 2/13/04 Date

(corrected ordinance) — City Attorney — 2/17/04 Date

Department Director — 2-13-04 Date

Finance & Internal Services Dir. — 2-18-04 Date

Chief Administrative Officer — 2-18-04 Date

Mayor — Date

Received in Mayor's Office 2/17/04 Date PH

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: March 16, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-02.00: Submitted by the City of Fayetteville for property located between lots 1 and 2 of the Rodgers Place Subdivision. The request is to vacate a 20' portion of a platted alley and to retain a utility easement within the vacated property.

STAFF RECOMMENDATION: Approval.

Division Head — 2/26/04 Date

City Attorney — 3/1/04 Date

Department Director — 2-27-04 Date

Finance & Internal Services Dir. — 3-1-04 Date

Chief Administrative Officer — 3-01-04 Date

Mayor — 3/1/04 Date

Received in Mayor's Office — 3/1/04 Date 4:44

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

FILED
2/27/04

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-02.00 TO VACATE AND ABANDON A 20' PORTION OF A PLATTED ALLEY, RETAINING A UTILITY EASEMENT WITHIN SUBJECT PROPERTY AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described platted alley is not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons the following described alley access, leaving all of its rights together with the rights of the public generally for use as a utility easement:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3. This Ordinance shall satisfy a Consent Decree in Case No. E. 93-356 filed in the Chancery Court of Washington County, Arkansas on August 23, 1993 agreed to by the City of Fayetteville as defendants.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By_____
Dan Coody, Mayor

ATTEST:

By_____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 04-02.00

LOTS 1 AND 2, BLOCK 3, IN RODGERS PLACE, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, PER THE PLAT OF SAID SUBDIVISION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND ALSO A TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 1 BLOCK 3; THENCE NORTH 0°07'13" EAST 14.24 FEET ALONG THE WEST BOUNDARY OF SAID SUBDIVISION; THENCE SOUTH 89°54'50 EAST 100.00 FEET; THENCE SOUTH 0°07'13" WEST 12.98 FEET TO THE NORTHEAST CORNER OF LOT 2 IN BLOCK 3; THENCE ALONG THE NORTH BOUNDARY OF BLOCK 3 SOUTH 89°22'05" WEST 100.00 FEET TO THE POINT OF BEGINNING.

VAC 04-02.00
Page 1

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of February 23, 2004

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8267

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	February 21, 2004

VAC 04-02.00: Vacation (Gilbrech, pp 525) was submitted by the City of Fayetteville for property located between lots 1 & 2 of the Rodgers Place Subdivision. The request is to vacate a 20' portion of a platted alley and to retain a utility easement within the vacated property. Planner: Dawn Warrick

Findings:
Proposal: The request is to vacate a portion of right-of-way which was platted as an alley in the Rogers Place Subdivision. The alley is located at the rear (southern boundary) of lots within the subdivision that front Lighton Trail and at the rear (northern boundary) of lots within the subdivision that front Rodgers Drive. The only portion of the alley subject to this action is that portion between the western most lots within the development (lots 1 & 2 of block 1 and lots 1 & 2 of block 3). The purpose for this request is to satisfy a consent decree issued by the Chancery Court of Washington County, on August 23, 1993. This consent decree was the product of an action between Gilbrech and Havens in an attempt to quiet title to the Gilbrech property. The City of Fayetteville was included as a defendant in this action and was represented by the office of the City Attorney.

The City Council of the City of Fayetteville approved Resolution 85-93 accepting the settlement offer in this case and thereby agreeing to the vacation of the portion of the platted alley described in this petition. Aside from this resolution (a copy is attached), staff has been unable to locate any ordinances or other documentation resolving this outstanding vacation action. This situation was brought to the attention of staff by an attorney representing the plantiffs (Gilbrech). At this time, staff is processing the necessary applications and ordinance to complete the vacation action which was agreed upon by a previous City Council.

All utilities have been provided information regarding this requested vacation in accordance with standard application procedures.

Surrounding Land Use: Surrounding properties are zoned RSF-4, Residential single family, 4 units/acre and contain single family homes.

Recommendation: Staff recommends approval of the requested alley vacation in accordance with Resolution 85-93 and the consent decree issued by Washington County Chancery Judge John Lineberger and with the condition stated below.

Condition of Approval: (The following condition was recorded as a part of the court's consent

decree)

1. The portion vacated shall remain in a general utility easement.

PLANNING COMMISSION ACTION: __yes__Required

_____**Approved** _____**Denied**

Date: February 23, 2004

CITY COUNCIL ACTION: **__yes__Required**

_____**Approved** _____**Denied**

Date: March 16, 2004 (first reading)

Comments:

MICROFILMED

RESOLUTION NO. 85-93

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A SETTLEMENT OFFER IN RE: GILBRECH V. HAVENS AND CITY OF FAYETTEVILLE, E93-356, A QUIET TITLE ACTION FILED IN THE WASHINGTON COUNTY CHANCERY COURT.

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

Section 1. That the Council hereby accepts the settlement offer In Re: Gilbrech v. Havens and City of Fayetteville, E93-356, a quiet title action filed in the Washington County Chancery Court. A copy of the Consent Decree authorized is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 17th day of August, 1993.

APPROVED:

By: Fred Hanna
Fred Hanna, Mayor

ATTEST:

By: Sherry L. Thomas
Sherry L. Thomas, City Clerk

the bonds have been held by the Trustee in the Capital Improvements and Bond Reserve Investment Accounts.

RESOLUTION 81-93 AS RECORDED IN THE CITY CLERK'S OFFICE

C. A resolution approving an amendment to the Arts Center Council Articles of Incorporation to change the name from the "Arts Center Council" to "The Walton Arts Center Council".

RESOLUTION 82-93 AS RECORDED IN THE CITY CLERK'S OFFICE

D. Consideration of a resolution approving a request by Abilities Unlimited.

Abilities Unlimited has sustained a considerable loss as a result of their recycling contract with the City. Their original estimate of loss was $31,000. After meeting with their accountants, they have listed their losses as $25,476.43. After meeting with City Staff, they have agreed to accept $10,000 as full settlement of their claim.

RESOLUTION 83-93 AS RECORDED IN THE CITY CLERK'S OFFICE

E. A resolution accepting a counter offer of $12,000 to purchase property for the Airport Land Acquisition Project from the W. C. Whitfield Jr., Trust, and settle City of Fayetteville v. Dunlap/Whitfield, CIV 93-491.

W.D. Schock Company feels the $12,000 counter offer to the original offer of $10,500 will be acceptable to the FAA.

RESOLUTION 84-93 AS RECORDED IN THE CITY CLERK'S OFFICE

F. A resolution accepting a settlement offer in Gilbrech v. Havens and the City of Fayetteville, E 93-356, where the other parties have resolved their dispute and ask the City to vacate and abandon any right, title, or interest it may have over and across the street/alley located in Rodgers Place Subdivision.

In settling, the City would abandon approximately a 20 foot section of an alley located betweens lots 1 and 2 in block 1 of the Rodgers Place Subdivision. This is a platted but unopened alley.

RESOLUTION 85-93 AS RECORDED IN THE CITY CLERK'S OFFICE

G. A resolution approving a change order to the construction contract for the Highway 180 Water and Sewer Relocation Project with Goodwin and Goodwin Construction Company in the amount of $37,183, and approval of a budget adjustment.

IN THE CHANCERY COURT OF WASHINGTON COUNTY, ARKANSAS

FILED FOR RECORD
'93 AUG 23 AM 10 57
WASHINGTON CO AR
A. KORSMEYER

RAYMOND GILBRECH, JR. and
CAROLYN GILBRECH, Husband and Wife — PLAINTIFFS

VS. NO. E. 93-356

JERRY HAVENS and VICKI HAVENS,
Husband and Wife
CITY OF FAYETTEVILLE — DEFENDANTS

CONSENT DECREE

Now on this 23 day of August, 1993, comes on for hearing the complaint of the plaintiffs seeking to quiet title; the parties having announced ready; the plaintiffs represented by Charles L. Harwell of CYPERT, CROUCH, CLARK & HARWELL, the defendants, Havens, being represented by David Horne of KINCAID, HORNE & TRUMBO; the defendant, City of Fayetteville, being represented by Assistant City Attorney, LaGayle McCarty; the parties having stipulated to the salient facts and agreeing to the following terms, which terms are approved by the Court:

1. The Court has jurisdiction over the subject matter and the parties.

2. The City of Fayetteville has an alleyway between the properties of the plaintiffs and the defendants, Havens, and the legal description of that segment of the alleyway which adjoins the properties of the plaintiffs and defendants, Havens, is as follows:

> An Alley located in Rodgers Place, a Subdivision to the City of Fayetteville, Arkansas, per the plat of said Subdivision

> on file in the Office of Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, said alley being located between Lots Numbered 1 and 2 in Block Numbered 3 and Lots Numbered 1 and 2 in Block Numbered 1 of said Rodgers Place Subdivision.

3. The parties agree that the width of the City of Fayetteville's alley is approximately 20 feet more or less and the City of Fayetteville agrees to vacate said alleyway pursuant to the provisions of Paragraph 5 hereinafter.

4. Pursuant to state law, the property of the vacated alleyway shall revert one-half each to the adjacent property owners. The parties agree that the boundary line between Gilbrech and Havens, following the vacation of the alleyway, shall be as follows:

> A boundary line between Lots 1 and 2 in Block 1 and Lots 1 and 2 in Block 3 shall be a line 10 feet south of and parallel with a stone wall that is located on Lots 1 and 2 Block 1 and being also described as beginning at a point which is south 0 degrees 07' 13" West 10.0 from an existing stone wall at the Southwest Corner of said Block 1, thence South 89 degrees 54' 50" East 100.0 to the Point of Ending.

5. Although there are no utilities with existing facilities in the portion of the alleyway vacated herein, as a condition of the City's vacation of the alleyway, a reservation of a utility easement is necessary. The parties agree that a utility easement shall be reserved upon the plaintiffs' property, the legal description of which easement shall be as follows:

> An easement twenty feet in width across the northernmost portion of the property described in paragraph 6 herein.

The easement shall be for ingress and egress for public utilities

for the purpose of laying, repairing, inspecting, maintaining, removing or replacing said utilities' lines and facilities.

6. Titled is hereby confirmed in the Gilbrechs in the following property, subject to easement provided above:

> Lots 1 and 2, Block 3, in Rodgers Place, a subdivision to the City of Fayetteville, Arkansas, per the plat of said Subdivision on file in the Office of Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and also a tract being more particularly described as follows: Beginning at the Northwest corner of Lot 1 Block 3; thence North 0°07'13" East 14.24 feet along the West Boundary of said Subdivision; thence North 89°54'50 West 100.0 feet; thence south 0°07'13" West 12.98 feet to the Northeast corner of Lot 2 in block 3,; thence along the North boundary of Block 3 South 89°22'05" West 100.0 feet to the POINT OF BEGINNING.

7. Titled is hereby confirmed in the Havens in the following property:

> Lots 1 and 2, Block 1, in Rodgers Place, a subdivision to the City of Fayetteville, Arkansas, per the plat of said Subdivision on file in the Office of Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and also part of a vacated alley, said vacated alley being located between Lots Numbered 1 and 2 in Block Numbered 3 and Lots Numbered 1 and 2 in Block Numbered 1 of said Rodgers Place Subdivision, and being more particularly described as follows:
> Beginning at an existing stone wall at the Southwest corner of said Block 1; thence along said wall South 89°54'50" East 100.0 feet; thence leaving said stone wall South 0°07'13" West 10.0 feet; thence North 89°54'50" West 100.0 feet to the West line of said Rodgers Place Subdivision; thence North 0°07'13" East 10.0 feet to the POINT OF BEGINNING.

7. Any other issues of the complaint of the plaintiffs, not specifically addressed herein, are dismissed with prejudice.

IT IS, THEREFORE, BY THE COURT CONSIDERED, ORDERED, ADJUDGED AND DECREED that the title to the lands described in paragraph 6

be quieted and confirmed in the plaintiffs, as against the defendants herein specifically named, their spouses, unknown heirs, executors, administrators, successors and assigns, if any, as well as against all other persons, firms and corporations whatsoever.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that the title to the lands described in paragraph 7 be quieted and confirmed in the defendants, Havens, as against the plaintiffs herein specifically named, their spouses, unknown heirs, executors, administrators, successors and assigns, if any, as well as against all other persons, firms and corporations whatsoever.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that a utility easement shall be reserved upon the plaintiffs' property, the legal description of which easement shall be as follows:

> An easement twenty feet in width across the northernmost portion of the property described in paragraph 6 herein.

and that the purposes of said easement shall be for ingress and egress for public utilities for the purpose of laying, repairing, inspecting, maintaining, removing or replacing said utilities' lines and facilities.

IT IS THE FURTHER ORDER OF THIS COURT that the plaintiff pay the costs of this action and that all parties bear their own attorneys' fees.

IT IS SO ORDERED.

Chancellor

APPROVED:

Charles L. Harwell, Attorney
for Plaintiffs

David Horne, Attorney
for Defendants, Havens

LaGayle McCarty, Attorney
for Defendants, City of
Fayetteville

VAC04-02.00

Close Up View

GILBRECH

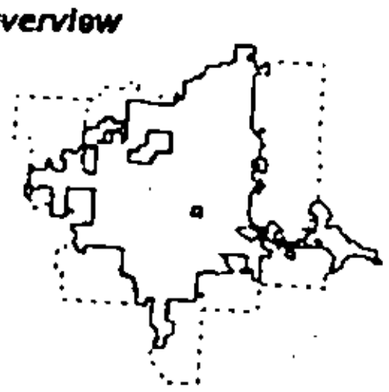
SUBJECT PROPERTY

RSF-4

RMF-24

P-1

Overview



Legend

Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
City Limits
Outside City
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
VAC04-02.00

0 75 150 300 450 600 Feet

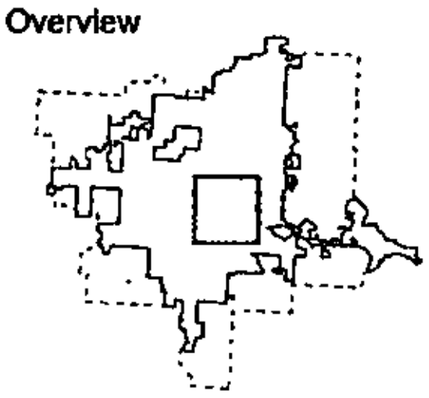
VAC04-02.00

One Mile View

GILBRECH

SUBJECT PROPERTY

Overview



Legend

Subject Property
VAC04-02.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

City Council Agenda Item

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Terry Gulley, Transportation Manager

Date: February 26, 2004

Subject: Authorization to increase staffing level within the Transportation Division in order to increase production within the street rehabilitation program.

Recommendation: The Transportation Division recommends the approval of authorization to increase the staffing level of the Division by six additional employees to staff asphalt preparation and patch crews, which will allow increased production within the street rehabilitation program.

Background: With approximately 260 miles of City maintained streets, each year approximately 17.3 miles should be rehabilitated. Following discussion by the City Council at the February 17th meeting, an evaluation of the street rehabilitation needs versus actual production was initiated.

In 2002 and earlier, the Transportation Division rehabilitated approximately 7 miles of City streets per year. In 2003, following the reorganization, 11.03 miles were rehabbed.

With a 15 year life expectancy, even with this increased efficiency the City was still over 6 miles per year behind the growing need. In 2004 the rehab program should be able to reclaim 13.2 miles, an additional 2 miles over last year's increased production.

Discussion: This increased production is still 4 miles below the amount that is necessary to properly maintain the City's streets.

The addition of these employees will result in the Transportation Division having the ability to expand the rehabilitation program to meet the minimum threshold of repairs needed in the future.

Implementation of this program will start a long range solution to diminish extensive road renovations, while reducing the current rehab cost per road mile from $15.37 per linear foot to $9.45 per linear foot. This reduction in rehabilitation costs will require a long term investment. Many of our City's streets are very old and in dire need of major work. It will take several years to reach this minimum rehab cost, but in present day costs this would result in a 38% savings. If the City is to realize those future savings, investment must be made to stop the growing backlog of streets in need of major repair.

Failure to address the issue of adequate preventative maintenance will allow the conditions of the past to continue until the City faces a backlog of deteriorated streets that will be too large to address with the long term 15 year strategy proposed here.

City Council Agenda Item

Budget Impact: Additional funding for employees will be obtained from street fund reserves. The Budget Division has evaluated future needs through 2008 and the necessary funding is available.

Funding for material for the In-House Paving Program comes from the Capital Sales Tax Program. Additional material will be required to rehab this additional 4 miles. This funding would be from the Capital Sales Tax Program. In 2004, $340,811.00 is needed to reach the goal of 17.47 miles of street renovation. In 2005 and beyond, funding of approximately $726,500.00 per year will be required. Partial funding for 2004 is from funds not expended in 2002.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE HIRING OF SIX (6) FULL-TIME EMPLOYEES (PATCH AND ASPHALT PREPARATION CREWS) IN THE TRANSPORTATION DIVISION; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $340,811.00 FOR SAME.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the hiring of Six (6) full-time employees (Patch and Asphalt Preparation Crews) in the Transportation Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $340,811.00 for same.

PASSED and **APPROVED** this 16th day of March 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas
Street Fund
Street Fund Projections: Budget Years 2004-2008

	Actual Budgeted 2003	Budget 2004	Projected 2005	Projected 2006	Projected 2007	Projected 2008
Beginning Fund Balance	$ 2,606,578	2,692,477	2,497,149	2,233,702	1,893,410	1,471,473
Resources						
Revenues:						
County Turnback	639,201	657,000	676,000	695,000	715,000	735,000
Intergovernmental	2,759,932	2,786,000	2,813,000	2,841,000	2,869,000	2,897,000
Charges for Services	132,275	100,000	100,000	100,000	100,000	100,000
Investment Earnings	75,106	89,000	75,000	64,000	51,000	34,000
Other	2,452	0	0	0	0	0
Total Revenue	3,608,966	3,632,000	3,664,000	3,700,000	3,735,000	3,766,000
Uses						
Expenditures:						
Operations & Administration	1,190,763	912,234	937,320	963,097	989,582	1,016,795
Right-of-Way Maintenance	222,907	431,153	443,010	455,192	467,710	480,572
Street Maintenance	1,220,831	982,306	1,009,319	1,037,076	1,065,595	1,094,899
Drainage Maintenance	386,366	550,895	566,045	581,611	597,605	614,039
Traffic Control & Maintenance	123,854	372,400	382,641	393,164	403,976	415,085
Sidewalks	378,346	355,340	365,112	375,152	385,469	396,070
Proposed New Crew		142,000	199,000	210,000	222,000	234,000
Equipment for New Crew		81,000	25,000	25,000	25,000	25,000
Total Expenditures	3,523,067	3,827,328	3,927,447	4,040,292	4,156,937	4,276,461
Net Resources (Uses)	85,899	(195,328)	(263,447)	(340,292)	(421,937)	(510,461)
Ending Fund Balance	$ 2,692,477	2,497,149	$ 2,233,702	$ 1,893,410	$ 1,471,473	$ 961,012
Recommended Fund Balance - 60 Days Reserves	$ 579,000	$ 629,000	$ 646,000	$ 664,000	$ 683,000	$ 703,000

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Operations Division: Transportation Program: Street Maintenance	Date Requested	Adjustment Number
2004		2/26/2004	

Project or Item Requested:

$223,000 is requested to increase staffing levels within the Transportation Division to increase production of the street rehabilitation program.

Project or Item Deleted:

No project is deleted. Excess reserves will fund this service expansion.

Justification of this Increase:

This increase is needed to bring production levels to minimum standards required to maintain city streets utilizing the most cost effective system.

Justification of this Decrease:

Use of reserve funds is required to expand street rehabilitation services in order to address immediate needs of the transportation system.

Increase Budget (Decrease Revenue)

Account Name	Account Number	Amount	Project Number
SEE ATTACHED		223,000	

Decrease Budget (Increase Revenue)

Account Name	Account Number	Amount	Project Number
Use of fund balance	2100 0910 4999 99	223,000	

Approval Signatures

	Date
Requested By	2-27-04
Budget Manager	2-29-04
Department Director	
Finance & Internal Services Director	
Mayor	

Budget Office Use Only

Type: A B C (D) E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

Increase Expense (Decrease Revenue)

Account Name	Account Number				Amount	Project Number
Salaries & wages	2100	4120	5100	00	97,500	
Overtime	2100	4120	5103	00	500	
FICA taxes	2100	4120	5105	00	8,000	
Life insurance	2100	4120	5107	00	500	
Health insurance	2100	4120	5108	00	17,000	
LTD insurance	2100	4120	5108	01	400	
ADD insurance	2100	4120	5108	02	100	
Retirement savings plan	2100	4120	5109	06	10,500	
Uniforms/personal equip	2100	4100	5302	00	3,000	
Motor pool charges	2100	4120	5331	00	13,500	
Vehicles and equipment	2100	4120	5802	00	72,000	

Decrease Expense (Increase Revenue)

Account Name	Account Number				Amount	Project Number
Use of fund balance	2100	0910	4999	99	223,000	

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sales Tax Capital Improvements	Date Requested	Adjustment Number
2004	Division: Program:	2/26/2004	

Project or Item Requested:	Project or Item Deleted:
$340,811 is requested in the Street Improvements account in the Sales Tax Capital Improvements program to increase production of the street rehabilitation program.	Transfer $340,811 from Use of Fund Balance.

Justification of this Increase:	Justification of this Decrease:
This increase is needed to bring production levels to minimum standards required to maintain city streets utilizing the most cost effective system.	Use of reserve funds is required to expand street rehabilitation services in order to address immediate needs of the transportation system.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	340,811	02052	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	4470	0947	4999	99	340,811		

Approval Signatures

Requested By	2-27-04 Date
Budget Manager	22704 Date
Department Director	Date
Finance & Internal Services Director	3-1-04 Date
Mayor	3/1/04 Date

Budget Office Use Only

Type: A B C (D) E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: March 16, 2004

FROM:

Terry Gulley	Transportation	Operations
Name	Division	Department

ACTION REQUIRED: A resolution authorizing the hiring of six (6) full-time employees (patch & asphalt preparation crews) in the Transportation Division and approving a budget adjustment in the amount of $223,000.00 for personnel and a budget adjustment in the amount of $340,811.00 for materials.

COST TO CITY:

$340,811.00	$ 1,491,202.00	In-House Pavement Improvements
$223,000.00	$ 982,036.00	Street Maintenance
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	$ 49,349.00	Street Improvements
2100.4120.xxxx.xx	$ 187,557.00	
Account Number	Funds Used to Date	Program / Project Category Name
02052.1	$ 1,441,853.00	Sales Tax Capital Improvements
	$ 794,479.00	Street
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item X Budget Adjustment Attached

Budget Manager — Date: 2.27.04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 2/27/04
Internal Auditor — Date: 2/27/04
City Attorney — Date: 3/1/04
Purchasing Manager — Date: 2/27/04

STAFF RECOMMENDATION:

Division Head — Date: 2-27-04
Department Director — Date: 2-27-04
Finance & Internal Services Dir. — Date: 3-1-2004
Chief Administrative Officer — Date: 3-1-04
Mayor — Date: 3/1/04

Received in Mayor's Office 3/1/04 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: **Yes** **No**

ENTERED 2-27-04 aw

City Council Agenda Item

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Terry Gulley, Transportation Manager

Date: February 27, 2004

Subject: A resolution awarding a bulk purchase contract for asphalt and aggregate materials to _____ in the amount of $_____

Recommendation: Transportation Division staff recommends approval of a resolution for the bulk purchase of materials from _____, the acceptable low bidder, in the amount of $_____.

Background: The purchase of asphalt and aggregate materials is necessary for In-House Street Improvements.

Discussion: This is an annual purchase necessary for the annual street rehabilitation program. Street maintenance costs will also be reduced on each street overlayed.

Budget Impact: Funds for the acquisition of these materials are in the Sales Tax Capital Improvements and Street funds.

This item will have additional information available after March 8, the bid opening date.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BULK PURCHASE CONTRACT WITH _____ IN THE AMOUNT OF _____ FOR ASPHALT AND AGGREGATE MATERIALS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a bulk purchase contract with _____ in the amount of _____ for asphalt and aggregate materials.

PASSED and **APPROVED** this 16th day of March 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

INVITATION TO BID			
BID # 04-26	DATE ISSUED: Feb. 26, 2004	DATE AND TIME OF OPENING: March 8th, 2004 at 11:00 a.m.	
BUYER: City of Fayetteville, AR		DATE REQUIRED: Blanket Order as Needed	
F. O. B. Asphalt Plant/Quarry	BUYER'S PHONE # (479) 575-8289	GUARANTEED DELIVERY LOAD TIME:	
ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE
1	Coarse Lime	TON	
2	Abrasives-LS (Grit)	TON	
3	1 1/4" Concrete Aggregate	TON	
4	3/4" Concrete Aggregate	TON	
5	Class 7 Base (SB-2)	TON	
6	Fill Material	TON	
7	Surge Pile (8" Minus)	TON	
8	Rip Rap (Sized Rock)	TON	
9	Shot Rock	TON	
10	Superpave- Surface	TON	
11	Superpave- Binder	TON	
12	TY-2 HM SURF-LS	TON	
13	TY-3 HM SURF-LS	TON	
14	TY-2 HM SURF-SS	TON	
15	TY-3 HM SURF-SS	TON	
16	Premix-Coarse	TON	
17	HM Base (Black Base)	TON	
18	TY-1 HM Binder	TON	
19	TY-2 HM Binder	TON	
20	Delivery price to Fay. Corp. City Limits:	TON	
	Plant Location Address:		
	Maximum Guaranteed Wait Time to Load:		

EXECUTION OF BID

Upon signing this Bid, bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent

BIDS WILL BE REJECTED	NAME OF FIRM:	PHONE:	FEDERAL ID#
	BUSINESS ADDRESS:	CITY AND STATE:	
	AUTHORIZED SIGNATURE:	TITLE:	

Bid 04-26

1. Bid prices should exclude applicable taxes.

2. All materials are FOB plant location on an "AS NEEDED BASIS".

3. Bidders will give a guaranteed maximum load time wait for drivers to pickup material and a plant location address to determine trip time. These two factors will be utilized in determining bid award

4. ESCULATION CLAUSE: Quoted prices shall be firm unless price schedules are changed by contractor's manufacturer/supplier. In the event of a general price schedule decrease during the contract period, the City shall be guaranteed full benefit of the price reduction for all undelivered orders on the effective date of the decrease and thereafter. Contractor guarantees against increases in quoted price for the first thirty (30) days of the contract period. Thereafter in the event contractor's manufacturer/supplier increases his general price schedule, he may submit a price adjustment request to the Purchasing Office. The price adjustment request will be accepted so long as the requested increase in prices does not exceed the direct price increases published in the manufacturer's revised general price schedule (for example if manufacturer's price increases $.10/unit, he may request an adjustment not to exceed $.10/unit in the contract award price) The contractor shall submit a letter from the manufacturer certifying the increased cost with each price adjustment request. All adjusted prices must be competitive with the prevailing market price.

5. Standing purchase orders will be issued and orders will be placed as needed by the using department.

6. Bid prices should exclude applicable taxes.

7. Items bid must meet Arkansas Highway Department specifications for the item bid.

8. All bids shall be submitted in a sealed envelope and must be submitted on forms provided by the City.

9. The item bid and the bid number shall be stated on the face of the sealed bid envelope.

10. Bids received after the date and time set for receiving bids will not be considered.

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

12. All products delivered shall comply with applicable standards of quality.

13. Any exceptions to the requirements of the City of Fayetteville must be noted on the Bid Form.

14. Prices shall include all labor, materials, overhead, profit, insurance, etc., to cover the furnishing of the items bid. Sales tax is not to be included in the bid price. Applicable Arkansas sales tax laws will apply to this bid, but will not be considered in award of the bid.

15. Each bidder shall state on the face of the bid form the anticipated number of days from the date of receipt of an order for delivery of equipment and installation to the City of Fayetteville.

16. Copy of the warranty shall accompany the bid, and any exceptions to the warranty shall be clearly noted on the bid form.

17. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.

18. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.

19. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation of bid.

20. The City will not be responsible for misdirected bids. Vendor should call the Purchasing Office at (501) 575-8289 to insure receipt of their bid documents prior to opening time and date listed on the bid form.

21. If products and/or components other than those described in this bid document are proposed, the bidder must include complete descriptive literature and technical specifications. All requests for additional information must be received within five working days following the request.

22. Bids must be hand delivered or received by mail in the Purchasing Office, Room 306, 113 W. Mountain St. Fayetteville, AR 72701, on or before the time of closing listed on the face of the bid.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: March 16, 2004

FROM:

Terry Gulley	Transportation	Operations
Name	Division	Department

ACTION REQUIRED: A resolution to approve a bulk purchase contract with _____ in the amount of $_____ for asphalt and aggregate materials.

COST TO CITY:

$ 1,140,811.00	$ 1,050,000.00	In-House Pavement Improvements
$ 100,000.00	$ 135,785.00	Materials and Supplies
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	$ 228,729.00	Cap Improv Const Fund Exp
2100.4120.5215.00	$ 8,020.00	Street Maintenance
Account Number	Funds Used to Date	Program / Project Category Name
02052	$ 821,271.00	Sales Tax Capital
N/A	$ 127,765.00	Street
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: x Budgeted Item ____ Budget Adjustment Attached

Budget Manager — 2/27/04 Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — 2/27/04 Date
Internal Auditor — 2/27/04 Date
City Attorney — 3/1/4 Date
Purchasing Manager — 2/27/04 Date

STAFF RECOMMENDATION:

Division Head — 2-27-04 Date
Department Director — 2-27-04 Date
Finance & Internal Services Dir. — 3-1-04 Date
Chief Administrative Officer — 2-27-04 Date
Mayor — 2/28/04 Date

Received in Mayor's Office 3/1/04 Date P.H.

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: **Yes** **No**

RECEIVED 2/27/04

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF MARCH 16, 2004

FROM:

ALDERMAN ROBERT REYNOLDS

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution Amending The Rules Of Order And Procedure For The Fayetteville Mayor/City Council, Section A. City Council Meetings, Subsection 6. Public Notification And Participation

APPROVED FOR AGENDA:

_____ _____
Alderman Date

3/1/04
City Attorney (as to form) Date

RESOLUTION NO. _____

A RESOLUTION AMENDING THE RULES OF ORDER AND PROCEDURE FOR THE FAYETTEVILLE MAYOR/ CITY COUNCIL, SECTION A. CITY COUNCIL MEETINGS, SUBSECTION 6. PUBLIC NOTIFICATION AND PARTICIPATION

WHEREAS, citizens should have the right to address the City Council on any topic they choose after the last item on the Agenda has been acted upon by the City Council; and

WHEREAS, the City Council wishes to allow citizens desiring to speak concerning items of new business or late on the agenda to have a convenient opportunity to address the City Council during the early evening without having to wait too long; and

WHEREAS, the City Council believes a citizen wishing to address the City Council should in almost every case be able to explain his or her position, opinion or ideas within three minutes; and

WHEREAS, lengthy and repetitious comments during City Council have harmed other citizens' rights to speak and be heard by unnecessarily prolonging City Council meetings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends the Rules of Order and Procedure for the Fayetteville Mayor/City Council by adding the **bold** language to the second paragraph of A. 6. and adding a new third paragraph (as shown in **bold**).

"6. Public Notification and Participation

The City will, if necessary, go further than legally required in order to inform citizens of the items to be considered by the City Council. The means used will include advertisements in a local newspaper, special notice to citizens who have shown a direct interest in matters to be considered, and agenda copies available at City Council meetings.

Members of the audience will be offered an opportunity to speak on all questions before the City Council. Any public member shall first state his or her name and address, followed

by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. **No statement shall exceed three (3) minutes in duration unless the City Council, by unanimous consent, agrees to extend further time to the speaker.** All remarks shall be addressed to the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be asked an Alderman or city employee except through the Mayor."

"After the last item on the Agenda has been acted upon by the City Council, members of the public shall be accorded the right to address the City Council on any topic of the speaker's choosing for a period of (3) minutes each, not to exceed 30 minutes total. Neither the mayor nor any alderman may respond or comment during this listening period.."

All members of the public are requested to accord the utmost courtesy to members of the City Council, to other members of the public appearing before the City Council and to city staff, and are asked to refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.

PASSED and **APPROVED** this the 16th day of March, 2004

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: **Firemen's Pension and Relief Fund Board of Trustees**
Sondra Smith, City Clerk

From: **Dan Coody, Mayor**

Date: **March 3, 2004**

Subject: **Fire Pension Board Resolution 02-03 – Enacting a 10 year DROP**
Fire Pension Resolution 04-03 – Working after DROP

When the issue of the 10 year DROP plan and working after DROP first surfaced at the Pension Board meeting, some concerns were voiced by a couple of the members stating they did not think it would be good for the department. At that point I asked Chief Bosch to do some research and give me a report on his findings. Chief Bosch determined that the two plans would not be in the best interests of the department.

Since I rely on Chief Bosch to manage the Fire Department and keep it running as well as possible, I will concur with his conclusions. Please note that I supported the temporary 3% COLA which was the third item on the agenda.

I will work for the continued improvement of the department as a whole at every opportunity.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Chris Bosch, Fire Chief

Date: February 25, 2004

Subject: Proposed Council Resolutions 02-03, 03-03 & 04-03.

RECOMMENDATION

Staff recommends the City Council approve Resolution 03-03 allowing for the implementation of a 3% temporary Cost of Living Allowance for members of the Firemen's Pension & Relief Fund. Staff recommends City Council denial of proposed Resolutions 02-03 and 04-03, which would extend the current DROP Retirement Plan from 5 to 10 years and allow those employees currently signed up for the DROP Retirement Plan to work past their agreed upon DROP retirement date.

BACKGROUND

During the 2003 session of the Arkansas State Legislature, State Policy Makers received two pieces of proposed legislation that, if passed, would change the conditions of the current Deferred Retirement Option Plan (DROP). With approval from the local Board of Trustees and the City Council Act 1369 will change the terms of the current DROP to allow participants to extend the original DROP agreement from a maximum 5-year term to a maximum 10-year term. With approval from the local Board of Trustees and the City Council, Act 1372 will allow participants to continue to work beyond the end of the 10-year drop plan.

These proposed changes also recommend the implementation of a temporary 3% Cost of Living Allowance (COLA) for current and retired members of the fund.

DISCUSSION

The Board of Trustees of the Fayetteville Firemen's Pension & Relief Fund approved these proposed changes in December 2003. Once the local Board of Trustees approved these changes, the Arkansas State Fire and Police Pension Review Board received the changes and approved them in January 2004. The final approval rests with the Fayetteville City Council.

The attached information identifies the actuarial soundness of the current fund and highlights the fact that these changes will cause no harm to the soundness of the fund balance; however, prior to this report very little research was conducted regarding the other impacts these proposed changes will have on the Department as a whole.

It is certain these changes will provide a true benefit for those employees covered under this retirement system; however, currently there are only nine members of the Fayetteville Fire Department who are eligible to participate in this fund and stand to benefit from these changes. Each of these nine employees

holds ranking positions within the Department. Further, these nine members only constitute ten percent of the entire organization. The breakdown of these nine positions is as follows:

⇒ One (1) Assistant Chief
⇒ Five (5) Captains
⇒ Three (3) Driver/Operators.

IMPACTS

After a careful review of the proposed retirement dates for the individuals covered under the current DROP agreement, my Staff and I believe that changing the current guidelines of the DROP plan will be detrimental to the Department is several ways. I have listed the two primary impacts of these changes in the following paragraphs.

The implementation of these changes will hold up approximately seventeen (17) promotions within the organization and will indefinitely restrict the opportunity for upward mobility throughout the ranks. For example, if my Assistant Chief decides to extend his DROP date he will hold up four promotions by eliminating the need to replace the Assistant Chief, a Battalion Chief, a Captain and a Driver Operator, which are all progressive promotional steps within the organization. These changes will stifle promotional opportunities and will hurt the Department's overall morale, creating even greater problems for the organization in the very near future.

The implementation of these changes will also prohibit the Department from recognizing any projected salary savings attained through attrition. Under the current DROP guidelines, over the next five years the Department will realize an annual salary savings equivalent to the salary of five entry-level Fire Fighters. This salary savings can be used to either hire additional Fire Fighters or offset the cost of salaries for the Fire Fighters for Fire Station 7. By changing the rules of this plan, those savings will no longer be available. Keep in mind that these savings projections include the cost of hiring replacement personnel and the cost of promoting personnel to fill vacancies in the existing rank structure, which will occur through normal attrition.

CONCLUSION

As previously stated, these proposed changes will offer a wonderful enhancement to the current retirement benefit for the nine individuals currently eligible to take advantage of the DROP retirement; however, these individuals represent only ten percent (10 %) of the overall Fire Department.

As the Fire Chief, it is my responsibility to look out for the welfare of the entire organization and I firmly believe the implementation of these changes you will be creating a situation that could be detrimental to the overall morale and welfare of the entire Fire Department.

Further, as the Fire Chief, this City Council has entrusted me with the responsibility of operating the Fire Department in the most cost effective manner possible. This governing body has also instructed me to look for budgetary savings in all aspects of my organization and to operate in such a way that allows me to meet and exceed the community's needs in the most cost-effective manner. I believe that by implementing these proposed changes it will be difficult for my Staff and me to recognized potential savings in our current and projected budgets. My Staff and I have identified a progressive annual salary savings, which could

adequately fund the annual salaries for five additional Fire Fighters; however, if approved these proposed changes will not allow us to realize those savings. Further, changing the terms of the plan, at this point will cause the Department to wait an additional five years before it can begin to realize those savings, which will help to enhance service delivery.

In closing, I believe that by extending the DROP Plan from 5 to 10 years, and allowing these employees to continue working past those agreed upon dates will be detrimental to the overall morale of the Department and therefore must be rejected at this time. By basing the decision to change the current benefits program solely on quantitative data provided by the actuary, without considering the qualitative impacts these changes will have on the Department leads to ineffective decisions and I believe these changes will certainly prove to be detrimental to the overall welfare of the organization.

BUDGET IMPACT

Currently, based on the information provided by the Osborn, Carreiro & Associates, the overall impact to the current fund is insignificant; however, this change in retirement benefits will not allow the Department to recognize the estimated salary savings normally provided through the attrition process.

From the Desk of the Fire Chief

Fayetteville Fire Dept
303 W. Center St.
Fayetteville, AR. 73701
(479) 575-8365

Memo

To: Dan Coody, Mayor

From: Chris Bosch, Fire Chief CB

CC: Firemen's Pension & Relief Board

Date: February 25, 2004

Re: Changes to the DROP Plan

Introduction

As you know, on February 2, 2004 I requested that Council Agenda Items 02-03 and 04-03 be pulled from the Council Agenda so I could have an opportunity to review them and determine the level of impact these items would have on the Fire Department as a whole. After a careful review of these items I have developed the following response to these items.

BACKGROUND

During the 2003 session of the Arkansas State Legislature, State Policy Makers received two pieces of proposed legislation that, if passed, would change the conditions of the current Deferred Retirement Option Plan (DROP). With approval from the local Board of Trustees and the City Council Act 1369 will change the terms of the current DROP to allow participants to extend the original DROP agreement from a maximum 5-year term to a maximum 10-year term. With approval from the local Board of Trustees and the City Council, Act 1372 will allow participants to continue to work beyond the end of the 10-year drop plan.

These proposed changes also recommend the implementation of a temporary 3% Cost of Living Allowance (COLA) for current and retired members of the fund.

DISCUSSION

The Board of Trustees of the Fayetteville Firemen's Pension & Relief Fund approved these proposed changes in December 2003. Once the local Board of Trustees approved these changes, the Arkansas State Fire and Police Pension Review Board received the changes and approved them in January 2004. The final approval rests with the Fayetteville City Council.

The attached information identifies the actuarial soundness of the current fund and highlights the fact that these changes will cause no harm to the soundness of the fund balance; however, prior to this report very little research was conducted regarding the other impacts these proposed changes will have on the Department as a whole.

It is certain these changes will provide a true benefit for those employees covered under this retirement system; however, currently there are only nine members of the Fayetteville Fire Department who are eligible to participate in this fund and stand to benefit from these changes. Each of these nine employees holds a ranking position within the Department. Further, these nine members only constitute ten percent of the entire organization. The breakdown of these nine positions reveals that these employees also hold ranking positions within the organization.

The positions discussed in the proceeding paragraph are as follows:

⇒ One (1) Assistant Chief
⇒ Five (5) Captains
⇒ Three (3) Driver/Operators.

Impacts

After a careful review of the proposed retirement dates for the individuals covered under the current DROP agreement, my Staff and I believe that changing the current guidelines of the DROP plan will be detrimental to the Department in several ways. I have listed the two primary impacts of these changes in the following paragraphs.

The implementation of these changes will hold up approximately seventeen (17) promotions within the organization and will indefinitely restrict the opportunity for upward mobility throughout the ranks. For example, if my Assistant Chief decides to extend his DROP date he will hold up four promotions by eliminating the need to replace the Assistant Chief, a Battalion Chief, a Captain and a Driver Operator, which are all progressive promotional steps within the organization. I believe these changes will stifle promotional opportunities and will hurt the Department's overall morale, creating even greater problems for the organization in the very near future.

The implementation of these changes will also prohibit the Department from recognizing any projected salary savings attained through attrition. Under the current DROP guidelines, over the next five years the Department will realize an annual salary savings

equivalent to the salary of five entry-level Fire Fighters. This salary savings can be used to either hire additional Fire Fighters or offset the cost of salaries for the Fire Fighters for Fire Station 7. By changing the rules of this plan, those savings will no longer be available. Keep in mind that these savings projections include the cost of hiring replacement personnel and the cost of promoting personnel to fill vacancies in the existing rank structure, which will occur through normal attrition.

CONCLUSION

As previously stated, these proposed changes will offer a wonderful enhancement to the current retirement benefit plan for the nine individuals currently eligible to take advantage of the DROP retirement; however, these individuals represent only ten percent (10 %) of the overall Fire Department.

As the Fire Chief, it is my responsibility to look out for the welfare of the entire organization and I firmly believe the implementation of these changes will create a situation that could be detrimental to the overall morale and welfare of the entire Fire Department.

Further, as the Fire Chief, the City Council has entrusted me with the responsibility of operating the Fire Department in the most cost effective manner possible. This governing body has instructed me to look for budgetary savings in all aspects of my organization and to operate in such a way that allows me to meet and exceed the community's needs in the most cost-effective manner. I believe that by implementing these proposed changes it will be difficult for my Staff and I to recognized potential savings in our current and projected budgets. My Staff and I have identified a progressive annual salary savings, which could adequately fund the annual salaries for five additional Fire Fighters; however, if approved these proposed changes will not allow us to realize those savings. Further, changing the terms of the plan, at this point will cause the Department to wait an additional five years before it can begin to realize those savings, which will help to enhance service delivery.

In closing, I believe that by extending the DROP Plan from 5 to 10 years, and allowing those employees to continue working past the originally agreed upon dates will be detrimental to the overall morale of the Department and therefore must be rejected at this time. Basing the decision to change the current benefits program solely on quantitative data provided by the actuary, without considering the qualitative impacts these changes will have on the Department, leads to ineffective decisions and will certainly be detrimental to the overall welfare of the organization.

BUDGET IMPACT

Currently, based on the information provided by the Osborn, Carreiro & Associates, the overall impact to the current fund is insignificant; however, this change in retirement benefits will not allow the Department to recognize the estimated salary savings normally provided through the attrition process.

RECOMMENDATION

It is the recommendation of myself and my Staff that the City Council approve the temporary 3% Cost of Living Allowance (COLA); but deny the proposed Resolutions 02-03 and 04-03, which would modify the current terms of the existing DROP Retirement Plan.

From the Desk of the Fire Chief

Fayetteville Fire Dept
303 W. Center St.
Fayetteville, AR. 73701
(479) 575-8365

Memo

To: Board of Directors, Firemen's Pension and Relief Fund

From: Chris Bosch, Fire Chief CB
Hugh Earnest, Chief Administrative Officer HE

CC: Sandra Smith, City Clerk
Dan Coody, Mayor

Date: February 2, 2004

Re: Resolutions 02-03 and 04-03

On Monday February 2, 2004, I received notice of your proposed changes to the DROP Retirement System. These changes consist of implementing Acts 1369 and 1372, as approved by the Arkansas State Legislature during the 2003 session.

I have requested these two items be held from the February 17, 2004 City Council Agenda so I may have an opportunity to review them and identify any potential impacts, which could arise because of these proposed changes. I will be conducting this review over the next 30 days and will prepare a report for the City Council and the Firemen's Pension and Relief Fund Board prior to our placing them on the Council's March 16, 2004 agenda.

If you have any questions regarding my request, please feel free to contact me. I will be happy to visit with you at your convenience.

Thank you.

Fayetteville Firemen's Pension and Relief Fund
City of Fayetteville Arkansas

Resolution Number 02-03

A Resolution to allow the Fayetteville Firemen's Pension and Relief Fund to enact the Act 1369 of 2003 instituting a 10 year DROP.

Whereas; The Fayetteville Firemen's Pension and Relief Fund met on December 18th, 2003 and passed a resolution to enact Act 1369 of 2003, for it's members. And,

Whereas; The Actuarial Firm of Osborn, Carreiro and Associates, have reported that these increases in benefits, would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board. And,
(See page 2, 1st paragraph of actuarial report dated November 20th)

Whereas; Act 1369 of 2003 requires the Pension Board to pass a resolution, as well as City Council.

Therefore be it resolved; That the Fayetteville Firemen's Pension and Relief Fund, City of Fayetteville Arkansas, pass this resolution, increasing the five year DROP plan to a ten year DROP plan. A copy of this resolution has been forwarded to the City Clerk, Fayetteville Arkansas, and The Arkansas Fire and Police Pension Review Board office in Little Rock Arkansas.

PASSED and APPROVED this 18th day of December, 2003.

Approved by:

1. _____ 2. _____

3. _____ 4. _____

5. Robert G. Johnson 6. _____

7. _____

PRB ARKANSAS FIRE & POLICE PENSION REVIEW BOARD

P.O. Drawer 34164
Little Rock, Arkansas 72203
Telephone: (501) 682 - 1745
Fax: (501) 682 - 1751
email: info@lopfi-prb.com
website: www.lopfi-prb.com

January 21, 2004

RECEIVED
JAN 23 2004
ACCTG. DEPT.

Board of Trustees
Fayetteville Fire Pension Fund
113 West Mountain
Fayetteville, AR 72701

Dear Board of Trustees:

This letter is in response to your letter of January 14th regarding resolutions for three benefit increase proposals. The resolutions include the provisions under Act 1369 of 2003, which extends the DROP to 10-years; implementing a temporary 3% COLA for all pensioners; and Act 1372 of 2003, which allows Fund members to remain employed after the DROP period ends.

Based on the letter from the actuary dated November 20, 2003 and a follow-up email dated January 21, 2004 your Fund is able to implement these proposals and still remain actuarially sound. Therefore, your benefit increase proposals are approved. To properly implement the provisions under Act 1369 of 2003 and Act 1372 of 2003, it is necessary to seek approval from your governing body i.e. City of Fayetteville via an ordinance. Once this action is approved please forward a copy of the City's approval to the PRB.

My decisions are subject to review by the PRB. The next meeting is scheduled for March 10, 2004 in Little Rock. However, this letter serves as authorization that, based on the results from the actuary, the temporary 3% COLA may be implemented effective January 1, 2004 and Acts 1369 and 1372 of 2003 may be implemented after approval of your local governing body.

Please contact me at 682-1745 with any questions you may have.

Respectfully,

David B. Clark
Executive Director

Cc: PRB Chairman Bill Lundy

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

January 14, 2004

Arkansas Fire & Police Pension Review Board (PRB)
PO Box 34164
Little Rock, AR 72203

RE: Fayetteville Fireman's Pension Board
Resolution No. 02-03 Enacting a 10 Year DROP
Resolution No. 03-03 Enacting a Temporary 3% COLA
Resolution No. 04-03 Enacting Working after DROP

Dear Sirs:

The Fayetteville Fireman's Pension Board passed the enclosed resolutions at a regular meeting of the board on December 18, 2003. I have also enclosed a copy of the minutes from the December 18, 2003 meeting and a copy of the actuarial report. It is my understanding that the resolutions must be approved by the Arkansas Fire & Police Pension Review Board before they can become effective.

If you have any questions or need any further information from the board please contact me at 479-575-8323. I look forward to your reply.

Sincerely,

Sondra Smith
City Clerk
Firemen's Pension Board Secretary

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

Osborn, Carreiro & Associates, Inc.

ACTUARIES • CONSULTANTS • ANALYSTS

One Union National Plaza Suite 1690
124 West Capitol Avenue
Little Rock, Arkansas 72201
(501)376-8043

November 20, 2003

Mr. Steve Davis
Finance and Internal Services Director
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mr. Davis:

This report presents the results of our January 1, 2003 actuarial study of the assets and liabilities of the Fayetteville Firefighters Pension and Relief Fund (the "Old Plan"). This report is a supplement to our report of August 5, 2003 providing information you have requested.

The purpose of this supplement is to project the Old Plan costs under three scenarios:

(1) No change is made. The Old Plan remains as is. This will correspond to the information on page 6 of the August 5, 2003 report.

(2) The effect that either DROP extended from 5 years to 10 years or Continued Employment after DROP.

(3) A temporary 3 year, 3% compound COLA is added to the Old Plan.

COMMENTS

A projection of the income, expenses, assets and liabilities of the Old Plan are shown on the three attached pages. These projections are for the Old Plan only and do NOT include the effect of a merger with LOPFI. The process, method, and assumptions are described fully in the August 5, 2003 report. Please consider this information in conjunction with the full report.

The current plan as is (scenario 1) will be fully funded in 15 – 20 years. The plan is projected to always have assets sufficient to meet the benefit obligations.

Osborn, Carreiro & Associates, Inc.
ACTUARIES • CONSULTANTS • ANALYSTS

We were asked to look at a possible extension of the DROP period from 5 years to 10 years. I looked at the worst case scenario and how it would effect the cash flow valuation. The results are on the second page of projections. As you can see, the cash outlays are some earlier, but over the 25 year period there is about 5 percent less assets. The plan still becomes fully funded, but a year or two later. The effect would be the same for continued employment after DROP. Therefore, this type of a benefit increase would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board.

A 3% permanent COLA can NOT be sustained under the current assumptions. As we have discussed, it would need to be a temporary COLA and I would have to see how many years would be sustainable. A 3% compound COLA for the next 3 years (scenario 3) and then continuing at those benefit levels is projected to have assets sufficient to meet all benefit obligations in the future. This is the type of benefit increase that you would request if you wanted to pursue the alternate discussed in the "Other Considerations" section of the cover letter of the August 5, 2003 report. This benefit increase would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board.

The last projection actually shows both benefit enhancements together. These increases together would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board.

CAVEATS

These results depend, of course, upon the actuarial assumptions being met. Note also that actual results WILL vary on a year-by-year basis from the projections. Because of the size of the group, some of the results may vary materially from these projections. This report is based on the participant and financial data you supplied to the Arkansas Fire and Police Pension Review Board. We did not audit this data, although we did review it for reasonableness and consistency. The purpose of this report was described earlier. This report is not intended for any other purpose or for use by persons who are not familiar with such matters.

If you have any questions or comments, please let me know.

Sincerely,

Jody Carreiro

Jody Carreiro, A.S.A., M.A.A.A.
Actuary

Exhibit 1

Fayetteville Firefighters Pension Fund

Cash Flow Projection

Based on Valuation Assumptions (amounts in thousands)

With Contributions Equal to Currently Anticipated Contributions

Current Plan at 90% Base (Old Plan Only)

Year Ended December 31	Income				Benefit Payments	Net Income	Assets	Actuarial Accrued Liability	Unfunded Accrued Liability
	Contributions		Investment Income	Total					
	Member	Employer							
2003	20	695	671	1,366	1,158	228	11,631	18,003	6,372
2004	14	695	666	1,375	1,782	(407)	11,224	17,325	6,101
2005	9	782	654	1,445	1,425	20	11,244	16,946	5,702
2006	16	786	651	1,443	1,584	(141)	11,103	16,368	5,265
2007	5	741	650	1,396	1,283	113	11,216	16,057	4,841
2008	3	746	654	1,403	1,388	15	11,231	15,611	4,380
2009	3	674	653	1,330	1,366	(36)	11,195	15,157	3,962
2010	2	680	652	1,334	1,322	12	11,207	14,716	3,509
2011	1	591	651	1,243	1,306	(63)	11,144	14,263	3,119
2012	1	597	648	1,246	1,288	(42)	11,102	13,798	2,696
2013	1	513	643	1,157	1,271	(114)	10,988	13,323	2,335
2014	0	519	637	1,156	1,252	(96)	10,892	12,835	1,944
2015	0	439	630	1,069	1,232	(163)	10,729	12,340	1,611
2016	0	446	621	1,067	1,210	(143)	10,586	11,836	1,250
2017	0	371	611	982	1,188	(206)	10,380	11,325	945
2018	0	378	599	977	1,165	(188)	10,192	10,807	615
2019	0	364	588	952	1,136	(184)	10,008	10,286	278
2020	0	371	578	949	1,109	(160)	9,848	9,763	(85)
2021	0	378	570	948	1,079	(131)	9,717	9,239	(478)
2022	0	386	563	949	1,047	(88)	9,619	8,715	(904)
2023	0	394	559	953	1,013	(60)	9,559	8,195	(1,364)
2024	0	402	556	958	978	(20)	9,539	7,680	(1,859)
2025	0	410	557	967	942	25	9,564	7,172	(2,392)
2026	0	418	559	977	903	74	9,638	6,673	(2,965)
2027	0	426	565	991	863	128	9,765	6,185	(3,581)

11/20/2003 11:08 5013767847 OSBORN CARREIRO PAGE 05
Firemen's Pension Board Resolution 02-03 C. 5
Page 15 of 28

Exhibit 1

Fayetteville Firefighters Pension Fund

Cash Flow Projection

Based on Valuation Assumptions (amounts in thousands)

With Contributions Equal to Currently Anticipated Contributions

Current Plan at 90% Base with Worst Case Scenario of Extended DROP or Extended Employment

Year Ended December 31	Income				Benefit Payments	Net Income	Assets	Actuarial Accrued Liability	Unfunded Accrued Liability
	Contributions		Investment Income	Total					
	Member	Employer							
2003	20	695	670	1,385	1,172	213	11,616	18,222	6,606
2004	4	687	663	1,354	1,813	(459)	11,157	17,474	6,317
2005	0	775	649	1,424	1,468	(44)	11,113	17,012	5,899
2006	0	780	641	1,421	1,637	(216)	10,897	16,348	5,451
2007	0	740	636	1,376	1,348	28	10,925	15,942	5,017
2008	0	746	632	1,378	1,543	(165)	10,760	15,311	4,551
2009	0	678	625	1,303	1,363	(60)	10,700	14,826	4,126
2010	0	683	624	1,307	1,288	19	10,719	14,391	3,672
2011	0	597	623	1,220	1,274	(54)	10,665	13,943	3,278
2012	0	603	620	1,223	1,259	(36)	10,629	13,483	2,854
2013	0	519	616	1,135	1,243	(108)	10,521	13,013	2,492
2014	0	525	610	1,135	1,226	(91)	10,430	12,532	2,102
2015	0	446	603	1,049	1,206	(157)	10,273	12,042	1,769
2016	0	452	594	1,046	1,186	(140)	10,133	11,545	1,412
2017	0	377	584	961	1,163	(202)	9,931	11,040	1,109
2018	0	384	573	957	1,139	(182)	9,749	10,530	781
2019	0	364	562	926	1,113	(187)	9,562	10,016	454
2020	0	371	552	923	1,085	(162)	9,400	9,500	100
2021	0	378	544	922	1,056	(134)	9,266	8,984	(282)
2022	0	386	537	923	1,024	(101)	9,165	8,469	(696)
2023	0	394	532	926	991	(65)	9,100	7,957	(1,143)
2024	0	402	529	931	956	(25)	9,075	7,451	(1,624)
2025	0	410	529	939	919	20	9,095	6,952	(2,143)
2026	0	418	532	950	881	69	9,164	6,462	(2,702)
2027	0	426	537	963	842	121	9,285	5,982	(3,303)

11/26/2003 11:08 5013767847 OSBORN CARREIRO PAGE 05
Firemen's Pension Board Resolution 02-03 C. 5
Page 16 of 28

Exhibit 1

Fayetteville Firefighters Pension Fund

Cash Flow Projection

Based on Valuation Assumptions (amounts in thousands)

With Contributions Equal to Currently Anticipated Contributions

Current Plan at 90% Base with Worst Case Scenario of Extended DROP or Extended Employment

AND 3% Temporary Cost of Living Increase for the next 3 years

Year Ended December 31	Income				Benefit Payments	Net Income	Assets	Actuarial Accrued Liability	Unfunded Accrued Liability
	Contributions		Investment Income	Total					
	Member	Employer							
2003	20	695	670	1,385	1,172	213	11,616	19,719	8,103
2004	4	687	662	1,353	1,868	(515)	11,101	19,004	7,903
2005	0	775	643	1,418	1,556	(138)	10,963	18,543	7,580
2006	0	780	628	1,408	1,784	(376)	10,587	17,820	7,233
2007	0	740	613	1,353	1,469	(116)	10,471	17,377	6,906
2008	0	748	600	1,346	1,682	(336)	10,135	16,688	6,553
2009	0	678	584	1,262	1,486	(224)	9,911	16,161	6,250
2010	0	683	573	1,256	1,404	(148)	9,763	15,686	5,923
2011	0	597	562	1,159	1,389	(230)	9,533	15,097	5,564
2012	0	603	549	1,152	1,373	(221)	9,312	14,696	5,384
2013	0	519	534	1,053	1,355	(302)	9,010	14,184	5,174
2014	0	525	516	1,041	1,336	(295)	8,715	13,660	4,945
2015	0	446	497	943	1,315	(372)	8,343	13,126	4,783
2016	0	452	475	927	1,292	(365)	7,978	12,584	4,606
2017	0	377	452	829	1,268	(439)	7,539	12,034	4,495
2018	0	384	427	811	1,242	(431)	7,108	11,478	4,370
2019	0	364	401	765	1,213	(448)	6,660	10,918	4,258
2020	0	371	375	746	1,183	(437)	6,223	10,355	4,132
2021	0	378	350	728	1,151	(423)	5,800	9,792	3,992
2022	0	386	326	712	1,116	(404)	5,396	9,231	3,835
2023	0	394	303	697	1,080	(383)	5,013	8,673	3,660
2024	0	402	281	683	1,042	(359)	4,654	8,121	3,467
2025	0	410	261	671	1,002	(331)	4,323	7,577	3,254
2026	0	418	243	661	961	(300)	4,023	7,043	3,020
2027	0	426	227	653	918	(265)	3,758	6,521	2,763

11/28/2003 11:08 5013767847 OSBORN CARREIRO PAGE 06
Firemen's Pension Board Resolution 02-03 C. 5
Page 17 of 28

Firemen's Pension and Relief Fund
Meeting Minutes
December 18, 2003

A meeting of the Fayetteville Firemen's Pension and Relief Fund was held at 10:30 a.m. on December 18, 2003 in Room 111 of the City Administration Building.

Present: Danny Farrar, Pete Reagan, Robert Johnson, Marion Doss, Ronnie Wood, Mayor Coody, Sondra Smith, Secretary, City Attorney Kit Williams, Marsha Farthing, Steve Davis, and Amber Wood.

The meeting was called to order by Mayor Coody.

Approval of the Minutes of November 20, 2003:

Pete Regan moved to approve the minutes. Ronnie Wood seconded. The motion to approve the minutes passed unanimously.

Approval of the Pension List for January, 2003:

Earvel Schader passed away, his pension benefits will now go to his widow.

Pete Reagan moved to approve the Pension List. Marion Doss seconded. The motion to approve the Pension List passed unanimously.

Old Business:

A Resolution to approve a 10 year DROP:

Mayor Coody: This is going to extend the DROP program from five years to ten. How many people does this affect?

Pete Reagan: It will affect 10 people if they choose to do it.

Sondra Smith: In your packet there are three pages that accounting completed that explain how this will affect the plan. Employee A, B and C are employees that draw different salary amounts and their payout on a five year DROP versus their payout on a ten year DROP. When they go to a ten year DROP they only draw 75% of their salary and they only draw 1.5% interest on their funds. Instead of paying the difference from five to ten years on a monthly basis we are paying it out in a lump sum distribution.

Mayor Coody: Are these numbers per employee?

Sondra Smith: Yes.

Mayor Coody: So if I was a fireman on a ten year DROP and I qualified then I would get a lump sum check for $656,000?

Kit Williams: At the end of the ten year DROP.

Sondra Smith: Depending on your salary, these numbers are just estimates at different pay levels. You could only get $393,618 based on your salary.

Kit Williams: What were the last couple of DROP check amounts?

Sondra Smith: The last one was about $230,000.

Marsha Farthing: They run from $150,000 to $260,000.

Sondra Smith: The next page shows the difference they would receive by going to a ten year DROP. The difference would be less than they would actually receive if they had drawn their pension during the five years on a monthly basis.

Kit Williams: From the plan?

Sondra Smith: Yes, from the plan.

Kit Williams: But they are getting their salary.

Sondra Smith: Yes.

Kit Williams: Are their pension benefits based on the initial retirement age and not on the retirement age after five or after ten years?

Pete Reagan: Yes.

Marsha Farthing: When they elect DROP.

Sondra Smith: So if they receive salary increases during those ten years those increases would not be included, the amount they draw is based on the time they elect the DROP.

Marsha Farthing: These are estimated employee wages.

Sondra Smith: I think what accounting did was estimate someone at the highest end of the spectrum, the middle and the low end of the spectrum.

Marion Doss: What employee was used for Employee A?

Marsha Farthing: I would not focus on who it is. This was just a test that was used.

Marion Doss: This is a hypothetical employee?

Marsha Farthing: These are somewhat based on someone that could be at that level when they retire.

Robert Johnson: This could be based on if they start the DROP now.

Kit Williams: If they start later they are going to start at a higher level because of their income. Do we have anyone that has not entered the DROP that is still eligible to enter the DROP?

Marsha Farthing: There is one person.

Sondra Smith: Probably the more realistic numbers are Employee B and C.

Marion Doss: Yes, I think so.

A discussion followed on going to a ten year DROP.

Sondra Smith: The last page shows how this would affect the General Fund. The net amount that could affect the General Fund because of someone staying on DROP, earning a higher salary than a new employee would be at the maximum about $2,700 per year.

Ronnie Wood: That is what it would cost the plan?

Sondra Smith: That is what it would cost the General Fund of the city.

Kit Williams: It is not going to cost the plan it sounds like; it sounds like the plan will be paying out less.

Sondra Smith: The plan will be paying out less, and the city will be paying out a little bit more.

Pete Reagan: In these calculations did we figure in hiring someone off the street to fill the position or promoting someone into the position?

Marsha Farthing: I am not real sure how that was figured.

Kit Williams: I am sure they had to take into account that everyone is going to move but they are not going to have the same step that you are in.

Pete Reagan: There is a lot of difference between an entry level position and a current position.

Sondra Smith: There are so many variables when you are calculating this. I needed to see how it would affect the plan and the city. It doesn't hurt the plan and it does not affect the city by that much so I really do not have a problem with the ten year DROP.

Robert Johnson: The maximum is about $2,700 per person per year.

Marion Doss: I don't see how the DROP can hurt the plan at all or I would never have voted for the DROP.

A discussion followed on extending the DROP from five to ten years.

Kit Williams: Marsha, how does this affect the LOPFI plan, you have someone that will not be contributing to LOPFI because of someone staying on the old plan, so they are not accruing benefits under LOPFI and they are not paying anything, does that have any affect one way or the other on the LOPFI plan?

Marsha Farthing: I don't think so. The LOPFI administrators project what they need for the people to retire.

Kit Williams: Delaying new members from LOPFI will not make a difference to the LOPFI plan?

Marsha Farthing: No. The only problem is if we felt the old plan was in trouble we might have to bring it into LOPFI and that would affect it.

Mayor Coody: How many people have not signed up for DROP yet, one? How many of the rest of you would this affect?

Pete Reagan: One has not signed up for DROP yet. It would affect all of us, I only know of one person right now that has requested it.

Sondra Smith: Not everyone will do the ten year DROP.

Marion Doss: Personally I don't plan on going to a ten year DROP. I am happy with the five year, I guess I could change my mind, but I don't plan on it. I think most people when they sign up for DROP as a rule they are ready for it.

A discussion followed on the ten year DROP.

Pete Reagan moved to adopt the resolution approving a ten year DROP. Marion Doss seconded. The resolution passed 6-1. Pete Reagan, Ronnie Wood, Robert Johnson, Marion Doss, Danny Farrar and Sondra Smith voting yes. Mayor Coody voting no.

Kit Williams: Everyone that voted in favor of the ten year DROP needs to sign the resolution.

Sondra Smith: Yes.

A Resolution to approve a 3% temporary compounded COLA for three years for all Paid Pensioners:

Kit Williams: This is for three years?

Pete Reagan: Three year temporary as per the Osborn and Carreiro report recommendation.

Kit Williams: At the end of three years, does it stay at that level from then on.

Pete Reagan: Yes, unless it comes back to this board.

Kit Williams: So this board could reduce it back or continue it, other than that it would stay, is this compounded?

Pete Reagan: Yes.

Steve Davis: I think the actuary ran their assessment based on a compounded COLA.

Kit Williams: What affect will this have on the plan Steve?

Pete Reagan: The unfunded approved liability goes down, so it is not a large cost to the plan. Is that right Steve?

Steve Davis: With the extended DROP or extended employment the plan is actuarially sound in 2021, with the current plan as it exists; it is actuarially sound in 2020. It never becomes actuarially sound, but based on this report it says "a 3% permanent COLA can NOT be sustained under the current assumptions. As we have discussed, it would need to be a temporary COLA and I would have to see how many years it would be sustainable. A 3% compound COLA for the next three years and then continuing at those benefit levels is projected to have assets sufficient to meet all benefit obligations in the future".

Mayor Coody: What assumptions are they using for the rate of return?

Steve Davis: They are following the Pension Review Board requirements on rate of return and I believe that is 8%.

Mayor Coody: 8%, so if we get an 8% rate of return this may be doable for three years?

Steve Davis: That is correct.

Mayor Coody: What is the actual rate of return that we have been seeing?

Steve Davis: I am not sure.

Kit Williams: It has not been 8%.

Pete Reagan: We have had years with 27%, 21% and 18%.

Kit Williams: But we have had years when it was down.

Pete Reagan: We have had two years of negative. That is the rate of return that was set by the Arkansas Pension Review Board for running these numbers.

Steve Davis: They do not have an option in selecting any other rate of return.

Mayor Coody: So that is the rule and if the 8% is met then the temporary COLA may work, if that 8% isn't met than this temporary COLA even though we are paying it will hurt the plan.

Steve Davis: That is correct.

Kit Williams: In the statues they talk about a benefit increase over a 30 year period, does he use a 30 year period?

Steve Davis: Under the closed plan the statues allow them to amortize debts over a five year period. LOPFI is allowed to amortize debts over 30. This plan is not allowed to amortize over 30 years by statues only LOPFI, that is my understanding of the difference in the two laws.

Kit Williams: I thought this meant that the plan would have to be actuarially sound for 30 years, is that not what they mean?

Steve Davis: No, just able to amortize the debt over that time period.

Pete Reagan: When they run these actuary assumptions it is the worst case scenario.

Kit Williams: 8% is not the worst case scenario.

Mayor Coody: That is pretty best case scenario.

Steve Davis: The letter from Osborn and Carreiro, the last projection actually shows both benefit enhancements together. It states these increases together would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board, even though they are showing in 2027 $2,763,000 in funded accrued actuarially liability under the rules established by the Arkansas Fire and Police Pension Review Board they are still considered actuarially sound. I can only speculate as to why that would be, my guess is that the annual income in each one of those years is sufficient to meet the expenses.

Kit Williams: The employer contributions are higher now, then they go down and then they start coming back up again. Is that the millage?

Pete Reagan: Isn't that insurance turn back too?

Steve Davis: The millage is somewhere between $200,000 and $300,000 so any difference above $200,000 to $300,000 would have to be insurance turn back.

Kit Williams: Does it look like the General Fund will not have to use its money to fund this pension?

Steve Davis: They have $3,758,000 in assets in 2027 and an actuarial accrued liability of $6.5 million, so through 2027 based on this report General Fund would not have to give the fund any money.

Danny Farrar: I would like the resolution to read all pensioners. I would like to include the volunteers.

Kit Williams: We have to do what ever they tell us we can do, were the volunteers included?

Marion Doss: They included the entire list.

Steve Davis: The entire list may have been sent down but I don't know what was included.

Danny Farrar: I spoke to the actuary and they said everyone was included.

There was a discussion on including all pensioners in the 3% temporary COLA.

Mayor Coody: What is the dollar amount we are looking at? Everyone gets annual increases don't they?

Sondra Smith: No.

Mayor Coody: If the 3% COLA is enacted and there is only a 6% rate of return who makes up that difference.

Sondra Smith: The pension fund.

Mayor Coody: If the pension fund doesn't then the city has to, right?

Steve Davis: There are several options, it could be turned over to the Pension Guarantee Board of the State of Arkansas and benefits could be adjusted to match whatever resources are available, that is the worst case scenario. When we get to that point there are decisions that have to be made before we will find out if the General Fund has to put money toward the plan.

Danny Farrar moved to approve the Resolution of a 3% temporary COLA for three years to include all pensioners. Marion Doss seconded. The resolution passed unanimously.

A Resolution to approve working after DROP:

Mayor Coody: So you would get your lump sum money from DROP and you keep working, do you keep building retirement?

Pete Reagan: No sir, you no longer pay into the fund, the city no longer pays into the fund, your DROP is frozen you can not draw it until you leave employment. It is a cost savings to the fund.

Marion Doss: You just keep working and drawing your regular salary.

Mayor Coody: What I am afraid of is letting folks work and then you can't get rid of them and they take up space and filling slots that need to be filled by young vigorous strong fire fighters. Is there a chance that that could happen.

Marion Doss: I don't think so.

Pete Reagan: There is always that chance.

Steve Davis: How many people are eligible for this working after DROP?

Pete Reagan: Eleven.

A discussion followed on working after DROP.

Pete Regan moved to adopt the working after DROP resolution. Marion Doss seconded. The resolution passed 6-0. Mayor Coody was absent during the vote.

Ashland Management:

Postponed until the next meeting.

New Business:

Dennis Ledbetter Retirement:

Pete Reagan moved to approve Dennis Ledbetter's retirement. Ronnie Wood seconded. The motion passed 6-0. Mayor Coody was absent during the vote.

The following items were handed out:

- A copy of Earvel Schader's death certificate.
- A copy of The Monitor.
- A copy of the budget reports.
- A copy of the Osborn, Carreiro & Associates report.
- A copy of the Arkansas Fire and Police Pension Review Board – 2003 Legislative changes.

Pete Reagan moved to adjourn. Ronnie Wood seconded.

Meeting adjourned at 11:25 AM.

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas
84th General Assembly
Regular Session, 2003

As Engrossed: H3/25/03

A Bill

Act 1369 of 2003

HOUSE BILL 1218

By: Representative R. Smith
By: Senators J. Bookout, J. Jeffress, Faris

RECEIVED
MAY 15 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

For An Act To Be Entitled

AN ACT TO ALLOW FIRE FIGHTERS ON THE DEFERRED RETIREMENT OPTION PLAN TO EXTEND THE PARTICIPATION PERIOD UP TO TEN (10) YEARS IF APPROVED BY THE BOARD OF TRUSTEES OF THE PENSION FUND; AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW FIRE FIGHTERS ON THE DEFERRED RETIREMENT OPTION PLAN TO EXTEND THE PARTICIPATION PERIOD UP TO TEN (10) YEARS IF APPROVED BY THE BOARD OF TRUSTEES OF THE PENSION FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 24-11-830(c), concerning the deferred retirement option plan for the firemen's pension and relief fund, is amended to read as follows:

(c)(1)(A) ~~The~~ Except under subdivision (c)(1)(B) of this section, the duration of participation in the plan for active full-paid fire fighters shall not exceed five (5) years.

(B) The five-year limit may be extended if:

(i) The extension does not cause the limit to exceed ten (10) years;

(ii) The extension applies to all active full-paid fire fighters and all members on the plan;

(iii) The extension is approved by a majority of votes of the board of trustees of the pension and relief fund or of the Arkansas Local Police and Fire Retirement System for funds whose administrative responsibility has been assigned to the system as provided in § 24-11-406(b);

(iv) The interest credited after the first five (5) years on the plan shall be two (2) percentage points below the rate of return of the investment portfolio of the fund and shall not be determined under subdivision (e)(2) of this section, but the interest rate credited shall not *be less than zero percent (0%);*

(v) Seventy-five percent (75%) of the monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the plan account; and

(vi) The extension is approved by a majority vote of the governing body of the sponsoring municipality after receiving approval for an increase in benefits under § 24-11-102.

(2) At the conclusion of a member's participation in the plan, the member shall terminate employment with all participating municipalities as a fire fighter and shall start receiving the member's accrued monthly retirement benefit from the firemen's pension and relief fund.

/s/ R. Smith

APPROVED: 4/15/2003

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

XXX **AGENDA REQUEST**

For the Fayetteville City Council Meeting of: **February 17, 2004**

FROM:

Sondra Smith	City Clerk	City Clerk
Name	Division	Department

ACTION REQUIRED:

Approval of Resolution 02-03 passed by the Firemen's Pension and Relief Fund Board of Trustees on December 18, 2003 in accordance with Act 1369.

SUMMARY EXPLANATION:

The Firemen's Pension and Relief Fund passed Resolution 02-03 on December 18, 2003 increasing the five year DROP plan to a ten year DROP plan. The Actuarial Firm of Osborn, Carreiro and Associates have reported that this increase in benefits would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board.

STAFF RECOMMENDATION:

Sondra Smith — Division Head — 1/30/04 — Date

Received in Mayor's Office _____ Date

City Attorney _____ Date

Department Director _____ Date

Finance & Internal Services Dir _____ Date

Hugh Earnest — Chief Administrative Officer — 3-4-04 — Date

Mayor _____ Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: **Yes** **No**

Received in City Clerk's Office ENTERED _____ Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: **Firemen's Pension and Relief Fund Board of Trustees**
Sondra Smith, City Clerk

From: **Dan Coody, Mayor**

Date: **March 3, 2004**

Subject: **Fire Pension Board Resolution 02-03 – Enacting a 10 year DROP**
Fire Pension Resolution 04-03 – Working after DROP

When the issue of the 10 year DROP plan and working after DROP first surfaced at the Pension Board meeting, some concerns were voiced by a couple of the members stating they did not think it would be good for the department. At that point I asked Chief Bosch to do some research and give me a report on his findings. Chief Bosch determined that the two plans would not be in the best interests of the department.

Since I rely on Chief Bosch to manage the Fire Department and keep it running as well as possible, I will concur with his conclusions. Please note that I supported the temporary 3% COLA which was the third item on the agenda.

I will work for the continued improvement of the department as a whole at every opportunity.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Chris Bosch, Fire Chief CB

Date: February 25, 2004

Subject: Proposed Council Resolutions 02-03, 03-03 & 04-03.

RECOMMENDATION

Staff recommends the City Council approve Resolution 03-03 allowing for the implementation of a 3% temporary Cost of Living Allowance for members of the Firemen's Pension & Relief Fund. Staff recommends City Council denial of proposed Resolutions 02-03 and 04-03, which would extend the current DROP Retirement Plan from 5 to 10 years and allow those employees currently signed up for the DROP Retirement Plan to work past their agreed upon DROP retirement date.

BACKGROUND

During the 2003 session of the Arkansas State Legislature, State Policy Makers received two pieces of proposed legislation that, if passed, would change the conditions of the current Deferred Retirement Option Plan (DROP). With approval from the local Board of Trustees and the City Council Act 1369 will change the terms of the current DROP to allow participants to extend the original DROP agreement from a maximum 5-year term to a maximum 10-year term. With approval from the local Board of Trustees and the City Council, Act 1372 will allow participants to continue to work beyond the end of the 10-year drop plan.

These proposed changes also recommend the implementation of a temporary 3% Cost of Living Allowance (COLA) for current and retired members of the fund.

DISCUSSION

The Board of Trustees of the Fayetteville Firemen's Pension & Relief Fund approved these proposed changes in December 2003. Once the local Board of Trustees approved these changes, the Arkansas State Fire and Police Pension Review Board received the changes and approved them in January 2004. The final approval rests with the Fayetteville City Council.

The attached information identifies the actuarial soundness of the current fund and highlights the fact that these changes will cause no harm to the soundness of the fund balance; however, prior to this report very little research was conducted regarding the other impacts these proposed changes will have on the Department as a whole.

It is certain these changes will provide a true benefit for those employees covered under this retirement system; however, currently there are only nine members of the Fayetteville Fire Department who are eligible to participate in this fund and stand to benefit from these changes. Each of these nine employees

holds ranking positions within the Department. Further, these nine members only constitute ten percent of the entire organization. The breakdown of these nine positions is as follows:

⇒ One (1) Assistant Chief
⇒ Five (5) Captains
⇒ Three (3) Driver/Operators.

IMPACTS

After a careful review of the proposed retirement dates for the individuals covered under the current DROP agreement, my Staff and I believe that changing the current guidelines of the DROP plan will be detrimental to the Department is several ways. I have listed the two primary impacts of these changes in the following paragraphs.

The implementation of these changes will hold up approximately seventeen (17) promotions within the organization and will indefinitely restrict the opportunity for upward mobility throughout the ranks. For example, if my Assistant Chief decides to extend his DROP date he will hold up four promotions by eliminating the need to replace the Assistant Chief, a Battalion Chief, a Captain and a Driver Operator, which are all progressive promotional steps within the organization. These changes will stifle promotional opportunities and will hurt the Department's overall morale, creating even greater problems for the organization in the very near future.

The implementation of these changes will also prohibit the Department from recognizing any projected salary savings attained through attrition. Under the current DROP guidelines, over the next five years the Department will realize an annual salary savings equivalent to the salary of five entry-level Fire Fighters. This salary savings can be used to either hire additional Fire Fighters or offset the cost of salaries for the Fire Fighters for Fire Station 7. By changing the rules of this plan, those savings will no longer be available. Keep in mind that these savings projections include the cost of hiring replacement personnel and the cost of promoting personnel to fill vacancies in the existing rank structure, which will occur through normal attrition.

CONCLUSION

As previously stated, these proposed changes will offer a wonderful enhancement to the current retirement benefit for the nine individuals currently eligible to take advantage of the DROP retirement; however, these individuals represent only ten percent (10 %) of the overall Fire Department.

As the Fire Chief, it is my responsibility to look out for the welfare of the entire organization and I firmly believe the implementation of these changes you will be creating a situation that could be detrimental to the overall morale and welfare of the entire Fire Department.

Further, as the Fire Chief, this City Council has entrusted me with the responsibility of operating the Fire Department in the most cost effective manner possible. This governing body has also instructed me to look for budgetary savings in all aspects of my organization and to operate in such a way that allows me to meet and exceed the community's needs in the most cost-effective manner. I believe that by implementing these proposed changes it will be difficult for my Staff and me to recognized potential savings in our current and projected budgets. My Staff and I have identified a progressive annual salary savings, which could

adequately fund the annual salaries for five additional Fire Fighters; however, if approved these proposed changes will not allow us to realize those savings. Further, changing the terms of the plan, at this point will cause the Department to wait an additional five years before it can begin to realize those savings, which will help to enhance service delivery.

In closing, I believe that by extending the DROP Plan from 5 to 10 years, and allowing these employees to continue working past those agreed upon dates will be detrimental to the overall morale of the Department and therefore must be rejected at this time. By basing the decision to change the current benefits program solely on quantitative data provided by the actuary, without considering the qualitative impacts these changes will have on the Department leads to ineffective decisions and I believe these changes will certainly prove to be detrimental to the overall welfare of the organization.

BUDGET IMPACT

Currently, based on the information provided by the Osborn, Carreiro & Associates, the overall impact to the current fund is insignificant; however, this change in retirement benefits will not allow the Department to recognize the estimated salary savings normally provided through the attrition process.

From the Desk of the Fire Chief

Fayetteville Fire Dept
303 W. Center St.
Fayetteville, AR. 73701
(479) 575-8365

Memo

To: Dan Coody, Mayor

From: Chris Bosch, Fire Chief CB

CC: Firemen's Pension & Relief Board

Date: February 25, 2004

Re: Changes to the DROP Plan

Introduction

As you know, on February 2, 2004 I requested that Council Agenda Items 02-03 and 04-03 be pulled from the Council Agenda so I could have an opportunity to review them and determine the level of impact these items would have on the Fire Department as a whole. After a careful review of these items I have developed the following response to these items.

BACKGROUND

During the 2003 session of the Arkansas State Legislature, State Policy Makers received two pieces of proposed legislation that, if passed, would change the conditions of the current Deferred Retirement Option Plan (DROP). With approval from the local Board of Trustees and the City Council Act 1369 will change the terms of the current DROP to allow participants to extend the original DROP agreement from a maximum 5-year term to a maximum 10-year term. With approval from the local Board of Trustees and the City Council, Act 1372 will allow participants to continue to work beyond the end of the 10-year drop plan.

These proposed changes also recommend the implementation of a temporary 3% Cost of Living Allowance (COLA) for current and retired members of the fund.

DISCUSSION

The Board of Trustees of the Fayetteville Firemen's Pension & Relief Fund approved these proposed changes in December 2003. Once the local Board of Trustees approved these changes, the Arkansas State Fire and Police Pension Review Board received the changes and approved them in January 2004. The final approval rests with the Fayetteville City Council.

The attached information identifies the actuarial soundness of the current fund and highlights the fact that these changes will cause no harm to the soundness of the fund balance; however, prior to this report very little research was conducted regarding the other impacts these proposed changes will have on the Department as a whole.

It is certain these changes will provide a true benefit for those employees covered under this retirement system; however, currently there are only nine members of the Fayetteville Fire Department who are eligible to participate in this fund and stand to benefit from these changes. Each of these nine employees holds a ranking position within the Department. Further, these nine members only constitute ten percent of the entire organization. The breakdown of these nine positions reveals that these employees also hold ranking positions within the organization.

The positions discussed in the proceeding paragraph are as follows:

⇒ One (1) Assistant Chief
⇒ Five (5) Captains
⇒ Three (3) Driver/Operators.

Impacts

After a careful review of the proposed retirement dates for the individuals covered under the current DROP agreement, my Staff and I have determined that changing the current guidelines of the DROP plan will be detrimental to the Department in several ways. I have listed the two primary impacts of these changes in the following paragraphs.

The implementation of these changes will hold up approximately seventeen (17) promotions within the organization and will restrict the opportunity for upward mobility throughout the ranks. For example, if my Assistant Chief decides to extend his DROP date he will hold up four promotions by eliminating the need to replace the Assistant Chief, a Battalion Chief, a Captain and a Driver Operator, which are all progressive promotional steps within the organization. I believe these changes will stifle promotional opportunities and will hurt the Department's overall morale, creating even greater problems for the organization in the very near future.

The implementation of these changes will also prohibit the Department from recognizing any projected salary savings attained through attrition. Under the current DROP guidelines, over the next five years the Department will realize an annual salary savings

equivalent to the salary of five entry-level Fire Fighters. This salary savings can be used to either hire additional Fire Fighters or offset the cost of salaries for the Fire Fighters for Fire Station 7. By changing the rules of this plan, those savings will no longer be available. Keep in mind that these savings projections include the cost of hiring replacement personnel and the cost of promoting personnel to fill vacancies in the existing rank structure, which will occur through normal attrition.

CONCLUSION

As previously stated, these proposed changes will offer a wonderful enhancement to the current retirement benefit plan for the nine individuals currently eligible to take advantage of the DROP retirement; however, these individuals represent only ten percent (10 %) of the overall Fire Department.

As the Fire Chief, it is my responsibility to look out for the welfare of the entire organization and I firmly believe the implementation of these changes will create a situation that could be detrimental to the overall morale and welfare of the entire Fire Department.

Further, as the Fire Chief, the City Council has entrusted me with the responsibility of operating the Fire Department in the most cost effective manner possible. This governing body has instructed me to look for budgetary savings in all aspects of my organization and to operate in such a way that allows me to meet and exceed the community's needs in the most cost-effective manner. I believe that by implementing these proposed changes it will be difficult for my Staff and I to recognized potential savings in our current and projected budgets. My Staff and I have identified a progressive annual salary savings, which could adequately fund the annual salaries for five additional Fire Fighters; however, if approved these proposed changes will not allow us to realize those savings. Further, changing the terms of the plan, at this point will cause the Department to wait an additional five years before it can begin to realize those savings, which will help to enhance service delivery.

In closing, I believe that by extending the DROP Plan from 5 to 10 years, and allowing those employees to continue working past the originally agreed upon dates will be detrimental to the overall morale of the Department and therefore must be rejected at this time. Basing the decision to change the current benefits program solely on quantitative data provided by the actuary, without considering the qualitative impacts these changes will have on the Department, leads to ineffective decisions and will certainly be detrimental to the overall welfare of the organization.

BUDGET IMPACT

Currently, based on the information provided by the Osborn, Carreiro & Associates, the overall impact to the current fund is insignificant; however, this change in retirement benefits will not allow the Department to recognize the estimated salary savings normally provided through the attrition process.

RECOMMENDATION

It is the recommendation of myself and my Staff that the City Council approve the temporary 3% Cost of Living Allowance (COLA); but deny the proposed Resolutions 02-03 and 04-03, which would modify the current terms of the existing DROP Retirement Plan.

From the Desk of the Fire Chief

Fayetteville Fire Dept
303 W. Center St.
Fayetteville, AR. 73701
(479) 575-8365

Memo

To: Board of Directors, Firemen's Pension and Relief Fund

From: Chris Bosch, Fire Chief CB
Hugh Earnest, Chief Administrative Officer HE

CC: Sandra Smith, City Clerk
Dan Coody, Mayor

Date: February 2, 2004

Re: Resolutions 02-03 and 04-03

On Monday February 2, 2004, I received notice of your proposed changes to the DROP Retirement System. These changes consist of implementing Acts 1369 and 1372, as approved by the Arkansas State Legislature during the 2003 session.

I have requested these two items be held from the February 17, 2004 City Council Agenda so I may have an opportunity to review them and identify any potential impacts, which could arise because of these proposed changes. I will be conducting this review over the next 30 days and will prepare a report for the City Council and the Firemen's Pension and Relief Fund Board prior to our placing them on the Council's March 16, 2004 agenda.

If you have any questions regarding my request, please feel free to contact me. I will be happy to visit with you at your convenience.

Thank you.

Fayetteville Firemen's Pension and Relief Fund
City of Fayetteville Arkansas

Resolution Number 04-03

A Resolution to allow the Fayetteville Firemen's Pension and Relief Fund to enact the Act 1372 of 2003 working after DROP.

Whereas; The Fayetteville Firemen's Pension and Relief Fund met on December 18th, 2003 and passed a resolution to enact Act 1372 of 2003, for it's members. And,

Whereas; The Actuarial Firm of Osborn, Carreiro and Associates, have reported that these increases in benefits, would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board. And,
(See page 2, 1st paragraph of actuarial report dated November 20th)

Whereas; Act 1372 of 2003 requires the Pension Board to pass a resolution, as well as City Council.

Therefore be it resolved; That the Fayetteville Firemen's Pension and Relief Fund, City of Fayetteville Arkansas, pass this resolution, working after DROP. A copy of this resolution has been forwarded to the City Clerk, Fayetteville Arkansas, and The Arkansas Fire and Police Pension Review Board office in Little Rock Arkansas.

PASSED and APPROVED this 18th day of December, 2003.

Approved by:

1. _____ 2. _____

3. _____ 4. _____

5. Robert G. Johnson 6. _____

7. _____

PRB ARKANSAS FIRE & POLICE PENSION REVIEW BOARD

P.O. Drawer 34164
Little Rock, Arkansas 72203
Telephone: (501) 682 - 1745
Fax: (501) 682 - 1751
email: info@lopfi-prb.com
website: www.lopfi-prb.com

January 21, 2004

RECEIVED
JAN 23 2004
ACCTG. DEPT.

Board of Trustees
Fayetteville Fire Pension Fund
113 West Mountain
Fayetteville, AR 72701

Dear Board of Trustees:

This letter is in response to your letter of January 14th regarding resolutions for three benefit increase proposals. The resolutions include the provisions under Act 1369 of 2003, which extends the DROP to 10-years; implementing a temporary 3% COLA for all pensioners; and Act 1372 of 2003, which allows Fund members to remain employed after the DROP period ends.

Based on the letter from the actuary dated November 20, 2003 and a follow-up email dated January 21, 2004 your Fund is able to implement these proposals and still remain actuarially sound. Therefore, your benefit increase proposals are approved. To properly implement the provisions under Act 1369 of 2003 and Act 1372 of 2003, it is necessary to seek approval from your governing body i.e. City of Fayetteville via an ordinance. Once this action is approved please forward a copy of the City's approval to the PRB.

My decisions are subject to review by the PRB. The next meeting is scheduled for March 10, 2004 in Little Rock. However, this letter serves as authorization that, based on the results from the actuary, the temporary 3% COLA may be implemented effective January 1, 2004 and Acts 1369 and 1372 of 2003 may be implemented after approval of your local governing body.

Please contact me at 682-1745 with any questions you may have.

Respectfully,

David B. Clark
Executive Director

Cc: PRB Chairman Bill Lundy

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

January 14, 2004

Arkansas Fire & Police Pension Review Board (PRB)
PO Box 34164
Little Rock, AR 72203

RE: Fayetteville Fireman's Pension Board
Resolution No. 02-03 Enacting a 10 Year DROP
Resolution No. 03-03 Enacting a Temporary 3% COLA
Resolution No. 04-03 Enacting Working after DROP

Dear Sirs:

The Fayetteville Fireman's Pension Board passed the enclosed resolutions at a regular meeting of the board on December 18, 2003. I have also enclosed a copy of the minutes from the December 18, 2003 meeting and a copy of the actuarial report. It is my understanding that the resolutions must be approved by the Arkansas Fire & Police Pension Review Board before they can become effective.

If you have any questions or need any further information from the board please contact me at 479-575-8323. I look forward to your reply.

Sincerely,

Sondra Smith

Sondra Smith
City Clerk
Firemen's Pension Board Secretary

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

Osborn, Carreiro & Associates, Inc.

ACTUARIES • CONSULTANTS • ANALYSTS

One Union National Plaza Suite 1690
124 West Capitol Avenue
Little Rock, Arkansas 72201
(501)376-8043

November 20, 2003

Mr. Steve Davis
Finance and Internal Services Director
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mr. Davis:

This report presents the results of our January 1, 2003 actuarial study of the assets and liabilities of the Fayetteville Firefighters Pension and Relief Fund (the "Old Plan"). This report is a supplement to our report of August 5, 2003 providing information you have requested.

The purpose of this supplement is to project the Old Plan costs under three scenarios:

(1) No change is made. The Old Plan remains as is. This will correspond to the information on page 6 of the August 5, 2003 report.

(2) The effect that either DROP extended from 5 years to 10 years or Continued Employment after DROP.

(3) A temporary 3 year, 3% compound COLA is added to the Old Plan.

COMMENTS

A projection of the income, expenses, assets and liabilities of the Old Plan are shown on the three attached pages. These projections are for the Old Plan only and do NOT include the effect of a merger with LOPFI. The process, method, and assumptions are described fully in the August 5, 2003 report. Please consider this information in conjunction with the full report.

The current plan as is (scenario 1) will be fully funded in 15 – 20 years. The plan is projected to always have assets sufficient to meet the benefit obligations.

Osborn, Carreiro & Associates, Inc.
ACTUARIES • CONSULTANTS • ANALYSTS

We were asked to look at a possible extension of the DROP period from 5 years to 10 years. I looked at the worst case scenario and how it would effect the cash flow valuation. The results are on the second page of projections. As you can see, the cash outlays are some earlier, but over the 25 year period there is about 5 percent less assets. The plan still becomes fully funded, but a year or two later. The effect would be the same for continued employment after DROP. Therefore, this type of a benefit increase would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board.

A 3% permanent COLA can NOT be sustained under the current assumptions. As we have discussed, it would need to be a temporary COLA and I would have to see how many years would be sustainable. A 3% compound COLA for the next 3 years (scenario 3) and then continuing at those benefit levels is projected to have assets sufficient to meet all benefit obligations in the future. This is the type of benefit increase that you would request if you wanted to pursue the alternate discussed in the "Other Considerations" section of the cover letter of the August 5, 2003 report. This benefit increase would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board.

The last projection actually shows both benefit enhancements together. These increases together would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board.

CAVEATS

These results depend, of course, upon the actuarial assumptions being met. Note also that actual results WILL vary on a year-by-year basis from the projections. Because of the size of the group, some of the results may vary materially from these projections. This report is based on the participant and financial data you supplied to the Arkansas Fire and Police Pension Review Board. We did not audit this data, although we did review it for reasonableness and consistency. The purpose of this report was described earlier. This report is not intended for any other purpose or for use by persons who are not familiar with such matters.

If you have any questions or comments, please let me know.

Sincerely,

Jody Carreiro

Jody Carreiro, A.S.A., M.A.A.A.
Actuary

Exhibit 1

Fayetteville Firefighters Pension Fund

Cash Flow Projection

Based on Valuation Assumptions (amounts in thousands)

With Contributions Equal to Currently Anticipated Contributions

Current Plan at 90% Base (Old Plan Only)

Year Ended December 31	Income				Benefit Payments	Net Income	Assets	Actuarial Accrued Liability	Unfunded Accrued Liability
	Contributions		Investment						
	Member	Employer	Income	Total					
2003	20	695	671	1,386	1,158	228	11,631	18,003	6,372
2004	14	695	666	1,375	1,782	(407)	11,224	17,325	6,101
2005	9	782	654	1,445	1,425	20	11,244	16,946	5,702
2006	6	786	651	1,443	1,584	(141)	11,103	16,368	5,265
2007	5	741	650	1,396	1,283	113	11,216	16,057	4,841
2008	3	746	654	1,403	1,388	15	11,231	15,611	4,380
2009	3	674	653	1,330	1,366	(36)	11,195	15,157	3,962
2010	2	680	652	1,334	1,322	12	11,207	14,716	3,509
2011	1	591	651	1,243	1,306	(63)	11,144	14,263	3,119
2012	1	597	648	1,246	1,288	(42)	11,102	13,798	2,696
2013	1	513	643	1,157	1,271	(114)	10,988	13,323	2,335
2014	0	519	637	1,156	1,252	(96)	10,892	12,836	1,944
2015	0	439	630	1,069	1,232	(163)	10,729	12,340	1,611
2016	0	446	621	1,067	1,210	(143)	10,586	11,836	1,250
2017	0	371	611	982	1,188	(206)	10,380	11,325	945
2018	0	378	599	977	1,165	(188)	10,192	10,807	615
2019	0	364	588	952	1,136	(184)	10,008	10,286	278
2020	0	371	578	949	1,109	(160)	9,848	9,763	(85)
2021	0	378	570	948	1,079	(131)	9,717	9,239	(478)
2022	0	386	563	949	1,047	(88)	9,619	8,715	(904)
2023	0	394	559	953	1,013	(60)	9,559	8,195	(1,364)
2024	0	402	556	958	978	(20)	9,539	7,680	(1,859)
2025	0	410	557	967	942	25	9,564	7,172	(2,392)
2026	0	418	559	977	903	74	9,638	6,673	(2,965)
2027	0	426	565	991	863	128	9,766	6,185	(3,581)

11/20/2003 11:08 5013767847 OSBORN CARREIRO PAGE 84 C. 6
Firemen's Pension Board, Resolution 04-03
Page 15 of 30

Exhibit 1

Fayetteville Firefighters Pension Fund

Cash Flow Projection

Based on Valuation Assumptions (amounts in thousands)

With Contributions Equal to Currently Anticipated Contributions

Current Plan at 90% Base with Worst Case Scenario of Extended DROP or Extended Employment

Year Ended December 31	Income				Benefit Payments	Net Income	Assets	Actuarial Accrued Liability	Unfunded Accrued Liability
	Contributions		Investment Income	Total					
	Member	Employer							
2003	20	695	670	1,385	1,172	213	11,616	18,222	6,606
2004	4	687	653	1,354	1,813	(459)	11,157	17,474	6,317
2005	0	775	649	1,424	1,468	(44)	11,113	17,012	5,899
2006	0	780	641	1,421	1,637	(216)	10,897	16,348	5,451
2007	0	740	636	1,376	1,348	28	10,925	15,942	5,017
2008	0	746	632	1,378	1,543	(165)	10,760	15,311	4,551
2009	0	678	625	1,303	1,363	(60)	10,700	14,826	4,126
2010	0	683	624	1,307	1,288	19	10,719	14,391	3,672
2011	0	597	623	1,220	1,274	(54)	10,665	13,943	3,278
2012	0	603	620	1,223	1,259	(36)	10,629	13,483	2,854
2013	0	519	616	1,135	1,243	(108)	10,521	13,013	2,492
2014	0	525	610	1,135	1,226	(91)	10,430	12,532	2,102
2015	0	446	603	1,049	1,206	(157)	10,273	12,042	1,769
2016	0	452	594	1,046	1,186	(140)	10,133	11,545	1,412
2017	0	377	584	961	1,163	(202)	9,931	11,040	1,109
2018	0	384	573	957	1,139	(182)	9,749	10,530	781
2019	0	364	562	926	1,113	(187)	9,562	10,016	454
2020	0	371	552	923	1,085	(162)	9,400	9,500	100
2021	0	378	544	922	1,056	(134)	9,266	8,984	(282)
2022	0	386	537	923	1,024	(101)	9,165	8,469	(696)
2023	0	394	532	926	991	(65)	9,100	7,957	(1,143)
2024	0	402	529	931	956	(25)	9,075	7,451	(1,624)
2025	0	410	529	939	919	20	9,095	6,952	(2,143)
2026	0	418	532	950	881	69	9,164	6,462	(2,702)
2027	0	426	537	963	842	121	9,285	5,982	(3,303)

11/20/2003 11:08 5613767847 OSBORN CARRETRO PAGE 05
C. 6
Firemen's Pension Board, Resolution 04-03
Page 16 of 30

Exhibit 1

Fayetteville Firefighters Pension Fund

Cash Flow Projection

Based on Valuation Assumptions (amounts in thousands)

With Contributions Equal to Currently Anticipated Contributions

Current Plan at 90% Base with Worst Case Scenario of Extended DROP or Extended Employment

AND 3% Temporary Cost of Living Increase for the next 3 years

Year Ended December 31	Income				Benefit Payments	Net Income	Assets	Actuarial Accrued Liability	Unfunded Accrued Liability
	Contributions		Investment Income	Total					
	Member	Employer							
2003	20	695	670	1,385	1,172	213	11,616	19,719	8,103
2004	4	687	662	1,353	1,868	(515)	11,101	19,004	7,903
2005	0	775	643	1,418	1,556	(138)	10,963	18,543	7,580
2006	0	780	628	1,408	1,784	(376)	10,587	17,820	7,233
2007	0	740	613	1,353	1,469	(116)	10,471	17,377	6,906
2008	0	748	600	1,348	1,682	(336)	10,135	16,688	6,553
2009	0	678	584	1,262	1,486	(224)	9,911	16,161	6,250
2010	0	683	573	1,256	1,404	(148)	9,763	15,686	5,923
2011	0	597	562	1,159	1,389	(230)	9,533	15,197	5,664
2012	0	603	549	1,152	1,373	(221)	9,312	14,696	5,384
2013	0	519	534	1,053	1,355	(302)	9,010	14,184	5,174
2014	0	525	516	1,041	1,336	(295)	8,715	13,660	4,945
2015	0	446	497	943	1,315	(372)	8,343	13,126	4,783
2016	0	452	475	927	1,292	(365)	7,978	12,584	4,606
2017	0	377	452	829	1,268	(439)	7,539	12,034	4,495
2018	0	384	427	811	1,242	(431)	7,108	11,478	4,370
2019	0	364	401	765	1,213	(448)	6,660	10,918	4,258
2020	0	371	375	746	1,183	(437)	6,223	10,355	4,132
2021	0	378	350	728	1,151	(423)	5,800	9,792	3,992
2022	0	386	326	712	1,116	(404)	5,396	9,231	3,835
2023	0	394	303	697	1,080	(383)	5,013	8,673	3,660
2024	0	402	281	683	1,042	(359)	4,654	8,121	3,467
2025	0	410	261	671	1,002	(331)	4,323	7,577	3,254
2026	0	418	243	661	961	(300)	4,023	7,043	3,020
2027	0	426	227	653	918	(265)	3,758	6,521	2,763

11/28/2003 11:08 5013767847 OSBORN CARREIRO PAGE 06
Firemen's Pension Board, Resolution 04-03 C. 6
Page 17 of 30

Firemen's Pension and Relief Fund
Meeting Minutes
December 18, 2003

A meeting of the Fayetteville Firemen's Pension and Relief Fund was held at 10:30 a.m. on December 18, 2003 in Room 111 of the City Administration Building.

Present: Danny Farrar, Pete Reagan, Robert Johnson, Marion Doss, Ronnie Wood, Mayor Coody, Sondra Smith, Secretary, City Attorney Kit Williams, Marsha Farthing, Steve Davis, and Amber Wood.

The meeting was called to order by Mayor Coody.

Approval of the Minutes of November 20, 2003:

Pete Regan moved to approve the minutes. Ronnie Wood seconded. The motion to approve the minutes passed unanimously.

Approval of the Pension List for January, 2003:

Earvel Schader passed away, his pension benefits will now go to his widow.

Pete Reagan moved to approve the Pension List. Marion Doss seconded. The motion to approve the Pension List passed unanimously.

Old Business:

A Resolution to approve a 10 year DROP:

Mayor Coody: This is going to extend the DROP program from five years to ten. How many people does this affect?

Pete Reagan: It will affect 10 people if they choose to do it.

Sondra Smith: In your packet there are three pages that accounting completed that explain how this will affect the plan. Employee A, B and C are employees that draw different salary amounts and their payout on a five year DROP versus their payout on a ten year DROP. When they go to a ten year DROP they only draw 75% of their salary and they only draw 1.5% interest on their funds. Instead of paying the difference from five to ten years on a monthly basis we are paying it out in a lump sum distribution.

Mayor Coody: Are these numbers per employee?

Sondra Smith: Yes.

Mayor Coody: So if I was a fireman on a ten year DROP and I qualified then I would get a lump sum check for $656,000?

Kit Williams: At the end of the ten year DROP.

Sondra Smith: Depending on your salary, these numbers are just estimates at different pay levels. You could only get $393,618 based on your salary.

Kit Williams: What were the last couple of DROP check amounts?

Sondra Smith: The last one was about $230,000.

Marsha Farthing: They run from $150,000 to $260,000.

Sondra Smith: The next page shows the difference they would receive by going to a ten year DROP. The difference would be less than they would actually receive if they had drawn their pension during the five years on a monthly basis.

Kit Williams: From the plan?

Sondra Smith: Yes, from the plan.

Kit Williams: But they are getting their salary.

Sondra Smith: Yes.

Kit Williams: Are their pension benefits based on the initial retirement age and not on the retirement age after five or after ten years?

Pete Reagan: Yes.

Marsha Farthing: When they elect DROP.

Sondra Smith: So if they receive salary increases during those ten years those increases would not be included, the amount they draw is based on the time they elect the DROP.

Marsha Farthing: These are estimated employee wages.

Sondra Smith: I think what accounting did was estimate someone at the highest end of the spectrum, the middle and the low end of the spectrum.

Marion Doss: What employee was used for Employee A?

Marsha Farthing: I would not focus on who it is. This was just a test that was used.

Marion Doss: This is a hypothetical employee?

Marsha Farthing: These are somewhat based on someone that could be at that level when they retire.

Robert Johnson: This could be based on if they start the DROP now.

Kit Williams: If they start later they are going to start at a higher level because of their income. Do we have anyone that has not entered the DROP that is still eligible to enter the DROP?

Marsha Farthing: There is one person.

Sondra Smith: Probably the more realistic numbers are Employee B and C.

Marion Doss: Yes, I think so.

A discussion followed on going to a ten year DROP.

Sondra Smith: The last page shows how this would affect the General Fund. The net amount that could affect the General Fund because of someone staying on DROP, earning a higher salary than a new employee would be at the maximum about $2,700 per year.

Ronnie Wood: That is what it would cost the plan?

Sondra Smith: That is what it would cost the General Fund of the city.

Kit Williams: It is not going to cost the plan it sounds like; it sounds like the plan will be paying out less.

Sondra Smith: The plan will be paying out less, and the city will be paying out a little bit more.

Pete Reagan: In these calculations did we figure in hiring someone off the street to fill the position or promoting someone into the position?

Marsha Farthing: I am not real sure how that was figured.

Kit Williams: I am sure they had to take into account that everyone is going to move but they are not going to have the same step that you are in.

Pete Reagan: There is a lot of difference between an entry level position and a current position.

Sondra Smith: There are so many variables when you are calculating this. I needed to see how it would affect the plan and the city. It doesn't hurt the plan and it does not affect the city by that much so I really do not have a problem with the ten year DROP.

Robert Johnson: The maximum is about $2,700 per person per year.

Marion Doss: I don't see how the DROP can hurt the plan at all or I would never have voted for the DROP.

A discussion followed on extending the DROP from five to ten years.

Kit Williams: Marsha, how does this affect the LOPFI plan, you have someone that will not be contributing to LOPFI because of someone staying on the old plan, so they are not accruing benefits under LOPFI and they are not paying anything, does that have any affect one way or the other on the LOPFI plan?

Marsha Farthing: I don't think so. The LOPFI administrators project what they need for the people to retire.

Kit Williams: Delaying new members from LOPFI will not make a difference to the LOPFI plan?

Marsha Farthing: No. The only problem is if we felt the old plan was in trouble we might have to bring it into LOPFI and that would affect it.

Mayor Coody: How many people have not signed up for DROP yet, one? How many of the rest of you would this affect?

Pete Reagan: One has not signed up for DROP yet. It would affect all of us, I only know of one person right now that has requested it.

Sondra Smith: Not everyone will do the ten year DROP.

Marion Doss: Personally I don't plan on going to a ten year DROP. I am happy with the five year, I guess I could change my mind, but I don't plan on it. I think most people when they sign up for DROP as a rule they are ready for it.

A discussion followed on the ten year DROP.

Pete Reagan moved to adopt the resolution approving a ten year DROP. Marion Doss seconded. The resolution passed 6-1. Pete Reagan, Ronnie Wood, Robert Johnson, Marion Doss, Danny Farrar and Sondra Smith voting yes. Mayor Coody voting no.

Kit Williams: Everyone that voted in favor of the ten year DROP needs to sign the resolution.

Sondra Smith: Yes.

A Resolution to approve a 3% temporary compounded COLA for three years for all Paid Pensioners:

Kit Williams: This is for three years?

Pete Reagan: Three year temporary as per the Osborn and Carreiro report recommendation.

Kit Williams: At the end of three years, does it stay at that level from then on.

Pete Reagan: Yes, unless it comes back to this board.

Kit Williams: So this board could reduce it back or continue it, other than that it would stay, is this compounded?

Pete Reagan: Yes.

Steve Davis: I think the actuary ran their assessment based on a compounded COLA.

Kit Williams: What affect will this have on the plan Steve?

Pete Reagan: The unfunded approved liability goes down, so it is not a large cost to the plan. Is that right Steve?

Steve Davis: With the extended DROP or extended employment the plan is actuarially sound in 2021, with the current plan as it exists; it is actuarially sound in 2020. It never becomes actuarially sound, but based on this report it says "a 3% permanent COLA can NOT be sustained under the current assumptions. As we have discussed, it would need to be a temporary COLA and I would have to see how many years it would be sustainable. A 3% compound COLA for the next three years and then continuing at those benefit levels is projected to have assets sufficient to meet all benefit obligations in the future".

Mayor Coody: What assumptions are they using for the rate of return?

Steve Davis: They are following the Pension Review Board requirements on rate of return and I believe that is 8%.

Mayor Coody: 8%, so if we get an 8% rate of return this may be doable for three years?

Steve Davis: That is correct.

Mayor Coody: What is the actual rate of return that we have been seeing?

Steve Davis: I am not sure.

Kit Williams: It has not been 8%.

Pete Reagan: We have had years with 27%, 21% and 18%.

Kit Williams: But we have had years when it was down.

Pete Reagan: We have had two years of negative. That is the rate of return that was set by the Arkansas Pension Review Board for running these numbers.

Steve Davis: They do not have an option in selecting any other rate of return.

Mayor Coody: So that is the rule and if the 8% is met then the temporary COLA may work, if that 8% isn't met than this temporary COLA even though we are paying it will hurt the plan.

Steve Davis: That is correct.

Kit Williams: In the statues they talk about a benefit increase over a 30 year period, does he use a 30 year period?

Steve Davis: Under the closed plan the statues allow them to amortize debts over a five year period. LOPFI is allowed to amortize debts over 30. This plan is not allowed to amortize over 30 years by statues only LOPFI, that is my understanding of the difference in the two laws.

Kit Williams: I thought this meant that the plan would have to be actuarially sound for 30 years, is that not what they mean?

Steve Davis: No, just able to amortize the debt over that time period.

Pete Reagan: When they run these actuary assumptions it is the worst case scenario.

Kit Williams: 8% is not the worst case scenario.

Mayor Coody: That is pretty best case scenario.

Steve Davis: The letter from Osborn and Carreiro, the last projection actually shows both benefit enhancements together. It states these increases together would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board, even though they are showing in 2027 $2,763,000 in funded accrued actuarially liability under the rules established by the Arkansas Fire and Police Pension Review Board they are still considered actuarially sound. I can only speculate as to why that would be, my guess is that the annual income in each one of those years is sufficient to meet the expenses.

Kit Williams: The employer contributions are higher now, then they go down and then they start coming back up again. Is that the millage?

Pete Reagan: Isn't that insurance turn back too?

Steve Davis: The millage is somewhere between $200,000 and $300,000 so any difference above $200,000 to $300,000 would have to be insurance turn back.

Kit Williams: Does it look like the General Fund will not have to use its money to fund this pension?

Steve Davis: They have $3,758,000 in assets in 2027 and an actuarial accrued liability of $6.5 million, so through 2027 based on this report General Fund would not have to give the fund any money.

Danny Farrar: I would like the resolution to read all pensioners. I would like to include the volunteers.

Kit Williams: We have to do what ever they tell us we can do, were the volunteers included?

Marion Doss: They included the entire list.

Steve Davis: The entire list may have been sent down but I don't know what was included.

Danny Farrar: I spoke to the actuary and they said everyone was included.

There was a discussion on including all pensioners in the 3% temporary COLA.

Mayor Coody: What is the dollar amount we are looking at? Everyone gets annual increases don't they?

Sondra Smith: No.

Mayor Coody: If the 3% COLA is enacted and there is only a 6% rate of return who makes up that difference.

Sondra Smith: The pension fund.

Mayor Coody: If the pension fund doesn't then the city has to, right?

Steve Davis: There are several options, it could be turned over to the Pension Guarantee Board of the State of Arkansas and benefits could be adjusted to match whatever resources are available, that is the worst case scenario. When we get to that point there are decisions that have to be made before we will find out if the General Fund has to put money toward the plan.

Danny Farrar moved to approve the Resolution of a 3% temporary COLA for three years to include all pensioners. Marion Doss seconded. The resolution passed unanimously.

A Resolution to approve working after DROP:

Mayor Coody: So you would get your lump sum money from DROP and you keep working, do you keep building retirement?

Pete Reagan: No sir, you no longer pay into the fund, the city no longer pays into the fund, your DROP is frozen you can not draw it until you leave employment. It is a cost savings to the fund.

Marion Doss: You just keep working and drawing your regular salary.

Mayor Coody: What I am afraid of is letting folks work and then you can't get rid of them and they take up space and filling slots that need to be filled by young vigorous strong fire fighters. Is there a chance that that could happen.

Marion Doss: I don't think so.

Pete Reagan: There is always that chance.

Steve Davis: How many people are eligible for this working after DROP?

Pete Reagan: Eleven.

A discussion followed on working after DROP.

Pete Regan moved to adopt the working after DROP resolution. Marion Doss seconded. The resolution passed 6-0. Mayor Coody was absent during the vote.

Ashland Management:

Postponed until the next meeting.

New Business:

Dennis Ledbetter Retirement:

Pete Reagan moved to approve Dennis Ledbetter's retirement. Ronnie Wood seconded. The motion passed 6-0. Mayor Coody was absent during the vote.

The following items were handed out:

- A copy of Earvel Schader's death certificate.
- A copy of The Monitor.
- A copy of the budget reports.
- A copy of the Osborn, Carreiro & Associates report.
- A copy of the Arkansas Fire and Police Pension Review Board – 2003 Legislative changes.

Pete Reagan moved to adjourn. Ronnie Wood seconded.

Meeting adjourned at 11:25 AM.

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas
84th General Assembly
Regular Session, 2003

As Engrossed: H3/25/03 H4/7/03

A Bill

Act 1372 of 2003
HOUSE BILL 1228

By: Representative R. Smith
By: Senators J. Bookout, J. Jeffress, Faris

RECEIVED
MAY 15 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

For An Act To Be Entitled

AN ACT TO PROVIDE THAT MEMBERS OF THE DEFERRED RETIREMENT OPTION PLAN FOR POLICE PENSION AND RELIEF FUNDS MAY REMAIN EMPLOYED AT THE CONCLUSION OF THE DROP PERIOD; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE THAT MEMBERS OF THE DEFERRED RETIREMENT OPTION PLAN FOR POLICE PENSION AND RELIEF FUNDS MAY REMAIN EMPLOYED AT THE CONCLUSION OF THE DROP PERIOD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 24-11-434(c), concerning the deferred retirement option plan for police pension and relief funds, is amended to read as follows:

(c)(1) ~~At~~ Except under subdivision (c)(2) of this section, at the conclusion of a member's participation in the plan, the member shall terminate employment with all participating municipalities as a police officer and shall start receiving the member's accrued monthly retirement benefit from the policemen's pension and relief fund.

(2) If a member is at the conclusion of a member's participation in the plan, then the member may continue employment by a municipality under the following conditions:

(A) The municipality makes continued employment available to all similarly situated members;

(B) The availability of continued employment is approved by a majority vote of the governing body of the sponsoring municipality after receiving approval for an increase in benefits under § 24-11-102;

(C) The monthly benefit that is credited to the member's plan account is discontinued and the member shall not receive a monthly benefit until the member actually ceases employment;

(D) The interest rate credited to the plan account is the same paid as under subdivision (e)(2) of this section, except the minimum rate is zero percent (0%);

(E) The employer's matching contribution of six percent (6%) shall cease, all other employer contributions shall continue and be credited to the pension and relief fund; and

(F) The employee contributions of six percent (6%) shall discontinue.

SECTION 2. Arkansas Code § 24-11-434(i), concerning the interest penalties for the 10-year extension of the deferred retirement option plan accounts for police pension and relief funds, is repealed.

~~(i) Participants in the plan subject to the extended ten-year service limit shall forfeit a portion of the extended service benefits earned, specifically limited to only the interest and employer contributions' portions which have been credited to the plan account, under the plan beyond the first five (5) years of participation should the participant terminate employment during the extended service time, absent death or disability, as follows:~~

~~(1) Forfeit eighty percent (80%) if termination occurs in the sixth year of participation;~~

~~(2) Forfeit sixty percent (60%) if termination occurs in the seventh year of participation;~~

~~(3) Forfeit forty percent (40%) if termination occurs in the eighth year of participation; and~~

~~(4) Forfeit twenty percent (20%) if termination occurs in the ninth year of participation.~~

As Engrossed: H3/25/03 H4/7/03 **HB1228**

SECTION 3. Arkansas Code § 24-11-830(c)(2), concerning the deferred retirement option plan for fire pension and relief funds, is amended to read as follows:

(c)(1) The duration of participation in the plan for active full-paid fire fighters shall not exceed five (5) years.

(2)(A) ~~At~~ Except under subdivision (c)(2)(B) of this section, at the conclusion of a member's participation in the plan, the member shall terminate employment with all participating municipalities as a fire fighter and shall start receiving the member's accrued monthly retirement benefit from the firemen's pension and relief fund.

(B) If a member is at the conclusion of a member's participation in the plan, then the member may continue employment by a municipality under the following conditions:

(i) The municipality makes continued employment available to all similarly situated members;

(ii) The availability of continued employment is approved by a majority vote of the governing body of the sponsoring municipality after receiving approval for an increase in benefits under § 24-11-102;

(iii) The monthly benefit that is credited to the member's plan account is discontinued and the member shall not receive a monthly benefits until the member actually ceases employment;

(iv) The interest rate credited to the plan account is the same as paid under subdivision (e)(2) of this section, except the minimum rate is zero percent (0%);

(v) The employer's matching contribution of six percent (6%) shall cease, but all other employer contributions shall continue and be credited to the pension and relief fund; and

(vi) The employee contributions of six percent (6%) shall discontinue.

/s/ R. Smith

APPROVED: 4/15/2003

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

XXX **AGENDA REQUEST**

For the Fayetteville City Council Meeting of: **February 17, 2004**

FROM:

Sondra Smith	City Clerk	City Clerk
Name	Division	Department

ACTION REQUIRED:

Approval of Resolution 04-03 passed by the Firemen's Pension and Relief Fund Board of Trustees on December 18, 2003 in accordance with Act 1372.

SUMMARY EXPLANATION:

The Firemen's Pension and Relief Fund passed Resolution 04-03 on December 18, 2003 to allow DROP members to work after DROP. The Actuarial Firm of Osborn, Carreiro and Associates has reported that this increase in benefits would be considered actuarially sound under the rules of the Arkansas Fire and Police Pension Review Board.

STAFF RECOMMENDATION:

Sondra Smith — Division Head

1/30/04 — Date

Received in Mayor's Office _____ Date

City Attorney _____ Date

Department Director _____ Date

Finance & Internal Services Dir _____ Date

Hugh Earnett — Chief Administrative Officer — 3-4-04 — Date

Mayor _____ Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: **Yes** **No**

Received in City Clerk's Office _____ Date

ENTERED
Sec

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

From: Hugh Earnest
Chief Administrative Officer

Date: February 23, 2004

Subject: City Council discussion of sale of the library annex located at 211 E. Dickson Street

Recommendation
It is our recommendation that the City Council express its intent to sell the library annex through a competitive bid process and that said sale be concurrent with the sale of the main library building.

Background
Due primarily to financial need, the Library Board voted to pursue the sale of its current facility at 217 E. Dickson and use the proceeds to help pay for the new library. The existing facility is scheduled to be vacated in late August or early September 2004.

The current library property, zoned R-O, is comprised of what were two separate buildings prior to 1991 — the approximately 24,500 square foot east building housing adult and children's services and the approximately 6,600 square foot professional medical office building on the west which houses genealogy, Foundation, Friends' bookstore and staff. Research conducted in 2001-2002 identified that the Library Board of Trustees holds the deed for the property on which the east building is situated, while the City holds the deed for property on which the west building is situated.

In March and April 2003 four meetings were held to gather public input on acceptable and unacceptable uses of the existing library facility at 217 E. Dickson, and to share background information and current status of the effort to sell the building. One neighborhood association meeting was held on March 6, and three library-sponsored meetings were held on March 24, March 26 and April 3. Suggestions were made for the process of selling the building and a list of acceptable and unacceptable uses was generated. There was a general consensus that acceptable uses included stable cultural, educational, religious, governmental, non-profit, mixed-use, office, corporate headquarters and residential uses that would bring vitality to and enhance the neighborhood. Unacceptable uses included noisy, late night, traffic-intensive, light-

intensive, highly commercial, nuisance producing uses. In response to concerns from citizens, an additional meeting was held on February 2 for the specific purpose of securing additional input on options for use of the site. Many of the items brought up at the meeting had been previously discussed in earlier meetings. At the Feb. 16 meeting of the Library Board, officers of the Washington-Willow Neighborhood Association expressed their desire that the monies the City realized from the sale of the annex be applied toward the City's purchase of the main building.

The library board expressed its need to have a Request for Bid solicitation on the street before May 1st of this year.

Current Status

The Fayetteville Library Board has received an appraisal of the property consisting of the main library and the annex to the west of the main building. While it is the desire of the library board to sell the property and use the proceeds toward the completion of the new library, the board has clearly expressed its intent to work closely with the city on the disposal of this valuable piece of property.

City staff recently sat down and listed in no particular order or preference a number of possible uses for the annex itself. The building in question has approximately 6,600 sq. ft. and was appraised at $550,000 if considered as an integral component of the library site. The city paid $350,000 for the building in 1991.

The following are the options identified by the city staff members. They are listed in no particular order.

- Use the entire building as a Park's office for administration and park planning and programming
- use of the building as a museum
- joint usage by a number of non-profits such as DDEP or its successor, various non-profits such as Habitat, Seven Hills, Convention and Visitors Bureau
- hold the annex and lease it out to one or several users
- sell it in conjunction with the sale of the entire property.
- sell it as a separate property apart from the main building

There was no consensus in the group, although there was a general agreement that the best interests of Parks administration and planning would be met by a move from the Happy Hollow Complex.

Tentative Agenda
City Council Meeting
March 16, 2004

A meeting of the Fayetteville City Council will be held on March 16, 2004 at 6:00 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:** Approval of the March 2, 2004 meeting minutes.

2. **Construction Contract for Fire Station 7:** A resolution to approve a construction contract with VEI General Contractors, Inc. to build the West Fayetteville Fire Station on Rupple Road in the amount of $1,340,100.00 with a contingency of $38,000.00 and approval of a budget adjustment of $274,637.00.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

3. **MISSCO Corporation Contract:** A resolution approving the purchase of shelving in the New Fayetteville Public Library from MISSCO Corporation in the amount of $151,185.00; and approving a contingency in the amount of $7,559.00.

4. **AEP/Swepco Contract for Utility Burial, School Avenue:** A resolution to approve a contract with AEP/Swepco, Inc. to bury utility lines along School Avenue at the New Library for the amount of $186,395.41 plus a contingency of $6,000.00.

5. **Mayor Dan Coody and Stephen Davis Signatory Authority:** A resolution delegating signatory authority in connection with State Revolving Loan Fund Assistance.

Move to #1 New Business

6. **Fayetteville Senior Activity Center Additional Funds:** A resolution to approve a budget adjustment in the amount of $9,864.19 for additional expenses incurred by the Council on Aging, Inc. for operation of the New Fayetteville Senior Activity Center.

B. OLD BUSINESS:

New Lease
Renew
Dec. 31, 2004
June 30, 2004
Expire
Lease

1. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.
   This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.
   This resolution was tabled at the January 20, 2004 City Council meeting until the March 2, 2004 City Council meeting.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

2. **R-PZD 04-02.00 (Cross Keys):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-02.00) located south of Wedington Drive at the corner of N. 46th and Persimmon Street containing 38.48 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

3. **R-PZD 04-05.00 (Hickory Park):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-5.00) located north of 2730 E. Township Street, containing 4.429 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

C. NEW BUSINESS:

1. **VAC 04-2.00 Rodgers Subdivision:** An ordinance approving VAC 04-2.00 to vacate and abandon a 20' portion of a platted alley, retaining a utility easement within subject property as depicted on the attached map and legal description.

Pull Go to Street Committee need numbers

2. **Transportation Division Hiring 6 Full-Time Employees:** A resolution authorizing the hiring of six (6) full-time employees (patch and asphalt preparation crews) in the Transportation Division; and approving a budget adjustment in the amount of $340,811.00 for same.

3. **Approval of a Bulk Purchase Contract with_____:** A resolution approving a bulk purchase contract with _____ in the amount of _____ for asphalt and aggregate materials.
The bid opening for this contract will be March 8, 2004.

4. **Rules of Order and Procedure, Public Notification and Participation:** A resolution amending the Rules of Order and Procedure for the Fayetteville Mayor/City Council, Section A. City Council Meetings, Subsection 6. Public Notification and Participation.

Check Resolution

5. **Firemen's Pension and Relief Fund Board of Trustees Resolution 02-03, Increasing the DROP from Five to Ten Years:** A resolution to approve Resolution 02-03, of the Firemen's Pension and Relief Fund Board of Trustees, increasing the DROP from five to ten years, in accordance with ACT 1369.

Check Resolution

6. **Firemen's Pension and Relief Fund Board of Trustees Resolution 04-03, Working after DROP:** A resolution to approve Resolution 04-03, of the Firemen's Pension and Relief Fund Board of Trustees, working after DROP, in accordance with Act 1372.

D. INFORMATIONAL:

Discussion of Library Annex Sale: Agenda Session March 9, 2004

Council Tour: March 15, 2004

Tentative Agenda
City Council Meeting
March 16, 2004

A meeting of the Fayetteville City Council will be held on March 16, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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5. **Firemen's Pension and Relief Fund Board of Trustees Resolution 02-03, Increasing the DROP from Five to Ten Years:** A resolution to approve Resolution 02-03, of the Firemen's Pension and Relief Fund Board of Trustees, increasing the DROP from five to ten years, in accordance with ACT 1369.

6. **Firemen's Pension and Relief Fund Board of Trustees Resolution 04-03, Working after DROP:** A resolution to approve Resolution 04-03, of the Firemen's Pension and Relief Fund Board of Trustees, working after DROP, in accordance with Act 1372.

D. INFORMATIONAL:

Discussion of Library Annex Sale: Agenda Session March 9, 2004

Council Tour: March 15, 2004

See Note

Tentative Agenda
City Council Meeting
March 16, 2004

3/3/04
5:30 PM

A meeting of the Fayetteville City Council will be held on March 16, 2004 at 6:00 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:** Approval of the March 2, 2004 meeting minutes.

2. **Construction Contract for Fire Station 7:** A resolution to approve a construction contract with VEI General Contractors in the amount of $1,340,100 for the construction of Fire Station No. 7.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

Comment: Need resolution from Kit, make sure dollar amount and contractor match resolution from Kit

3. **MISSCO Contract Sales Contract:** A resolution approving the purchase of shelving in the New Fayetteville Public Library from MISSCO Corporation in the amount of $151,185.00; and approving a contingency in the amount of $7,559.00.

4. **AEP/Swepco Contract for Utility Burial, School Avenue:** A resolution to approve a contract with AEP/Swepco, Inc. to bury utility lines along School Avenue at the New Library for the amount of $186,395.41 plus a contingency of $6,000.00.

5. **Mayor Dan Coody and Stephen Davis Signatory Authority:** A resolution delegating signatory authority in connection with State Revolving Loan Fund Assistance.

Steve Davis has

6. **Fayetteville Senior Activity Center Additional Funds:** A resolution to approve a budget adjustment in the amount of $9,864.19 for additional expenses incurred by the Council on Aging, Inc. for operation of the New Fayetteville Senior Activity Center.

B. OLD BUSINESS:

1. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.
   This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.
   This resolution was tabled at the January 20, 2004 City Council meeting until the March 2, 2004 City Council meeting.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

Comment: Hugh Earnest took entire agenda package to redo the contract length of time.

2. **R-PZD 04-02.00 (Cross Keys):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-02.00) located south of Wedington Drive at the corner of N. 46th and Persimmon Street containing 38.48 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

3. **R-PZD 04-05.00 (Hickory Park):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-5.00) located north of 2730 E. Township Street, containing 4.429 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

C. NEW BUSINESS:

1. **VAC 04-2.00 Rodgers Subdivision:** An ordinance approving VAC 04-2.00 to vacate and abandon a 20' portion of a platted alley, retaining a utility easement within subject property as depicted on the attached map and legal description.

2. **Transportation Division Hiring 6 Full-Time Employees:** A resolution authorizing the hiring of six (6) full-time employees (patch and asphalt preparation crews) in the Transportation Division; and approving a budget adjustment in the amount of $340,811.00 for same.

3. **Approval of a Bulk Purchase Contract with_____:** A resolution approving a bulk purchase contract with _____ in the amount of _____ for asphalt and aggregate materials.
The bid opening for this contract will be March 8, 2004.

4. **Rules of Order and Procedure, Public Notification and Participation:** A resolution amending the Rules of Order and Procedure for the Fayetteville Mayor/City Council, Section A. City Council Meetings, Subsection 6. Public Notification and Participation.

5. **Firemen's Pension and Relief Fund Board of Trustees Resolution 02-03, Increasing the DROP from Five to Ten Years:** A resolution to approve Resolution 02-03, of the Firemen's Pension and Relief Fund Board of Trustees, increasing the DROP from five to ten years, in accordance with ACT 1369.

Comment: Need memo from Chief Bosch and original signed agenda package

6. **Firemen's Pension and Relief Fund Board of Trustees Resolution 04-03, Working after DROP:** A resolution to approve Resolution 04-03, of the Firemen's Pension and Relief Fund Board of Trustees, working after DROP, in accordance with Act 1372.

Comment: Need memo from Chief Bosch and original signed agenda package

D. **INFORMATIONAL:**

Discussion of Library Annex Sale: Agenda Session March 9, 2004

Council Tour: March 15, 2004

Tentative Agenda
City Council Meeting
March 16, 2004

A meeting of the Fayetteville City Council will be held on March 16, 2004 at 6:00 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:** Approval of the March 2, 2004 meeting minutes.

B. OLD BUSINESS:

Hugh Has Package

1. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.
   This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.
   This resolution was tabled at the January 20, 2004 City Council meeting until the March 2, 2004 City Council meeting.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

2. **R-PZD 04-02.00 (Cross Keys):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-02.00) located south of Wedington Drive at the corner of N. 46th and Persimmon Street containing 38.48 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
   This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

3. **R-PZD 04-05.00 (Hickory Park):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-5.00) located north of 2730 E. Township Street, containing 4.429 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
   This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

Contract per Kit

4. **Construction Contract for Fire Station 7:** A resolution to approve a construction contract with VEI General Contractors in the amount of 1,340,100 for the construction of Fire Station No. 7.
   This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

C. NEW BUSINESS:

1. **VAC 04-2.00 Rodgers Subdivision:** An ordinance approving VAC 04-2.00 to vacate and abandon a 20' portion of a platted alley, retaining a utility easement within subject property as depicted on the attached map and legal description.

Consent 2. **MISSCO Contract Sales Contract:** A resolution approving the purchase of shelving in the New Fayetteville Public Library from MISSCO Corporation in the amount of $151,185.00; and approving a contingency in the amount of $7,559.00.

Consent 3. **AEP/Swepco Contract for Utility Burial, School Avenue:** A resolution to approve a contract with AEP/Swepco, Inc. to bury utility lines along School Avenue at the New Library for the amount of $186,395.41 plus a contingency of $6,000.00.

~~4. **Disposal of the Library Annex:**~~

5. **Rules of Order and Procedure, Public Notification and Participation:** A resolution amending the Rules of Order and Procedure for the Fayetteville Mayor/City Council, Section A. City Council Meetings, Subsection 6. Public Notification and Participation.

End of Agenda Check with Chief?

6. **Firemen's Pension and Relief Fund Board of Trustees Resolution 02-03, Increasing the DROP from Five to Ten Years:** A resolution to approve Resolution 02-03, of the Firemen's Pension and Relief Fund Board of Trustees, increasing the DROP from five to ten years, in accordance with ACT 1369.

Check with Chief. End of Agenda

7. **Firemen's Pension and Relief Fund Board of Trustees Resolution 04-03, Working after DROP:** A resolution to approve Resolution 04-03, of the Firemen's Pension and Relief Fund Board of Trustees, working after DROP, in accordance with Act 1372.

8. **Approval of a Bulk Purchase Contract with [redacted]:** A resolution approving a bulk purchase contract with [redacted] in the amount of _____ for asphalt and aggregate materials.

9. **Transportation Division Hiring 6 Full-Time Employees:** A resolution authorizing the hiring of six (6) full-time employees (patch and asphalt preparation crews) in the Transportation Division; and approving a budget adjustment in the amount of $340,811.00 for same.

~~10. **Community Service Agreement with Fayetteville Housing Authority:**~~

Consent Consent 11. **Mayor Dan Coody and Stephen Davis, signatories for the Arkansas Soil & Water Conservation RLF Loan Documents:**

Council on Ag. Mtg

D. INFORMATIONAL:

Council Tour: March 15, 2004

Discussion of Library Annex Sale - Agenda Session

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **March 17, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of March 16, 2004**

The following Resolutions and Ordinances were passed at last night's regular City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **Construction Contract Fire Station No. 7:** Resolution approving construction contract w/VEI General Contractors, Inc. to build the West Fayetteville fire station on Rupple Road in amount of $1,340,100.00 w/ contingency of $38,000.00 and approval of budget adjustment of $274,637.00;

2. **MISSCO Corporation Contract:** Resolution approving purchase of shelving in new Fayetteville Public Library from MISSCO Corporation in amount of $151,185.00; and approving contingency in amount of $7,559.00;

3. **AEP/SWEPCO Contract for School Ave. Utility Burial:** Resolution approving contract with AEP/SWEPCO, Inc. to bury utility lines along School Avenue at new library for amount of $186,395.41 plus contingency of $6,000.00;

4. **Signatory Authority:** Resolution delegating signatory authority to Mayor Coody and Stephen Davis;

5. **Lease with Council on Aging for Senior Center:** Resolution approving lease and agreement to provide services w/Council on Aging, Inc. for Fayetteville Senior Activity Center in Walker Park;

6. **R-PZD 04-2.00:** Ordinance establishing Residential Planned Zoning District located south of Wedington Drive at corner of N. 46th and Persimmon Street containing 38.48 acres more or less; amending official zoning map of the City of Fayetteville; and adopting Associated Residential Development Plan as approved by Planning Commission and amended by City Council;

7. **R-PZD 04-5.00:** Ordinance established a Residential Planned Zoning District located north of 2730 E. Township Street, containing 4.429 acres more or less; amending official zoning map of City of Fayetteville; and adopting Associated Residential Development Plan as approved by Planning Commission;

8. **Fayetteville Senior Activity Center Additional Funds:** Resolution approving budget adjustment in amount of $50,000.00 for additional expenses incurred by Council on Aging, Inc. for operation of new Fayetteville Senior Activity Center;

9. **VAC 04-2.00:** Ordinance approving VAC 04-2.00 to vacate and abandon a 20' portion of a platted alley; retaining a utility easement within subject property as depicted on attached map and legal description;

10. **McClinton-Anchor Bulk Purchase Contract:** Resolution approving bulk purchase contract w/APAC-Arkansas/McClinton-Anchor in amount not to exceed $1,240,811.00 for asphalt and aggregate materials.