

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
July 01, 2008**

A meeting of the Fayetteville City Council will be held on July 01, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

- 1. Van Scoyoc Presentation: Kevin Kelly**
- 2. Regional Ambulance Authority Executive Board Appointment Discussion**

Agenda Additions: None

A. Consent:

1. Approval of the June 3, 2008 and June 17, 2008 City Council meeting minutes.

APPROVED.

2. **Bid 08-45 Benchmark Construction of NWA, Inc:** A resolution to approve a bid and award a contract in the amount of \$79,900.00 to Benchmark Construction of NWA, Inc. to construct a concrete pad for Solid Waste with a contingency of \$7,290.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 132-08.

3. **Bid 08-49 Deerskin Manufacturing, Inc:** A resolution to award Bid 08-49 to Deerskin Manufacturing, Inc. to purchase a chassis mounted animal control body in the amount of \$19,770.00 plus tax of \$1,828.73 for a total of \$21,598.73.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 133-08.

4. **Police Department Policy Amendment:** A resolution to approve an amendment to Fayetteville Police Department Policy 1.2.3.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 134-08.

5. **Frisco Trail Art Sculpture Donation:** A resolution to accept a donated metal art sculpture to be placed upon the Frisco Trail in honor of the Hoover Family.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 135-08.

6. **McClelland Consulting Engineers, Inc. Amendment # 2:** A resolution to approve Amendment # 2 to an agreement with McClelland Consulting Engineers, Inc. for engineering services for an additional year.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 136-08.

7. **Arkansas Historic Preservation Program Grant:** A resolution to approve a budget adjustment and a contract with the Arkansas Historic Preservation Program to receive a Certified Local Government Grant in the amount of \$7,500 to provide travel and training funds for the Historic District Commission and Staff.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 137-08.

8. **Arkansas Natural Resources Commission Grant:** A resolution authorizing the Engineering Division to apply for a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagnon Road Bridge on the West Fork of the White River.

THIS ITEM WAS REMOVED FROM CONSENT AGENDA FOR DISCUSSION.

The following item was removed from the Consent Agenda for discussion:

1. **Arkansas Natural Resources Commission Grant:** A resolution authorizing the Engineering Division to apply for a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagnon Road Bridge on the West Fork of the White River.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 138-08.

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals: **NONE.**
2. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Association (POA) in an amount not to exceed \$69,674.00 to dredge the Boardwalk POA pond. *This ordinance was left on the First Reading at the August 7, 2007 City Council meeting. This ordinance was left on the Second Reading at the August 23, 2007 City Council meeting. This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting and Tabled to the October 2, 2007 City Council meeting. This ordinance was tabled indefinitely at the October 2, 2007 City Council meeting. This ordinance was left on the Second Reading.*

THIS ITEM WAS TABLED TO THE SEPTEMBER 2, 2008 CITY COUNCIL MEETING.

3. **Northwest Arkansas Regional Mobility Authority:** An ordinance providing for Fayetteville's participation in the Northwest Arkansas Regional Mobility Authority and approving an agreement with participating members of the Northwest Arkansas Regional Mobility Authority. *This ordinance was left on the Second Reading at the June 17, 2008 City Council meeting. This ordinance was left on the Second Reading.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5150.

C. New Business:

1. **VAC 08-2916 (Hill Place):** An ordinance approving VAC 08-2916 submitted by Appian Centre for Design for property located at the southwest corner of 6th Street and Hill Avenue intersection, to vacate various utility easements and rights-of-way, within the subject property.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5151.

2. **RZN 08-2971 (Walker Park Neighborhood):** An ordinance rezoning that property described in rezoning petition RZN 08-2971, for approximately 304.3 acres, bounded by Archibald Yell Boulevard, Huntsville Road, Morningside Drive, 15th Street and South School Avenue from RMF-24, Residential Multi-family, 24 units per acre, C-2, Thoroughfare Commercial, and P-1, Institutional to NC, Neighborhood Conservation, DG, Downtown General, RMF-18, Residential Multi-family, 18 units per acre, and MSC, Main Street Center.

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

3. **Arkansas Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Executive Airport staff to apply for a grant in the amount of \$68,235.00 from the Arkansas Department of Aeronautics to fund an Airfield Security Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 139-08.

- 4. Ruskin Heights - Amend Ordinance No. 4994:** An ordinance to amend Ordinance No. 4994, Condition of Approval No. 1 of Ruskin Heights R-PZD 06-2299 regarding street improvements.

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

Announcements:

- 1. City Council Tour: None**

Adjournment: Meeting adjourned at 8:20 p.m.

Subject: Roll					
Rhoads Arrived at 6:05 PM	Jordan	✓			
	Gray	Absent			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody	✓			

8-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Coody				

Subject: Consent				
Motion To:		Approve -	Item #8 Ark. Natural Resources	
Motion By:		Jordan ~	Commission Grant removed	
Seconded:		Lucas	for discussion.	
Res. 132-08 to 137-08 <u>passed</u> Minutes Approved	Jordan	✓		
	Gray	Absent		
	Thiel	✓		
	Cook	✓		
	Allen	✓		
	Rhoads	✓		
	Ferrell	✓		
	Lucas	✓		
Mayor Coody				

Subject: Item #8 Arkansas Natural Resources				
Motion To:		Amend Resolution	Approve ✓	Commission Grant
Motion By:		Jordan	Jordan	
Seconded:		Thiel	Thiel	Change resolution
138-08 <u>passed</u>	Jordan	✓	✓	to state: Apply
	Gray	Absent	absent	and accept.
	Thiel	✓	✓	
	Cook	✓	✓	
	Allen	✓	✓	
	Rhoads	✓	✓	
	Ferrell	✓	✓	
	Lucas	✓	✓	
Mayor Coody				

Subject: Hiring Freeze Appeals:					
Motion To:					
Motion By:					
Seconded:					
B.1. Unfinished Business	Jordan				
	Gray				
	Thiel	NONE			
	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Coody				

Subject: Hiring Freeze Appeals:					
Motion To:					
Motion By:					
Seconded:					
B.1. Unfinished Business	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Coody				

Subject: Boardwalk Property Owners Association					
Motion To:		Tabled for 2 Months.		Table to: September 2, 2008	
Motion By:		Thiel ✓			
Seconded:		Jordan ✓		Left on the Second Reading.	
B.2. Unfinished Business Tabled for 2 Months Tabled to Sept. 2, 2008	Jordan	✓			
	Gray	Absent			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody				

7-0

Subject: Northwest Arkansas Regional Mobility Authority					
Motion To:		Third Reading / Pass			
Motion By:		Jordan			
Seconded:		Lucas			
B.3. Unfinished Business 5150 passed	Jordan	✓	✓		
	Gray	Absent	Absent		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Mayor Coody				

7-0

7-0

Subject: VAC 08-2916 (Hill Place)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Thiel	Thiel		
Seconded:		Ferrell	Ferrell		
C.1 New Business <u>Passed</u> 5151	Jordan	✓	✓	✓	
	Gray	Absent	Absent	Absent	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
Mayor Coody					

7-0

7-0

7-0

Subject: RZN 08-2971 (Walker Park Neighborhood)					
Motion To:		Amend Modified Exhibit A			
Motion By:		Thiel	636 S Wood		
Seconded:		Lucas	Downtown General		
C.2 New Business Left on the 1st Reading	Jordan	✓			
	Gray	Absent			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
Mayor Coody					

7-0

Subject: Arkansas Department of Aeronautics Grant					
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Cook			
C.3 New Business <u>Passed</u> 139-08	Jordan	✓			
	Gray	Absent			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent during the vote.			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody				

60

Subject: Ruskin Heights - Amend Ordinance No. 4994					
Motion To:					
Motion By:					
Seconded:					
C.4 New Business Left on the First Reading	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Coody				

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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- 4. Ruskin Heights - Amend Ordinance No. 4994:** An ordinance to amend Ordinance No. 4994, Condition of Approval No. 1 of Ruskin Heights R-PZD 06-2299 regarding street improvements.

Announcements:

- 1. City Council Tour: None**

Adjournment:

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE AN AMENDMENT TO
FAYETTEVILLE POLICE DEPARTMENT POLICY 1.2.3**

WHEREAS, the Fayetteville Police Department has long emphasized fairness and nondiscrimination in all of its activities; and

WHEREAS, the Fayetteville Police Department desires to further emphasize its commitment to fair and colorblind enforcement of the law by adopting a formal prohibition against racial profiling.

**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 attached Fayetteville Police Department Policy 1.2.3 "Racial Profiling Prohibited" as an amendment to the Fayetteville Police Department Policies, Procedures and Rules.

PASSED and APPROVED this 1st day of July, 2008.

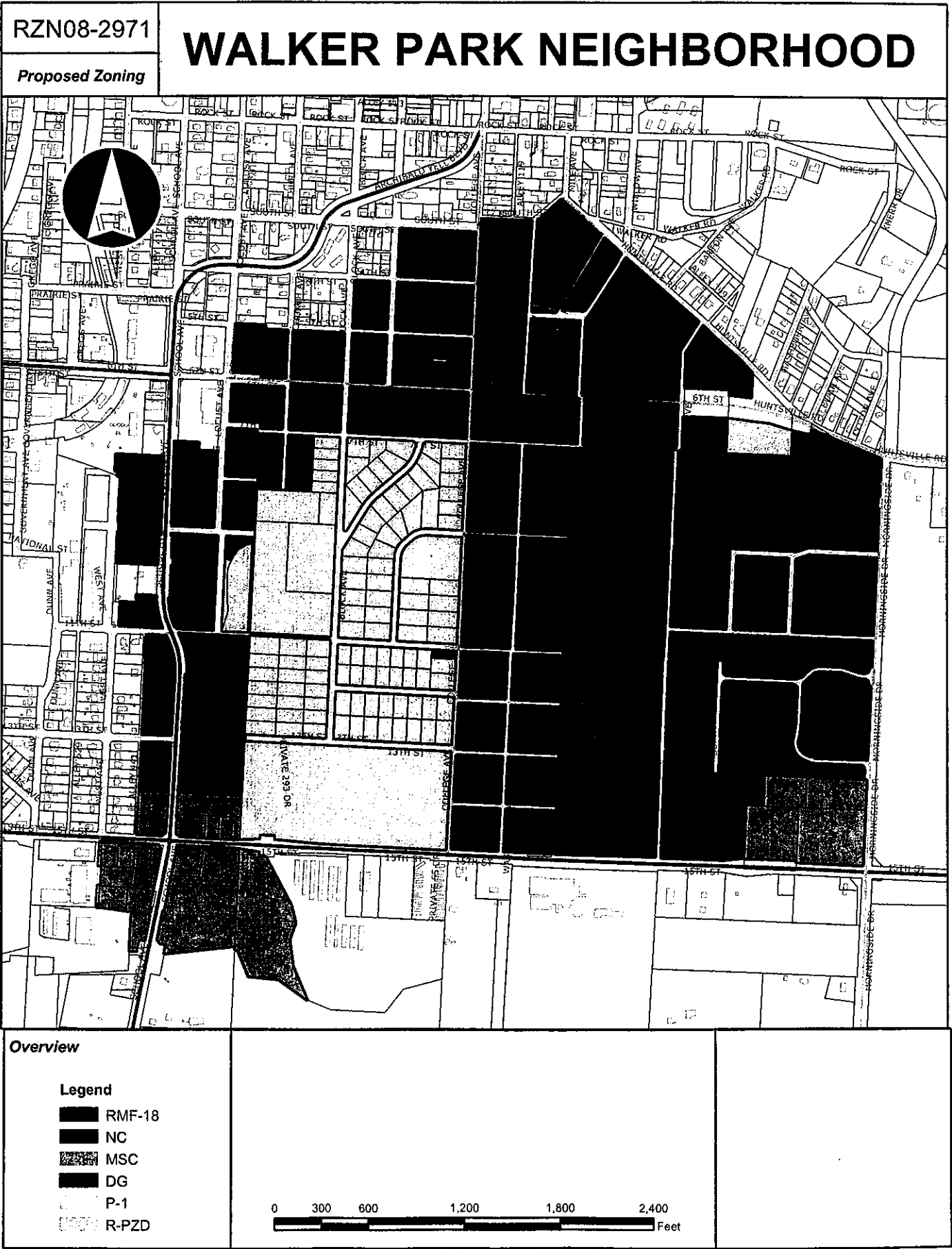
APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"



AGENDA REQUEST

FOR: COUNCIL MEETING OF JULY 1, 2008

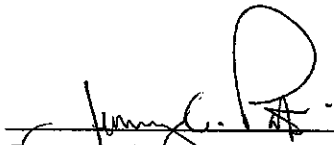
FROM:

JEREMY PATE, GARY DUMAS, MAYOR DAN COODY

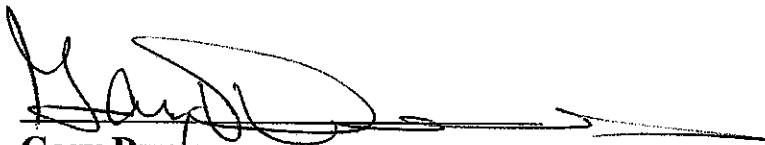
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend Ordinance No. 4994 To Amend Condition Of Approval No. 1

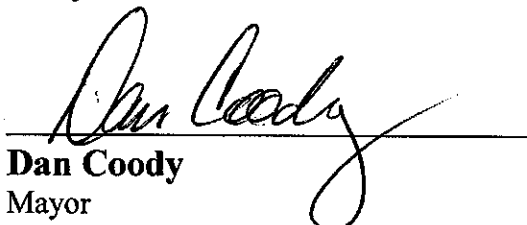
APPROVED FOR AGENDA:


Jeremy Pate

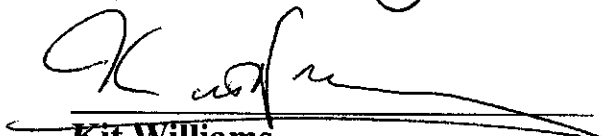
06-18-2008
Date


Gary Dumas

6-18-08
Date


Dan Coody
Mayor

6/17/08
Date


Kit Williams
City Attorney (as to form)

6-18-08
Date

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning
Ron Petrie, City Engineer *RP*

Date: June 19, 2008

Subject: Amendment to Condition #1 – Ruskin Heights (R-PZD 06-2299)

RECOMMENDATION

Staff recommends approval of an amendment to condition #1 of the approved R-PZD 06-2299 for Ruskin Heights, regarding street improvements to Mission Avenue and Greenview Drive.

BACKGROUND

On March 20, 2007, the City Council approved Ordinance No. 4994, establishing a Residential Planned Zoning District for Ruskin Heights. This project consists of 29 acres on which 295 attached and detached dwellings along with 58,500 square feet of non-residential space will be constructed in six phases.

Condition of approval number 1 of the PZD addresses street improvements, specifically those associated with Mission Avenue (Hwy 45) and Greenview Drive. Mission Avenue was required to be widened to a 3-lane section east and west of the site, with all typical associated improvements, subject to City and AHTD approval. As noted during discussion of the PZD at the Council level, improvements to Hwy 45 require AHTD approval, and are based on set criteria that are not under the control of the developer or the City. The developers contracted with a traffic engineer to study the intersections along Hwy 45, to determine if the 3-lane section would improve the level of service and meet warrants set by AHTD. These results of the study are clear that warrants are not currently met to permit a 3-lane section along Mission Avenue (see attached letter from Ron Petrie, City Engineer). The developers were able to secure approval for the widening of Hwy 45 along the project boundary, as was presented at the Council meeting. However, for the remainder of Hwy 45, the only option available under the current approval is for the developer to install the curb and gutter, storm sewer and sidewalk improvements without widening the street.

DISCUSSION

After discussion with the developers of Ruskin Heights, staff has prepared an amendment to condition of approval no. 1 for consideration by the Council, allowing payment-in-lieu of construction of the majority of the improvements along Hwy 45. Staff supports this option over the installation of the improvements because 1) the installation of curb, gutter, etc. without widening will not improve the level of service or turning movements; 2) installation

of these improvements now will likely delay even further the City and AHTD from permitting a widening of Hwy 45 when warrants can be met; and 3) future widening would result in the removal and reconstruction of these improvements, thus resulting in increased cost to the City or State.

Staff recommends the developers install the improvements that have been approved by the City and the State along the project's boundary, which includes turn lanes and all typical improvements (Section 2). The timing and commitment to the traffic signal will remain as it was offered by the developers and approved by the Council originally. Staff also recommends the developers contribute money-in-lieu of construction of curb, gutter, sidewalks and a turn lane onto Greenview Drive along Mission west of the property boundary (Section 1) and money-in-lieu of curb and gutter east of the property boundary off-site to Metropolitan Bank (Section 3). Missing sidewalks east of the property boundary would still be constructed, to provide a completed pedestrian connection to Crossover (Hwy 265). All delayed infrastructure improvement dollars noted herein would be required to be contributed prior to the final plat of or issuance of any building permit associated with Phase IV of the project, whichever occurs first. In addition, staff recommends a slight wording modification to the Greenview Drive improvements, to clarify that the improvements recommended will all be located within the existing right-of-way along Greenview Drive.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE NO.
4994, CONDITION OF APPROVAL NO. 1 OF
RUSKIN HEIGHTS R-PZD 06-2299 REGARDING
STREET IMPROVEMENTS.

WHEREAS, the City Council of the City of Fayetteville approved a Residential Planned Zoning District known as Ruskin Heights (R-PZD 06-2299) on March 20, 2007 with Ordinance No. 4994 containing conditions of approval; and

WHEREAS, condition of approval no. 1 requires the applicant to improve streets adjacent to and off-site from the site in association with the project, conditioned upon Arkansas Highway and Transportation Department (AHTD) approval for Hwy 45 (Mission Blvd); and

WHEREAS, current and projected traffic from the R-PZD does not at this time meet the required warrants to install the required improvements on the adjacent Hwy 45 nor are they permitted by AHTD; and

WHEREAS, the City's Master Street Plan indicates Mission Blvd. should in the future be widened, therefore contributions by the applicant of money-in-lieu of required improvements for a delayed street improvement along Hwy 45 would better serve the City,

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an amendment to condition no. 1 of R-PZD 06-2299 (Ruskin Heights) replacing the original condition with the language indicated in Exhibit "A" attached hereto and made a part hereof.

Section 2: That all other conditions, commitments, development standards and other requirements of the project approved by Ordinance No. 4994 shall remain in full effect unless otherwise modified by the City Council.

PASSED and APPROVED this ___ day of ___, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

Exhibit "A"
Ruskin Heights PZD Amendment No. 1

The following condition of approval is hereby amended for R-PZD 06-2299 (Ruskin Heights):

Streets and Right-of-Way

1. **City Council determination** of street improvements. *The applicant shall be responsible for the following:*

a. Mission Boulevard improvements:

- i) **Section 1: Greenview Drive to Ruskin Heights west property line.** The developer shall contribute an assessment in the amount of **\$24,634.27** for money-in-lieu of construction of curb, gutter, 6-foot wide sidewalks and a west-bound turn lane onto Greenview Drive. The assessment shall be paid prior to the final plat of or issuance of any building permit associated with Phase IV, whichever occurs first. This assessment will be utilized with future re-development of the adjacent property or by the City with future capital improvements to Mission Blvd.
- ii) **Section 2: Ruskin Heights project frontage** (approx 943 linear feet). The developer shall construct a 3-lane street section with pavement, curb, gutter, storm drains, and 6-foot wide sidewalks. Striping of turn lanes shall be consistent with the approved construction drawings and all City of Fayetteville and AHTD standards. Construction of these improvements shall occur with Phases I-III, with the approved development of 57 dwelling units and 16,636 SF of nonresidential area. Sidewalks along Hwy 45 in this section shall be constructed as buildings are constructed on the adjacent lots.
- iii) **Section 3: Ruskin Heights east property line to west property line of Metropolitan Bank.** The developer shall contribute an assessment in the amount of **\$18,561.00** for money-in-lieu of construction of curb and gutter along the length of this section. The assessment shall be paid prior to the final plat of or issuance of any building permit associated with Phase IV, whichever occurs first. This assessment will be utilized by the City with future capital improvements. The developer shall construct 6-foot wide sidewalks along this section to complete a full sidewalk connection, within existing right-of-way.

b. Traffic Signal at Mission Blvd/Lisa Lane:

- i) The developer agrees to and shall be responsible for the payment and installation of a fully actuated traffic signal at the intersection of Lisa Lane and Mission Blvd, as soon as AHTD warrants are met and a permit for construction is issued. The developer shall contribute the full cost of the traffic signal prior to recordation of the final plat of

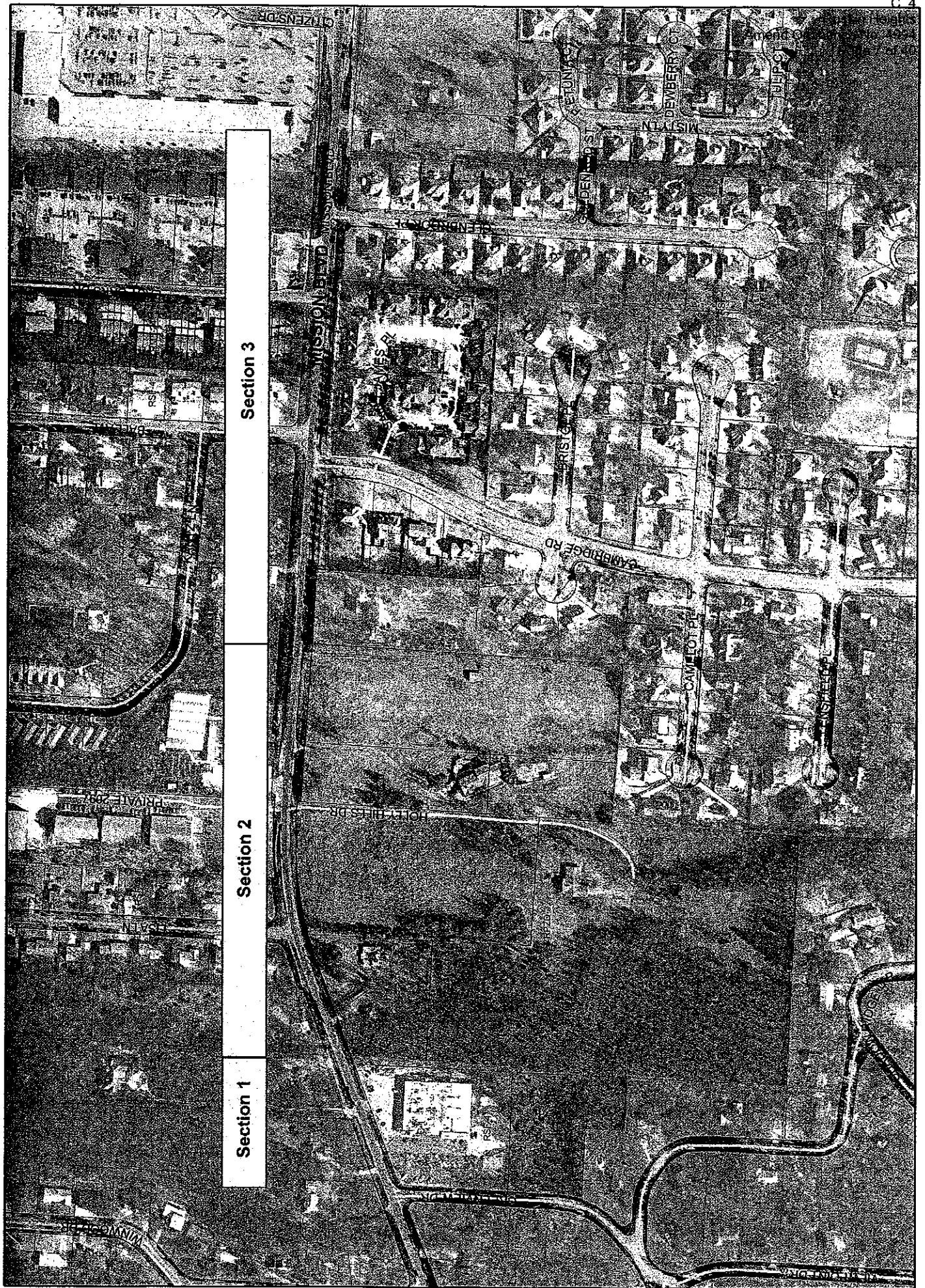
Phases I-III, with the approved development of 57 dwelling units and 16,636 SF of nonresidential area.

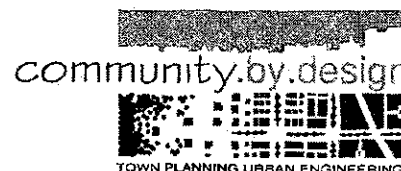
- ii) A traffic warrant analysis shall be presented to the City and AHTD with every phase of the development to determine what improvements are warranted and will be installed with each phase of the development.

c. Greenview Drive improvements:

- i) At the time of connection with Greenview Drive: Minimum 14' from centerline street improvements with curb, gutter, 6' sidewalks, and storm drainage on the east side of Greenview from Mission Boulevard south to Viewpoint Drive. **All improvements shall occur within existing right-of-way, with final placement of sidewalk to be determined by the City Engineer.**
- ii) At the time of connection with Greenview Drive, the developer shall construct a limited right-in, right-out access on Greenview Drive. This shall consist of a landscaped median, approximately 70 feet in length, that separates north and south bound traffic, with appropriate improvements on both sides to ensure adequate access. The landscaped median shall be planted with trees and shrubs to buffer properties west of Greenview. Final design shall be approved by the City Engineer and Urban Forester.

Ruskin Heights Amendment No. 1





Monday, June 23, 2008

Mr. Jeremy Pate
Director of Current Planning
City of Fayetteville Planning Department
125 W Mountain St
Fayetteville, AR 72701

RE: Ruskin Heights PZD Condition of Approval 1a

Mr.Pate:

Regarding Ruskin Heights PZD Condition of Approval 1a, the three (3) one hundred foot turning lanes along the project frontage as proposed during the entitlement process have been approved in concept by the Arkansas Highway and Transportation Department (AHTD). Construction plans for this improvement are currently being developed to be used for construction.

Ruskin Heights requests that the sidewalk associated with the three (3) one hundred foot turning lanes along the project frontage be constructed with development of Lots 1,2,3, and 65.

The remainder of the improvements as stated in Condition of Approval 1a have been found by our traffic engineer to not be warranted even with full build out of Ruskin Heights. If these improvements are not found to be warranted then the AHTD will not issue permits for construction.

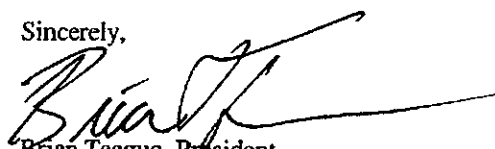
In place of the improvements that AHTD will not permit, Ruskin Heights proposes the following:

1. \$24,634.27 for future construction of curb and gutter and sidewalk on Highway 45 from Greenview Drive to the project's west property line, and for future construction of a west-bound left hand turning lane at the intersection of Highway 45 and Greenview Drive. The \$24,634.27 will be paid prior to the final plat of Phase IV. The costs for these improvements are summarized in the attached Table 1.
2. \$18,561.00 for future construction of curb and gutter along Highway 45 from the project's east property line to where curb and gutter begins near Metropolitan Bank. The \$18,561.00 will be paid prior to the final plat of Phase IV. The costs for these improvements are summarized in the attached Table 2.

Also, attached is Table 3 which is a schedule of the offsite improvements associated with the Ruskin Heights project and their cost, along with backup information labeled as Exhibits 1 through 5.

Thank you for considering our proposal and we look forward to your response.

Sincerely,


Brian Teague, President
Community by Design, LLC.

311 spring street
fayetteville, ar 72701
p 479.444.0095
f 479.444.0097

Highway-45/Mission Boulevard Improvements
 RH-07
 City of Fayetteville, Washington County, Arkansas
 6/24/2008



Fayetteville, Arkansas 72701
 Phone: (479) - 444 - 0095
 Fax: (479) - 444 - 0097

TABLE - 1
Engineer's Opinion of Probable Costs
for Concrete Sidewalk, Curb & Gutter, and
Greenview Turning Lane, West of Ruskin Heights
Property Line

	Quantity	Unit	Unit Cost	Total
STREETS AND PAVING				
Asphalt Surface Course, AHTD PG 64-22 (2"-Thickness)	29	Ton	\$75.00	\$2,175.00
Asphalt Binder (2.5"-Thickness)	266	S.Y.	\$11.35	\$3,019.10
Crush Stone Base Course, Class 7 (6"-Thickness)	460	S.Y.	\$10.20	\$4,692.00
Concrete Curb and Gutter (West PL to Greenview)	591	L.F.	\$10.00	\$5,910.00
Concrete Sidewalk (West PL to Greenview)	375	L.F.	\$15.00	\$5,625.00
Subtotal - Streets				\$21,421.10
15% contingency				\$3,213.17
STREETS & PAVING TOTAL				\$24,634.27

Highway-45/Mission Boulevard Improvements
 RH-07
 City of Fayetteville, Washington County, Arkansas
 6/24/2008

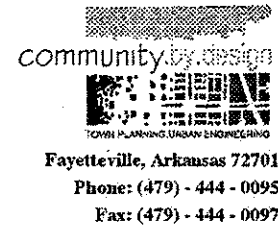


TABLE - 2
Engineer's Opinion of Probable Costs
for Curb & Gutter East of Ruskin Heights Property
 Line

	Quantity	Unit	Unit Cost	Total
STREETS AND PAVING				
Crush Stone Base Course, Class 7 (6"-Thickness)	350	S.Y.	\$10.20	\$3,570.00
Concrete Curb and Gutter (East PL to Bank)	1,257	L.F.	\$10.00	\$12,570.00
Sub-total - Streets				\$16,140.00
15% contingency				\$2,421.00
STREETS & PAVING TOTAL				\$18,561.00

Table 3
Ruskin Heights Offsite Improvement Schedule and Cost

<u>Ruskin Heights Offsite Improvements</u>	<u>Cost</u>
Highway 45 Improvements	\$659,661
Traffic Light	\$125,000
Fiber Optic (required for a 4 way intersection and traffic signal at Lisa Lane)	\$736,488
4. Park Place and Broadview Waterline Improvements (Improves fire flow in both Broadview and Park Place subdivisions)	\$153,893
5. Park Place Drainage Improvements	
Additional Drainage Pipe (diverts all runoff around Park Place)	\$45,000
Additional Volume in Detention Pond	\$50,000
6. Greenview Drive Improvements	\$101,780
<u>7. Lisa Lane Sanitary Sewer Improvements</u>	<u>\$115,862</u>
Total	\$1,987,684



ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

DISTRICT FOUR

4019 TOWSON AVE. • P.O. BOX 1424 • FORT SMITH, AR 72902-1424 • TELEPHONE (479) 646-5501 • FAX (479) 646-8286
WASHINGTON — CRAWFORD — FRANKLIN — SEBASTIAN — LOGAN — SCOTT — POLK
May 29, 2008

Mr. Mike Clotfelter
Community by Design
311 West Spring Street
Fayetteville, Arkansas 72701

Re: Mission Boulevard
Highway 45, Section 5, L.M. 2.17 – 2.75
Washington County
Springdale

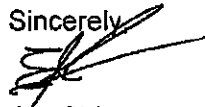
Dear Mr. Clotfelter:

We are in receipt of your letter dated May 17, 2008, concerning an extension of improvements east and west of the proposed development. We have discussed this issue with Ron Petrie, City Engineer for the City of Fayetteville.

Placing curb and gutter along the south side of Highway 45 presents additional maintenance for the Department. Furthermore, the curb and gutter may interfere with any future improvements or potential widening of the highway. Therefore, improvements to the section of highway outside the limits of the proposed development should not be undertaken at this time.

If you have any questions regarding this matter, please contact Chad Adams, District Construction Engineer, at (479) 646-5501.

Sincerely,


Joe Shipman
District Four Engineer

C: City of Fayetteville, Ron Petrie, City Engineer
Assistant Chief Engineer – Operations
Roadway Design

FAYETTEVILLE

THE CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE, ARKANSAS 72701
479-444-3429 FAX 575-8202

April 10, 2008

Community By Design, LLC
Attn: Brian Teague, P.E.
311 West Spring Street
Fayetteville, AR 72701

Re: Ruskin Heights Traffic Study

Dear Sir:

The traffic study for this development as prepared by Peters & Associates Engineers, Inc. dated February 22, 2008 has been received by our office and reviewed for compliance with the City of Fayetteville requirements.

On March 20, 2007, the Fayetteville City Council approved the Planned Zoning District for the Ruskin Heights Development. As a condition of that approval, the following street improvements were required:

- The developer shall construct a 3-lane street section with pavement, curb, gutter and storm drains, from where it currently stops east of the site on Mission Blvd. west to Greenview Drive, to include complete 6 foot sidewalk connections on Mission Blvd. The applicant shall coordinate with the Engineering Division and AHTD to determine if a continuous turn lane or turn lane at major intersections is more acceptable. Construction of these improvements shall occur with Phases I-III, with the approved development of 57 dwelling units and 16,636 sf of non-residential area.

The approved Planned Zoning District includes widening of Mission Blvd. along the project frontage to include a left turn lane at both entrances into the development. Also included was the installation of a traffic signal at the intersection of Mission and Lisa Lane. These improvements are planned with the first phase of construction and have received conceptual approval from the Arkansas Highway and Transportation Department (AHTD).

The traffic study submitted evaluated the existing and proposed traffic on Mission from Greenview east to the intersection with Highway 265. The study shows the level of service for each of the intersections with Mission in this area for the existing traffic, the

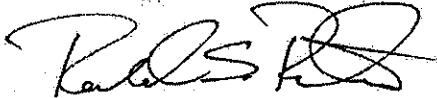
Ruskin Heights
April 3, 2008

PAGE 2

proposed fully developed traffic with the existing highway configuration (2-lane highway), and the proposed fully developed traffic with turning lanes added to the highway. In this analysis, the traffic engineer has determined that the addition of a turning lane on Mission Blvd. would have no affect on the calculated level of service for Mission Blvd at each of the intersections that were analyzed.

The AHTD policy is to not approve the installation of improvements such as turn lanes and traffic signals unless the existing traffic is shown to warrant the improvements. With the recommendations in this traffic study, we will defer to the AHTD policy regarding lane additions. However, with the fully developed traffic, there is a notable decline in the level of service on some of the intersecting side streets in this area. Our recommendation will be that with future phases of construction (beyond what is currently approved for development) each of these intersections will need to be evaluated for possible improvements.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ron Petrie', with a stylized flourish at the end.

Ron Petrie, P.E.
City Engineer

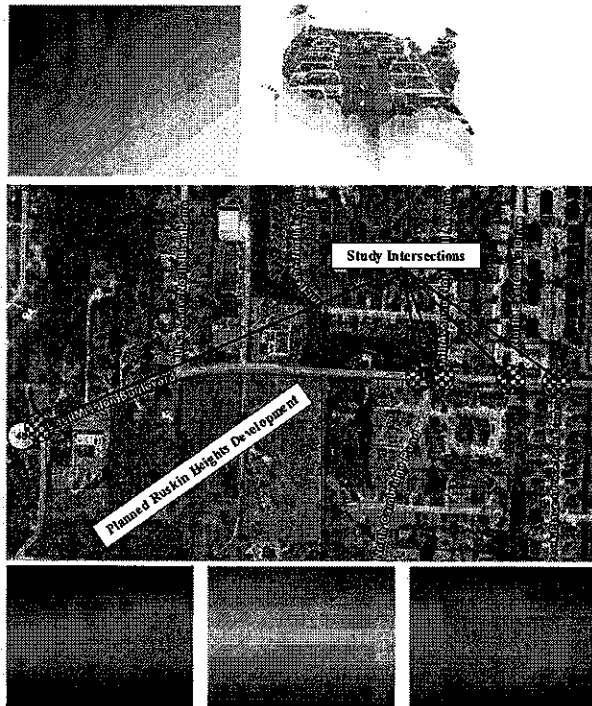
Intersections Traffic Study

Mission Boulevard (Highway 45) and

- ◆ *Greenview Drive*
- ◆ *Cambridge Drive*
- ◆ *Ball Avenue*
- ◆ *East Oaks Drive*
- ◆ *Glenbrook Place*

prepared for:

Ruskin Heights, LLC



Fayetteville, Arkansas



Project No.: P-1344

February 22, 2008



PETERS & ASSOCIATES
ENGINEERS, INC.

• CIVIL & TRAFFIC ENGINEERING •

5507 Ranch Drive - Suite 205 (501) 868-3999
Little Rock, Arkansas 72223 Fax (501) 868-9710

Traffic Study

INTRODUCTION

Peters & Associates Engineers, Inc. conducted a comprehensive traffic study consisting of conducting traffic volume data counts, performing necessary analysis of traffic volume data for projected traffic conditions to include full build-out of the planned Ruskin Heights development for the following intersections along Mission Boulevard (Highway 45) in Fayetteville, Arkansas:

- Mission Boulevard and Greenview Drive
- Mission Boulevard and Cambridge Drive
- Mission Boulevard and Ball Avenue
- Mission Boulevard and East Oaks Drive
- Mission Boulevard and Glenbrook Place.

Projected traffic volumes for full build-out of the planned Ruskin Heights development were calculated. These projected Ruskin Heights generated trips were added to the existing traffic volumes, which resulted in total projected traffic volumes at full build-out of the planned Ruskin Heights site at the five study intersections. As a part of this study, analysis for the projected traffic conditions for the five study intersections was conducted with the following lane geometry assumed:

- Mission Boulevard as the existing two-lane roadway section
- Alternate lane geometry including a left-turn lane at each of the study intersections on Mission Boulevard.

This is a report of methodology and findings relating to a traffic engineering study undertaken to:

- Evaluate existing traffic conditions at the study intersections.
- Ascertain projected traffic operating conditions at the study intersections.
- Identify the effects on traffic operations resulting from existing traffic in combination with full build-out of the planned Ruskin Heights development generated traffic.



Traffic Study

- Evaluate traffic operations for the study intersections along Mission Boulevard and make determination if a left-turn lane on Mission Boulevard may be necessary and appropriate for acceptable traffic operations.

In the following sections of this report there are presented traffic data, study methods, findings and recommendations of this traffic engineering investigation. The traffic engineering study is technical in nature. Analysis techniques employed are those most commonly used in the traffic engineering profession for traffic impact analysis. Certain data and calculations relative to traffic operational analysis are referenced in the report. Complete calculations and data are included in the Appendix of the report.

Traffic Study

THE SITE

The location of the study intersections is within the City of Fayetteville in Washington County, Arkansas. The study intersections locations and vicinity are shown on Figure 1 and Figure 2, below.

Figure 1 – Vicinity Map

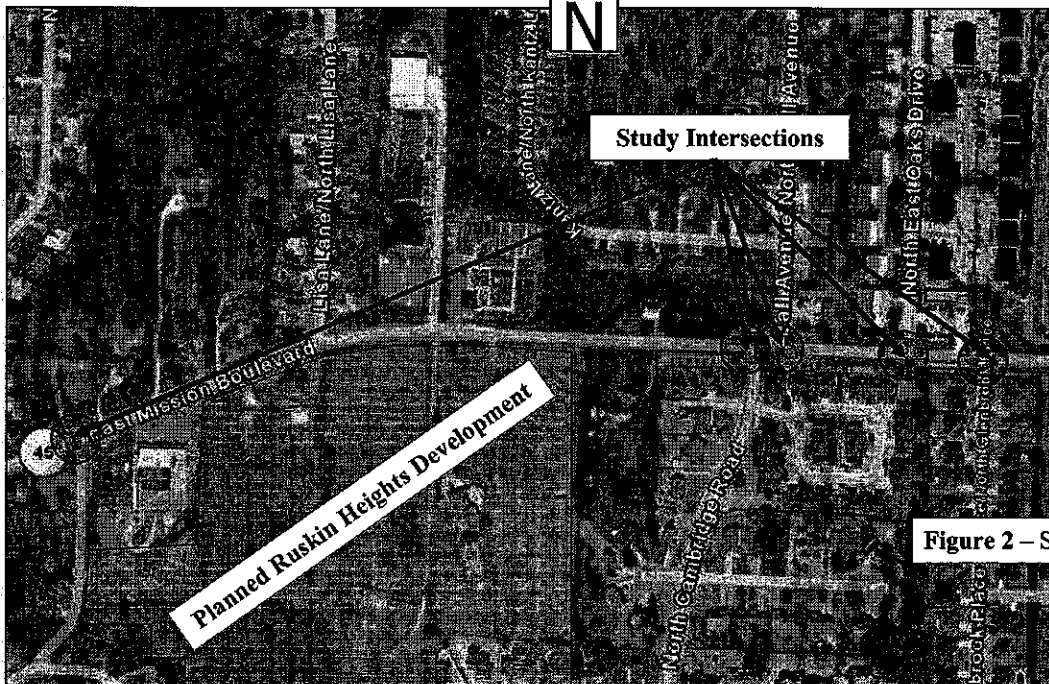
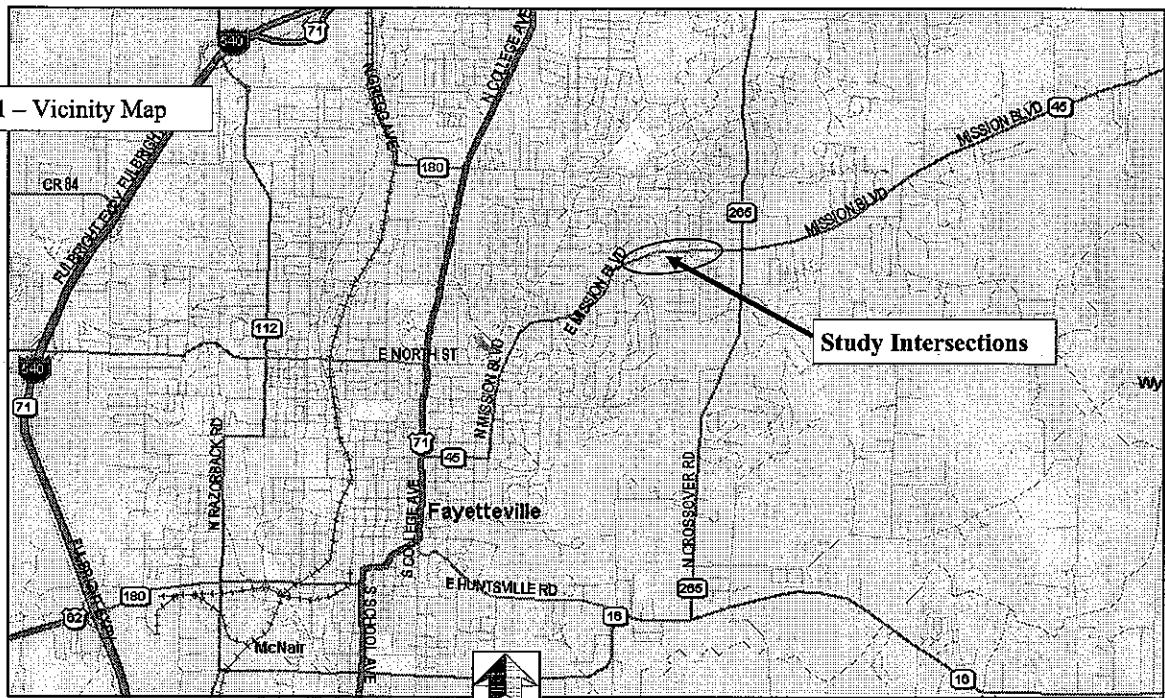
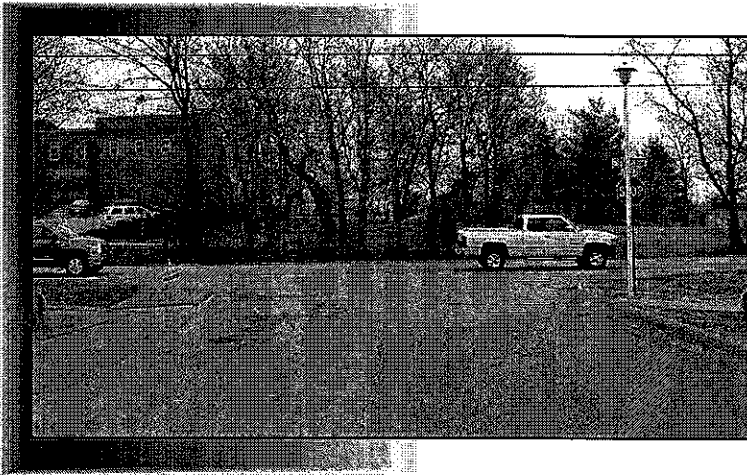


Figure 2 – Study Intersections Map

Traffic Study



Looking north on Glenbrook Place
toward Mission Boulevard.

EXISTING TRAFFIC CONDITIONS

Traffic count data collected as a part of this study include AM and PM peak hour vehicle turning movement counts at the following intersections:

- Mission Boulevard and Greenview Drive
- Mission Boulevard and Cambridge Drive
- Mission Boulevard and Ball Avenue
- Mission Boulevard and East Oaks Drive
- Mission Boulevard and Glenbrook Place.

The AM and PM peak hour turning movement count data at these intersections are summarized in the following peak hour turning movement charts. These AM and the PM peak hour turning movement counts are presented in detail in the Appendix of this report.

The AM and PM peak hour vehicle turning movement counts made as a part of this study are shown on Figure 3, "Existing Traffic Volumes - AM and PM Peak Hours."



Traffic Study

SUMMARY OF FINDINGS

Findings of this study are summarized as follows:

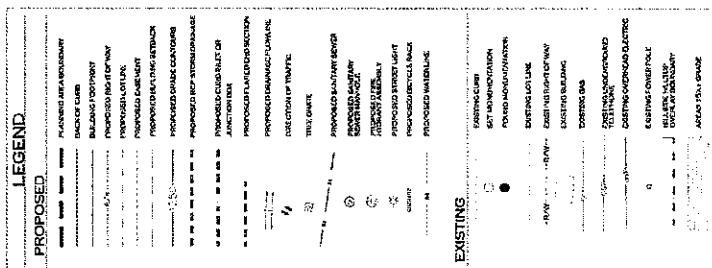
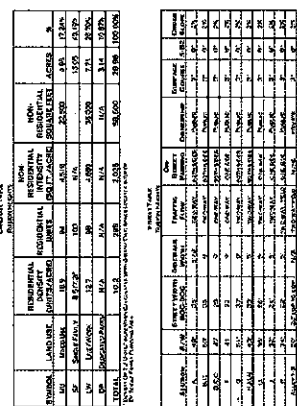
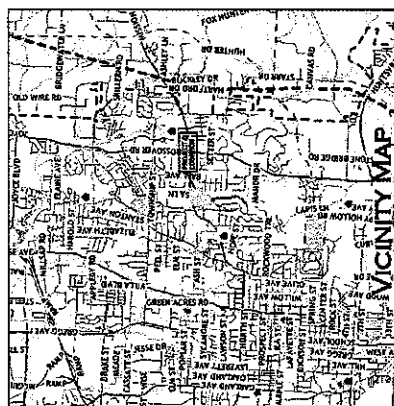
- Capacity and LOS analysis for existing traffic conditions (existing traffic volumes, lane geometry and traffic control) was conducted for the study intersections. All existing vehicle movements for existing traffic conditions at the study intersection presently operates at what calculates as an acceptable LOS "D" or better for the AM and PM peak hours.
- Level of service analysis was performed for the projected traffic volumes for the AM and PM peak hours traffic with existing lane geometry on Mission Boulevard and with alternate lane geometry including a left-turn lane at each of the study intersections on Mission Boulevard. For the intersections studied for both analysis scenarios, all of the vehicle movements at the study intersections for these projected traffic conditions are expected to continue to operate at what calculates as an acceptable LOS "D" or better for the AM and PM peak hours except for the northbound right-turn / left-turn vehicle movements on Greenview Drive at Mission Boulevard during the PM peak hour (LOS "E"). This volume is low (71 vehicles) and the delay is caused by the higher volume on Mission Boulevard. Even with the LOS "E" for this movement, the calculated 95th percentile queue is less than three vehicles.
- As a part of this study, for existing traffic conditions and for projected traffic conditions (with and without the addition of left-turn lanes on Mission Boulevard, queue length analysis was conducted for the study intersections. With the existing lane geometry, analysis shows vehicle queue lengths will be minimal. Calculated queuing indicates typical 95th percentile queuing on Mission Boulevard of approximately one vehicle and only a maximum of three vehicles on any of the intersecting side streets included in this study.



Traffic Study

- A direct comparison of the two projected conditions analysis scenarios (with and without left-turn lanes on Mission Boulevard at the study intersections) shows no change in the calculated LOS for the east / west vehicle movements on Mission Boulevard. There are no discernable improvements in the traffic operations at the study intersections with the addition of left-turn lanes on Mission Boulevard at the study intersections. The only vehicle movement that is calculated to be less than acceptable LOS "D" for projected traffic conditions is the northbound right-turn / left-turn vehicle movements on Greenview Drive at Mission Boulevard during the PM peak hour (LOS "E"). Even with the LOS "E" for this movement, the calculated 95th percentile queue is less than three vehicles.
- In conclusion, for projected conditions, there is not a demonstrated need to widen Mission Boulevard to provide left-turn lanes at the study intersections.





NOTES

CIVIC USE INDEX

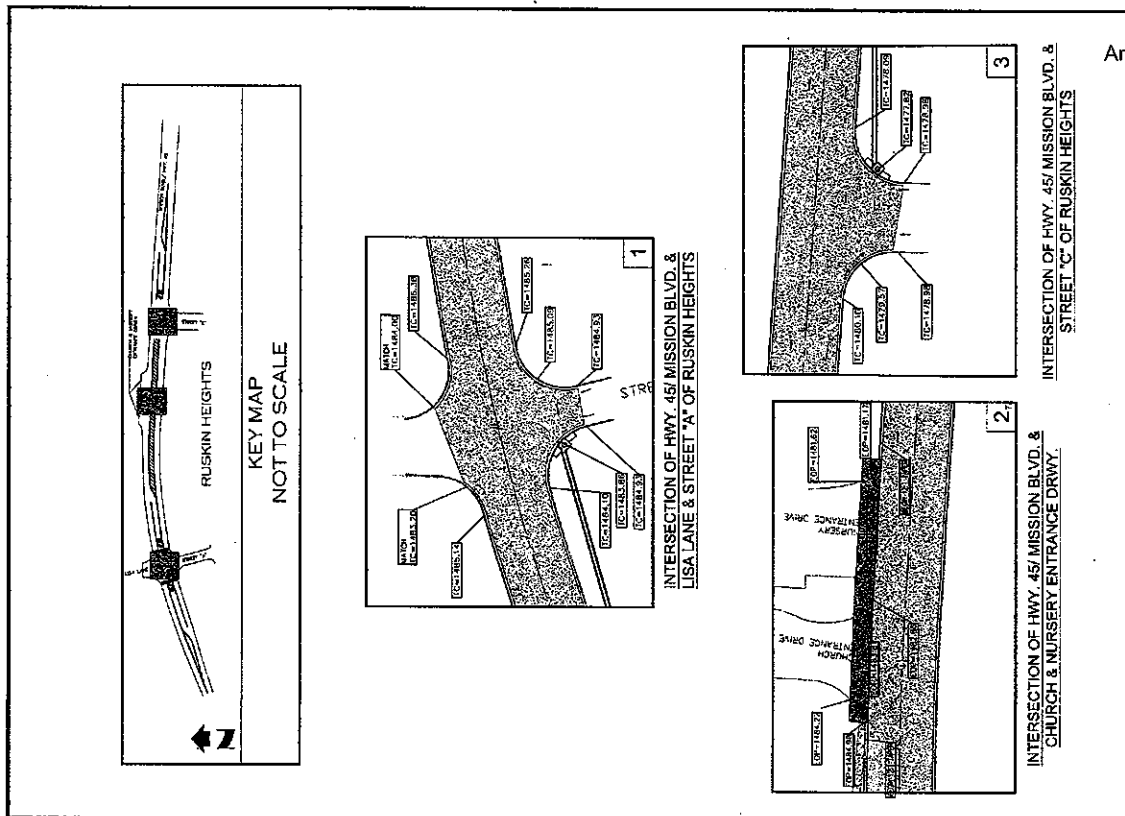
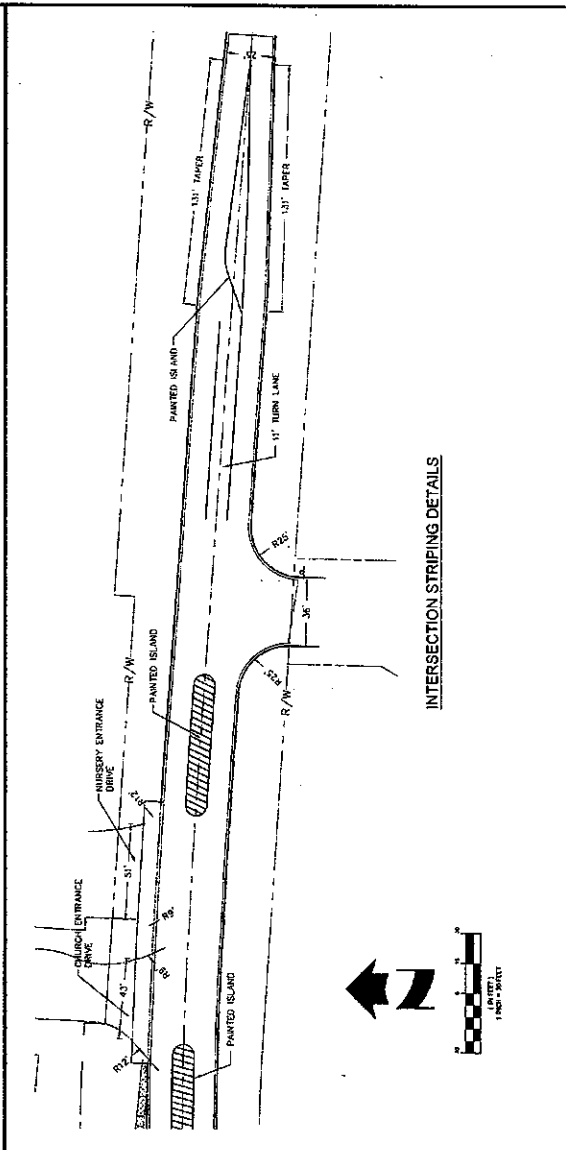
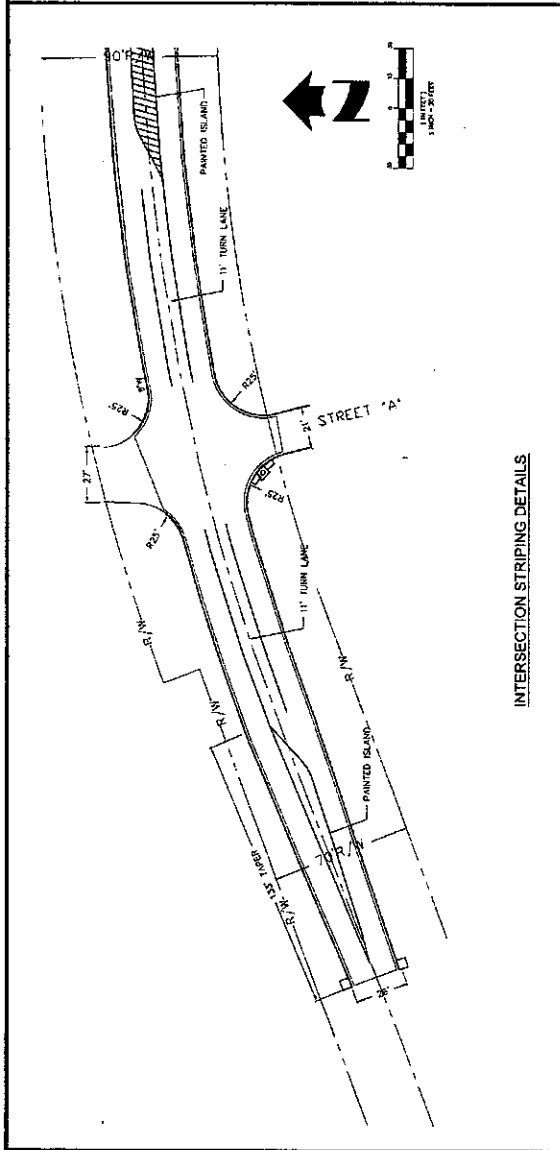
- (A) MARKET SQUARE
- (B) SPANISH STEPS PUBLIC ACCESS EASEMENT
- (C) CLUBHOUSE / CIVIC CENTER
- (D) VILLAGE GREEN PUBLIC ACCESS EASEMENT
- (E) SWIM CLUB
- (F) TREE PRESERVATION / TRAIL CORRIDOR
- (G) CORNER PARK
- (H) PONDS
- (I) MORGANST

COMMUNITY BY DESIGN, LLC.
38 WEST TRENTON BLVD..
SUITE 201
FAYETTEVILLE, AR 72701
479 444 0095

COMMUNITY BY DESIGN
38 WEST TRENTON BLYD..
SUITE 201
FAYETTEVILLE, AR 72701
479 444 0095

0 50 100 200
FEET

Ruskin Heights
 Apartment No. 4994
 Page 22 of 40



	COMMUNITY BY DESIGN, LLC. 311 WEST SPRING STREET FAYETTEVILLE, AR 72701 PHONE: 479 444-0095 FAX: 479 444-0097	CONSTRUCTION PLANS STREET INTERSECTION GRADES & STRIPING DETAILS		ENGINEER: JMT DRAWN BY: JMT CHECKED BY: JMT DATE: 2/28/07
		HWY. 45/ MISSION BLVD. IMPROVEMENTS FAYETTEVILLE, WASHINGTON CO. ARKANSAS		PROJECT NO.: 200802038 SHEET NO.: 1 OF 1



ORDINANCE NO. 4994

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2299, RUSKIN HEIGHTS, LOCATED WEST OF HIGHWAY 265/CROSSOVER ROAD, ON THE SOUTH SIDE OF MISSION BOULEVARD; CONTAINING APPROXIMATELY 28.93 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RSF-4, Residential Single Family, 4 units per acre to R-PZD 06-2299 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

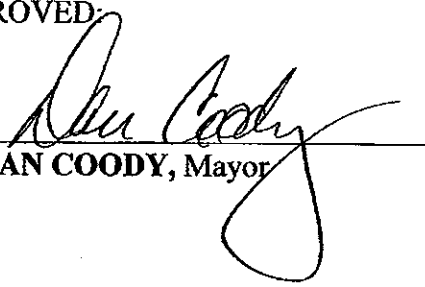
PASSED and APPROVED this 20th day of March, 2007.



Page 2
Ord. 4994

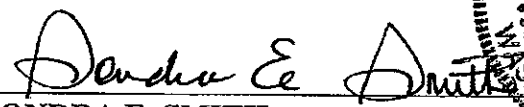
APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA E. SMITH, City Clerk/Treasurer

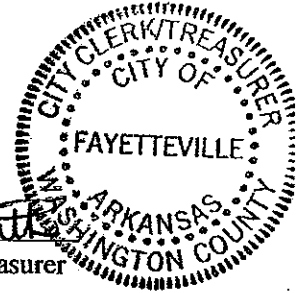


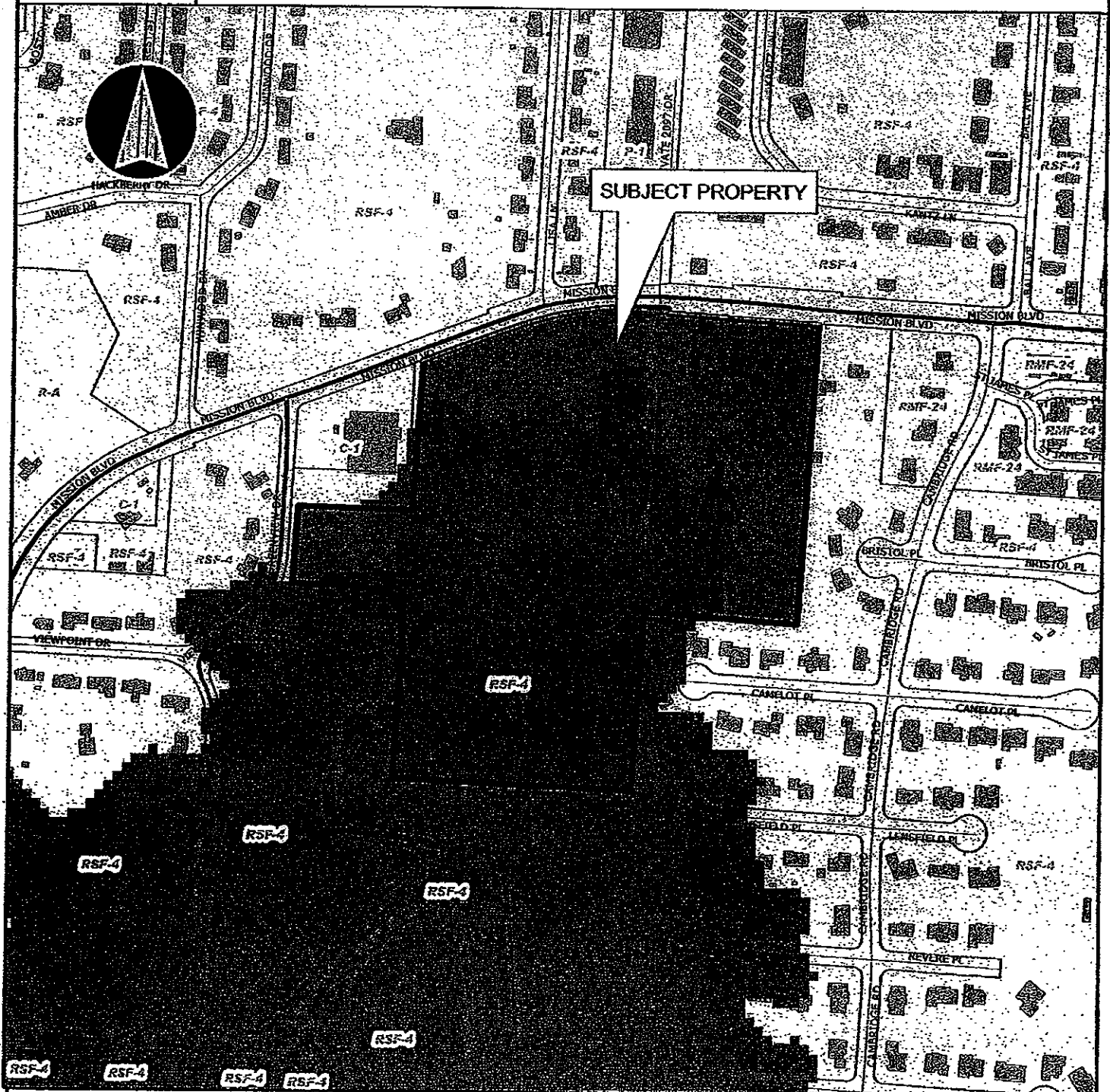
EXHIBIT "A"

C. 4
Ruskin Heights
Amend Ordinance No. 4994
Page 27 of 40

RPZD06-2299

Close Up View

RUSKIN HEIGHTS



Overview

Legend

- | | | | |
|-----------------------------------|------------------|------------------|----------------|
| Hillside-Hilltop Overlay District | Overlay District | FLOODWAY | 500 YEAR |
| RPZD06-2299 | Fayetteville | 100 YEAR | LIMIT OF STUDY |
| vector.GDB.Footprint_2004 | | BaseLine Profile | Outside City |

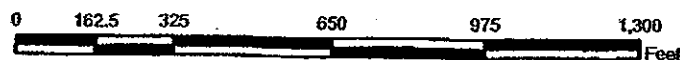


EXHIBIT "B"
R-PZD 06-2299

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) AND THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION TWO (2), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A ½" REBAR LOCATED S87°32'34"E 660.0 FEET FROM A STONE MONUMENT LOCATED AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 2; THENCE N 03°38'07" E 441.29 FEET ½" REBAR; THENCE N 87°33'26" W 135.00 FEET ½" REBAR; THENCE N 03°42'40" E 80.00 FEET ½" REBAR; THENCE N 87°33'28" W 175.00 FEET ½" REBAR; THENCE N 03°42'40" E 212.28 FEET ½" REBAR; THENCE S 87°48'42" E 310.03 FEET ½" REBAR; THENCE N 03°42'38" E 417.42 FEET TO A ½" REBAR LOCATED ON THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY NO. 45 (MISSION BOULEVARD); THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY THE FOLLOWING: N 69°23'34" E 249.39 FEET TO A ½" REBAR, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 970.00 FEET, AN ARC LENGTH OF 108.99 FEET AND A CHORD BEARING OF N 72°36'42" EAST 108.93 FEET TO A ½" REBAR, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 978.84 FEET, AN ARC LENGTH OF 335.04 FEET AND A CHORD BEARING OF N 85°38'10" E 333.40 FEET TO A ½" REBAR, S 01°04'05" W 12.27 FEET TO A ½" REBAR; S 86°22'14" E 166.88 FEET TO A ½" REBAR, S 03°35'31" W 1.95 FEET TO A ½" REBAR, THENCE S 86°28'21" E 252.00 FEET TO A ½" REBAR; THENCE LEAVING SAID RIGHT-OF-WAY AND RUNNING S 03°29'46" W 825.60 FEET TO A ½" REBAR LOCATED ON THE NORTH LINE OF THE PARK PLACE ADDITION PHASE II; THENCE N 85°48'23" W 422.74 FEET TO A ½" REBAR LOCATED AT THE NORTHWEST CORNER OF SAID ADDITION; THENCE S 03°45'46" W 491.63 FEET ALONG THE WEST LINE OF SAID ADDITION TO A STONE MONUMENT; THENCE N 87°31'58" W 657.93 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 28.93 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

SUBJECT TO ANY EASEMENTS AND/OR RIGHT-OF-WAYS OF RECORD.

AMENDED CONDITIONS OF APPROVAL:

R-PZD 06-2299

Page 1 of 10

The following conditions of approval are hereby approved for R-PZD 06-2299 (Ruskin Heights).

Streets and Right-of-Way

1. **City Council determination** of street improvements. *Staff recommends the following street improvements, based on the proportionality of the development's impact:*

- a. The developer shall construct a 3-lane street section with pavement, curb, gutter, and storm drains, from where it currently stops east of the site on Mission Blvd west to Greenview Drive, to include complete 6-foot sidewalk connections on Mission Blvd. The applicant shall coordinate with the Engineering Division and AHTD to determine if a continuous turn lane or turn lane at major intersections is more acceptable. Construction of these improvements shall occur with Phases I-III, with the approved development of 57 dwelling units and 16,636 SF of nonresidential area.
- b. The developer agrees to and shall be responsible for the payment and installation of a fully actuated traffic signal at the intersection of Lisa Lane and Mission Blvd, as soon as AHTD warrants are met and a permit for construction is issued. The developer shall contribute the full cost of the traffic prior to recordation of the final plat of Phases I-III, with the approved development of 57 dwelling units and 16,636 SF of nonresidential area. A traffic warrant analysis shall be presented to the City and AHTD with every phase of the development to determine what improvements are warranted and will be installed with each phase of the development.
- c. At the time of connection with Greenview Drive: Minimum 14' from centerline street improvements with curb, gutter, 6' sidewalks, and storm drainage on the east side of Greenview from Mission Boulevard south to Viewpoint Drive.
- d. At the time of connection with Greenview Drive, the developer shall construct a limited right-in, right-out access on Greenview Drive. This shall consist of a landscaped median, approximately 70 feet in length, that separates north and south bound traffic, with appropriate improvements on both sides to ensure adequate access. The landscaped median shall be planted with trees and shrubs to buffer properties west of Greenview. Final design shall be approved by the City Engineer and Urban Forester.

2. The applicant shall dedicate right-of-way as follows:

- a. **City Council determination** of a lesser dedication of right-of-way for Mission Blvd. Mission Boulevard is identified as a principal arterial with a minimum of 55' from centerline right-of-way required to be dedicated to the City with the development of the property per UDC §166.05 (C.6). The developer requests a reduction in the Master Street Plan right-of-way dedication requirements in order to accommodate existing utilities along Mission Blvd., leaving the existing 40-feet from centerline in place. The applicant has submitted a formal waiver request along with an exhibit showing that the full Master Street Plan improvements to Mission Boulevard are

AMENDED CONDITIONS OF APPROVAL:

R-PZD 06-2299

Page 2 of 10

possible without the full 55' from centerline right-of-way. However, this would require the greenspace and new sidewalk along Mission Boulevard to be placed under a pedestrian access easement granting the City full inspection, access, and maintenance rights for public benefit. The waiver request discusses that the full right-of-way dedication is difficult because of an existing 16.5 foot easement granted to Southwestern Bell adjacent to the existing right-of-way that would be required to be dedicated for a principal arterial. According to the applicant, this easement contains the largest and most expensive fiber optic line in the State of Arkansas, contained within a concrete duct run. Moving this line would be very expensive and could likely be required if the right-of-way is dedicated in its place. *Staff recommends in favor of the waiver request finding that the information presented by the applicant sufficiently indicates that Mission Boulevard can be improved to its Principal Arterial designation along the project frontage with half of a median, two lanes of traffic, and part of the greenspace within the right-of-way, and that the remainder of greenspace and sidewalk (15' total) would be provided within a public access easement allowing full maintenance rights by the City. These access easements shall be dedicated at the time of final plat.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

- b. 25' from centerline right-of-way dedication along Greenview Drive by the preliminary plat; variable right-of-way dedication along the internal streets as depicted on the site plan; rear alleys shall be within a 26' access easement owned and maintained by the property owner's association.
3. **Planning Commission determination** of a waiver of minimum street design standards:

- a. The applicant requests a waiver to allow varied return radius (CRR) as shown on the plat at all street intersections and driveways when City Code requires a 30' CRR for streets (UDC §171.02(C)). *Staff recommends approval of the CRR waiver requests, finding that the minimum effective turning radius as depicted in exhibits provided to staff provides evidence that adverse impacts to traffic and pedestrian safety would not occur.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

- b. The applicant requests a waiver to allow different street cross sections than are required by the current Master Street Plan standard (UDC §166.06 (K)(10)(a) and 166.08(C)(14)). The applicant proposes on-street parallel parking, when the Master Street Plan does not have a cross-section that allows designated parallel parking in the design as proposed. In addition, the palette of street widths proposed is not permitted with the adopted Master Street Plan – there are not Master Street Plan street cross-sections with the exact width and dimensions proposed.
- i. *Staff recommends approval of a waiver to construct all street cross sections as requested (see PZD booklet pages 2-4) finding the variety of street widths will help in traffic calming and are consistent with the overall TND development*

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philosophy for this project to help encourage pedestrian activity, provided that a 7.5' parking lane is maintained, as measured to the face of curb. Staff will review detailed construction plans at the time of development.

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

- ii. *Alley cross-section of 12 feet for two-way traffic. Staff recommended a minimum pavement width of 16 feet for two-way traffic and 12 feet for ~~two~~^{one}-way traffic, as outlined in the Master Street Plan. The applicant has revised the plans, indicating the 12-foot alley will be one-way; therefore staff supports the alley cross-sections as noted. The dead-end alleys shall be increased to a minimum of 16 feet of pavement and shall be designated for two-way traffic.*

THE PLANNING COMMISSION APPROVED THIS CONDITION WITH CHANGES AS NOTED.

- c. *The applicant requests a waiver to allow for retaining walls directly at the back of the right-of-way line when a minimum of two feet is required per UDC Section 171.01(C). Pursuant to city code, a retaining wall is required to be constructed a minimum of two feet behind the right-of-way. As recommended by the Hillside Best Management Practices, keeping improvements within more confined areas (reducing right-of-way, utility easements, etc.) reduces the overall impact on the hillside. Allowing retaining walls to be designed appropriately closer to the right-of-way would allow grading and other site improvements to be as limited as possible, thus decreasing the impact on the site. According to the applicant, no sidewalks or right-of-way would be impeded by the proposal. Based on staff's review of this proposal, in the areas proposed for development, no anticipated issues with this request are foreseen. Staff recommends approval of this request.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

- d. *The applicant requests to use alternate vertical K values for street and alley designs on the site rather than those required by the City of Fayetteville Minimum Street Standards due to the steep inclines creating substantial grading challenges. Staff recommends approval of this request.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

- e. *The applicant requests a waiver of the 150 horizontal curve radii required by the City of Fayetteville Minimum Street Standards due to the steep terrain on the site. Staff recommends approval of this request.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

- f. *The applicant request street grades greater than 4% within 100 of an intersection required by the City of Fayetteville Minimum Street Standards due to the steep terrain of the site. Staff recommends approval of this request, based on several meetings to discuss these intersections, finding they will not create a dangerous*

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situation.

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

- g. Gutter sections. The booklet calls out stand-up curbs, which are in contrast to the City's street design standards. *Staff supports the requested gutter section, which is in keeping with a more urban design standard. Similar curbs are utilized on Dickson Street and in the downtown area. Asphalt is used as the gutter pan, and provides a wider travel lane section without increasing the overall width of the street.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

4. All private alleys and any sidewalks outside the right-of-way shall be included in a shared access easement. This access easement shall be included on the final plat.
5. No parallel parking spaces are allowed within 30' of a stop sign (Fayetteville Code of Ordinance Section 72.03(G)). The site plan has been revised to accommodate this requirement. The applicant shall coordinate all striping of streets and parallel spaces with the Transportation Division and Fire Department, as the ultimate administrators of these code sections.
6. A minimum of 26' clear shall be provided along all alleys to provide adequate room for a trash truck and arm to pick up residential trash carts.
7. Signs indicating future street extension shall be installed at all street stub-outs.
8. A temporary cul-de-sac or turnaround shall be constructed at the terminus of Street 'J' in accordance with State fire code requirements as it is a dead end greater than 150' in length.

Parking

9. **Planning Commission determination** of a request to allow fewer than required off-street parking spaces than allowed by ordinance for Phases 1-3 of the development, instead providing an abundance of on-street parking to meet parking ratios. As depicted in Table 3 provided earlier in this report, the applicant proposes to provide 112 off-street parking spaces when 160 are required, and proposes that the proposed 82 on-street parking spaces throughout public streets in the development would be able to accommodate the additional required parking spaces required in Phases 1-3. *Staff recommends approval of this request, recognizing that the streets throughout this development, as amended from the City's Master Street Plan specifically to provide on-street parking, would provide parallel parking and can safely satisfy the additional demands for parking not provided off-street as depicted in Table 3. Because of the mixed-use nature of the project, parking demands will peak at different times, as proven by ITE standards. This will result in a more efficient use of infrastructure than the typical single-use parking lots that are empty during off-peak hours. Future parking needs for expansion of any facilities on this property shall be provided in accordance with the UDC. Staff recommendation for this is tied to the street width and Solid Waste Division requirements for adequate access to be provided.*

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THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

Commercial Design Standards

10. **Planning Commission determination** of commercial design standards for the commercial portion of the live/work structures and overall compatibility and transition in the proposed development. *Staff finds in favor of this determination. The building elevations of the live/work structures and all other structures in this development are well-articulated and provide for a consistent and overriding theme throughout the development, which transitions well between the mixed use buildings/flats, townhouses, live-work units, and single-family detached houses. The zoning criteria and elevations for the residential and non-residential structures requires buildings to front the street, and small building setbacks help create a streetscape and facilitate an overall compact and complete development. There is a wide variety of uses and structures that prevent a visual monotony while maintaining a compatible architectural design throughout the site. All non-residential uses being proposed are located interior to the project, away from existing single family subdivisions.*

THE PLANNING COMMISSION FOUND IN FAVOR OF COMMERCIAL DESIGN STANDARDS.

Water and Sewer

11. Off-site water and sewer improvements shall be installed as necessary to provide domestic and fire protection to the development.

Phasing

12. **Planning Commission determination** of the proposed phasing plan. *Staff recommends approval of the phasing as indicated within the submittal. This project is required to obtain all permits in accordance to the Phasing as listed and depicted in the PZD booklet and noted below. A one-year extension may be approved by the Planning Commission (subject to the criteria in UDC Chapter 166 for extensions).*

<u>Phase No.</u>	<u>Year</u>
Phase 1	2007
Phase 2	2008 2007
Phase 3	2009 2007
Phase 4	2010 2008
Phase 5	2011 2010
Phase 6	2012

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

PHASING HAS BEEN ADJUSTED SLIGHTLY FROM THE PLANNING COMMISSION REVIEW TO ACCOMMODATE THE DEVELOPMENT OF PHASES I-III ALL IN ONE YEAR AS NOTED ABOVE AND REQUIRED IN THE AMENDMENTS TO STREET IMPROVEMENTS. STAFF IS IN SUPPORT OF THIS MODIFICATION.

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Parks

13. The developer shall contribute money-in-lieu of parkland dedication for all dwelling units constructed on this property. Fees-in-lieu shall be submitted prior to final plat approval for subdivisions and prior to building permits for large scale developments. Fees shall be utilized for the acquisition and development of parkland within the Southeast Parks quadrant.
14. The money-in-lieu requirement for the proposed development at the time of City Council approval of the PZD is \$229,440 with 103 single family units and 192 multi-family units, for a maximum of 295 dwelling units. The developer is currently requesting approval for phases 1-3 with 29 single family residential units and 28 multi-family residential units. The money in lieu requirement for Phases 1- 3 is \$46,880, due prior to final plat recordation.
15. All final contributions of fees-in-lieu of parkland dedication shall be determined based on the actual density that is constructed on the property.
16. Additionally, the developer shall provide the following public access easements at the time of development, on the Final Plat:
 - a. A trail corridor located near the western boundary of the site through the tree preservation area with the POA retaining ownership. The Developer shall work closely with the Trails Coordinator and Urban Forester to develop this connection.
 - b. A public access easement for the Spanish Steps, leading from the Greenspace/Civic Space north of Street "E" to the Greenspace/Civic Space south of Street "J," as indicated on the plat.
 - c. A public access easement for the village green, the larger of the greenspace/civic spaces proposed in the project.

Tree Preservation Plan

17. Revise the tree preservation fencing and tree canopy numbers along the western most ingress/egress off of Mission Boulevard. There appears to be some canopy that could be preserved.
18. Lot 68 located on the east side of the project is unacceptable to the City Engineering Division for tree preservation/mitigation. With the proximity of the water and sewer line under this alley, the entire space to the eastern and southern property line must act as an easement. This change will not allow any canopy to be counted as preserved nor will it allow any of the trees planted in this area to be counted toward mitigation requirements.
19. Mitigation is required on this site. The applicant has requested and been approved to do a combination of on-site planting and money in lieu for the total 265 trees. With the comments of the previous condition, an additional 9 (2) inch caliper mitigation trees will be required. At the time of Final Plat a total number of on-site trees and money in lieu will be approved.

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20. At the time of final plat a tree mitigation planting plan will be required for review and approval by the urban forester. All trees that can be planted before signature of final plat should be leaving only those on the individual lots to come with the development of the homes. The remainder of trees that can not fit on the site will be paid into the City's Tree Escrow Account.
21. A 3-year bond, letter of credit, or check in the amount of \$250 per tree will be required before signature of final plat to ensure the maintenance and health of the trees planted on-site. Finding all trees healthy at the end of the 3 years the amount will be returned in full.

Landscape Plan

22. Future lots 2 and 3 will be required to go through large scale development at which time landscape requirements will be assessed. Landscape requirements for the remainder of the project (lot 65) will be assessed at time of development plans. Landscaping along the detention ponds and greenspace area to meet City Codes shall be installed with the development of those portions of the project.
23. A landscape plan stamped by a licensed landscape architect is required at time of construction drawings.
24. **Planning Commission determination** of a waiver request of UDC §177.05 (B.3), to utilize the urban streetscape option with a 9-foot sidewalk width as opposed to the required 10 feet. *Staff recommends approval of this waiver, finding that adequate width is proposed a to provide accessibility, pedestrian safety and room for the tree to grow.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

Plat and Booklet Revisions

25. Revise the plat and booklet zoning criteria for all Planning Areas to require the building setbacks to be a minimum of 10' from all property lines exterior to the PZD boundary line.

General

26. **Planning Commission determination** of zoning criteria. *Staff is supportive of the zoning criteria presented, with the following exception: staff recommends a minimum building setback of 10' adjacent to any property line exterior to the overall 28.93-acre PZD boundary to provide a reasonable level of transition from adjacent properties. No alley or other form of development shall occur within 5' of a property line without the adjacent property owner's consent. The applicant has indicated compliance with this recommendation, though modifications to the booklet and plat are necessary.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

27. Large scale development review is required prior to development for Lots 2 and 3. Lot 65 will be required obtain large scale development and/or subdivision approval prior to

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development, pursuant to the process identified in the UDC. A final plat shall be processed and approved prior to issuance of any building permits.

28. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements. Encroachment of structures or any portion of a structure shall comply with all applicable Building Codes unless otherwise and specifically approved by the City Council at the time of development.
29. Buildings shall be constructed to be consistent with the concepts depicted in the building elevations in the PZD booklet. All buildings shall be designed and constructed to front onto public rights-of-way. All non-residential buildings or mixed use buildings shall adhere to Commercial Design Standards.
30. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for commercial development for Planning Area 1, and for residential development for all other Planning Areas.
31. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
32. Due to the very large and complex nature of this project, a detailed review of all aspects of the site and landscape plans in each phase of construction shall take place prior to issuance of building permits. The development shall be consistent with the site plan and mix of uses as approved in the PZD. All development shall meet applicable zoning and development criteria, unless specifically waived or varied by the Planning Commission as part of the PZD approval.

Standard Conditions of Approval

33. 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).
34. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.
35. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.

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36. 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.
37. All overhead utility lines under 12kv shall be relocated underground. All proposed utilities shall be located underground.
38. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.
39. Prior to the issuance of a construction permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Final plat for this project that shall include all easements and the tree preservation area.
 - d. Project Disk with all final revisions.
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

ADDITIONAL CONDITIONS:

40. All foundations for structures within the Ruskin Heights PZD shall be designed and stamped by a State of Arkansas licensed engineer or architect, with the exception of accessory structures that are uninhabited and less than 100 square feet in area.
41. The developer has agreed to and shall install a typical screening fence adjacent to any lot within the Broadview and Park Place Subdivisions that share a common boundary with a lot accessed by way of a rear lane (alley) located within Ruskin Heights, at the request of the property owner. Typical fence materials shall be coordinated between the developer and property owner, and shall not exceed six feet in height.
42. To provide additional compatibility and transition in response to concerns by neighbors and the City Council, the developer has offered to remove Planning Area 3 – Bungalow Courts from the Master Development Plan. Of the 24 dwelling units associated with Planning Area 3, 17 dwelling units have been moved to the interior of the project in Planning Area 2 – Livework Townhomes, while 7 dwelling units have been moved to Planning Area 5 – Single Family. This move reduces the density adjacent to both Broadview and Park Place Subdivisions while retaining the same number of dwellings for the overall project. The attached table compares the changes in density, acreage and dwellings in each affected

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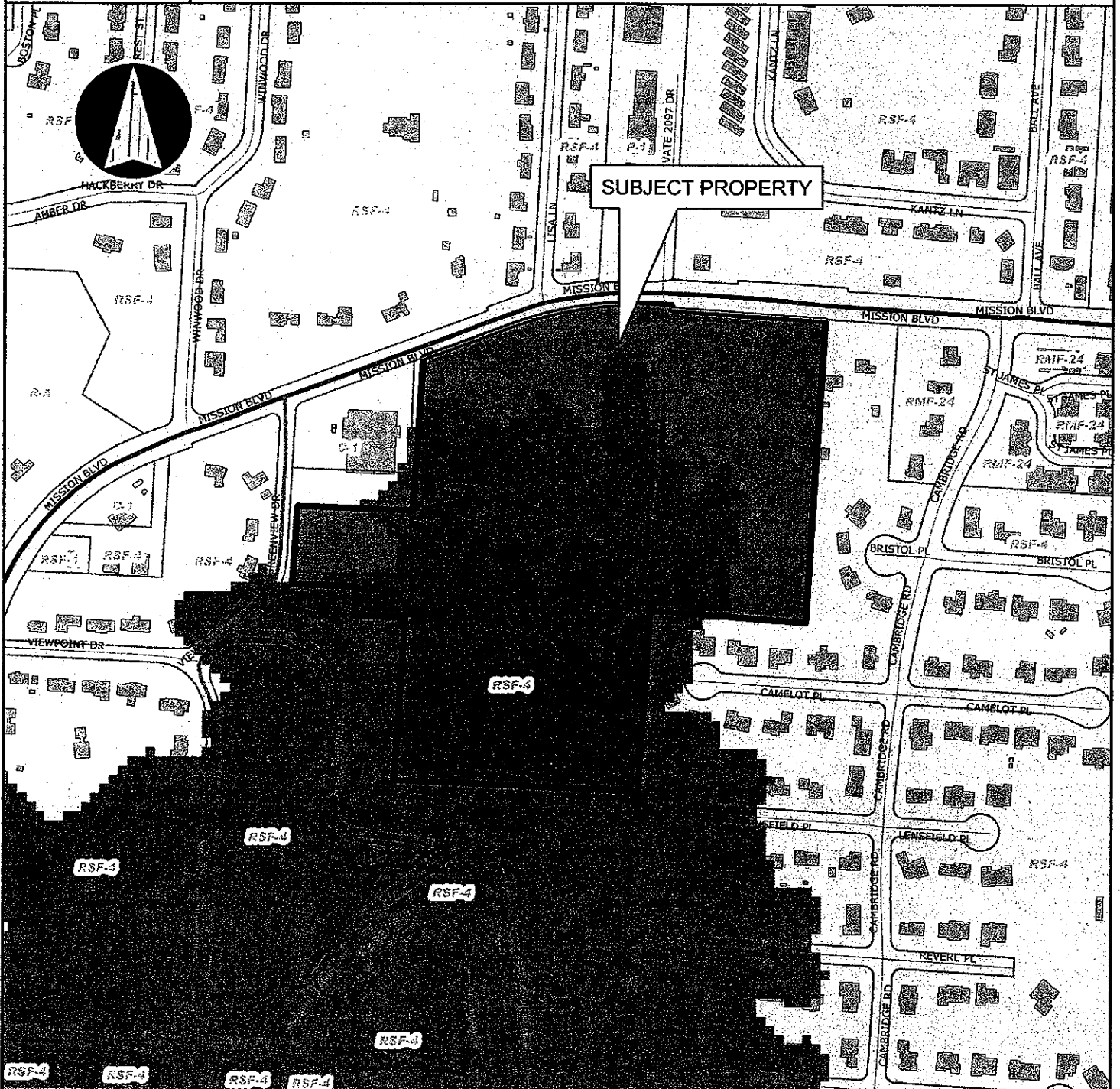
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Planning Area; revised plats and booklets shall be submitted to Planning reflecting these changes prior to submittal of construction documents, and these changes shall be binding to the zoning of the property. Any minor modifications resulting in the shift in units from one Planning Area to another shall be accommodated, with the approval of the Zoning and Development Administrator, with a full review of the revised booklets and plats.

RPZD06-2299

RUSKIN HEIGHTS

Close Up View



Overview

Legend

- Hillside-Hilltop Overlay District
- RPZD06-2299
- vector.GDB.Footprint_2004
- Overlay District
- Fayetteville
- FLOODWAY
- 500 YEAR
- 100 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Outside City

0 162.5 325 650 975 1,300 Feet

Ruskin Heights Amendment No. 1



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
June 3, 2008**

A meeting of the Fayetteville City Council was held on May 03, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Gray, Thiel, Allen, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, Deputy City Clerk Amber Wood, Staff, Press, and Audience.

ABSENT: Alderman Cook

Alderman Rhoads arrived at 6:02.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

Presentations, Reports and Discussion Items:

Mayor Coody: I want to bring Paul Becker up to the podium so he can make a correction in last weeks numbers.

Paul Becker, Finance and Internal Services Director: The State made an error in the cutoff for the distribution of March receipts that were remitted in May. I have been advised today that we will be getting \$245,000 in additional sales tax receipts from the State for the month of March.

This is the City's one penny that collects for operations in capital plus the county turnback. It originally looked like we were going to be 3.67% below last year for the City penny. We will now be up 8.5%. Where it looked like the county turnback was down 10% compared to last year it was only down 1%. At the last Agenda Session I told you that we were down \$210,000 off of budget for the first four months of this fiscal year. This will take us up to a positive \$35,000 above estimates for this fiscal year today. I think this is positive news for us and the citizens of Fayetteville.

Alderman Jordan: Can I ask what the other cities are doing?

Paul Becker: It says Bentonville is up 49%, Rogers is down 2.53%, and Springdale is down 12%. I think we are fairing pretty well.

Agenda Additions: None

Consent:

MR2 Contract: A resolution authorizing the Mayor to execute a contract with MR2 to haul and dispose of solid waste within the city limits of Fayetteville.

Resolution 117-08 as Recorded in the office of the City Clerk.

Steele Crossing Investment III, LLC: A resolution accepting a donation from Steele Crossing Investment III, LLC of approximately 5.06 acres of real property from parts of Lots 8 and 14, CMN Business Park II.

Resolution 118-08 as Recorded in the office of the City Clerk.

Neighborhood Master Plan: A resolution approving the creation of a Neighborhood Master Plan for the Technology Development Corridor; and approving a budget adjustment in the amount of \$4,000.00.

Resolution 119-08 as Recorded in the office of the City Clerk.

Secure Our Schools Grant: A resolution authorizing the Fayetteville Police Department to apply for a Department of Justice "Secure Our Schools" Grant in the amount of \$87,325.00.

Resolution 120-08 as Recorded in the office of the City Clerk.

Roll Off Service, Inc. Amendment No. 1: A resolution approving contract Amendment No. 1 to the temporary hauling contract with Roll Off Service, Inc. implementing a per-ton rate adjustment to compensate for the rapid and significant increase in diesel fuel costs.

Resolution 121-08 as Recorded in the office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read. Alderman Allen seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals: A resolution to approve the hiring of replacement employees for the following positions:

One Parks Maintenance Superintendent

Connie Edmonston, Parks and Recreation Director gave an explanation of the position.

Alderman Jordan: Can I ask what the range is on that?

Connie Edmonston: I did not bring that with me.

Mayor Coody: You might send that information to us tomorrow.

Alderman Gray moved to approve the Parks Maintenance Superintendent position. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

One Fleet Manager.

Gary Dumas, Director of Operations gave an explanation of the position.

Alderman Gray moved to approve the Fleet Manager position. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-1. Alderman Ferrell, Lucas, Gray, Thiel, Allen, and Rhoads voting yes. Alderman Jordan voting no. Alderman Cook was absent.

One Part-time Law Clerk

Casey Jones, City Prosecutor gave an explanation of the position.

Alderman Rhoads moved to approve the Part-time Law Clerk position. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

Resolution 122-08 as Recorded in the office of the City Clerk.

Mayor Coody: We have had a lot of public comment and I have been requested by several City Council members and members of the public to try to synopsise our public comment. I am going to ask something unusual tonight, if you have spoken before on these issues and you have nothing new to add I am going to request that save your time for another issue but if you have

something new to add, that we have not heard before, we would be glad to hear from you. I would like to remind everyone to keep your comments brief because there are a lot of people who would like to speak to a lot of issues tonight.

R-PZD 08-2915 (Hill Place): An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2915, Hill Place, located at the southwest corner of 6th Street and Hill Avenue; containing approximately 27.10 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the May 6, 2008 City Council meeting. This ordinance was left on the Second Reading at the May 20, 2008 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief update on the project. He reminded the City Council of the amendments that were made at the last meeting.

Aubrey Shepherd, a citizen stated there is one thing that would solve a reasonable amount of the threat of flooding downstream and that would be to remove the parking at the southeast end of this project from what was the lowest area on the property, the proposed parking area and make that a huge detention pond.

Mayor Coody: Ron, do you have any perspective on Aubrey's suggestion?

Ron Petrie, City Engineer: That area is probably the closest to the creek. It would be very helpful to have some of the fill removed in that area although where it is filled now it is already filled and it is meeting our requirements. It is meeting the regulations so that would just be above and beyond what we would normally require. I can certainly see some positives to that.

Mayor Coody: Hank is there a chance that we might ask you to talk with our staff and if they can see some positives in maybe tweaking some stormwater detention plans do you think you would be open to at least looking at this to see if they have any ideas that might work for you?

Hank Broyles: I would be glad to at any time. Ron's office made recommendations to us several months ago and we implemented those and then did PH level tests in the stream to see if there was any continued increase in the PH Level and there was not. We have a lot of confidence in Ron's ideas.

Robert Williams, a citizen expressed his concerns about the floodplain.

Lauren Hawkins, a resident near the development stated I don't think something is necessarily better than nothing. She went on to express her concerns about the floodplain and stated replacing the soil would be a great benefit.

Austin Rowser, Engineer for the project addressed Mr. Shepherd's comment regarding the parking area. We have actually made that one of our bioswell features. We have taken the fill that is there and the proposed grades we have are two feet lower and they come up cone shaped. There is some removal of the fill in the middle of that. It is also being turned into a bioswell. Part of the problem with the fill that is placed there is it cuts off a drainage to the north and the previous development did put in a catch box to take some of that water in. We studied that catch box and found it to be too small so we are putting in an extra headwall there so we have second pipe that will carry water from the property to the north back across the project and into the creek. We are aware of that problem and we have taken steps to mitigate it.

Alderman Allen: The original Aspen Ridge project broke humpty dumpty and because that happened we owe it to the citizens to go above and beyond to be protective of what's left.

Alderman Thiel: I understand that the use is not what Aspen Ridge project had proposed however, we all realize the Aspen Ridge project would have been used by University students. The location of this is ideal for what they want to do with it. While it may not be the most ideal use for everyone in the area, you have to listen to what the buyer can do with it financially. I believe the positives outweigh the negatives. Place Properties have listened to all the neighborhoods concerns and had more meetings than any developer has had with neighbors.

She explained the efforts the developer has made. She also stated there are a lot of issues on that site that need to be taken care of. The City has no responsibility to do that. I think there a lot of things in place now that make this a more promising project. Engineering will come after we approve this and I feel like this project will not increase the flooding potential downstream.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-2. Alderman Ferrell, Lucas, Gray, Thiel and Rhoads voting yes. Alderman Jordan and Allen voting no. Alderman Cook was absent.

Alderman Lucas: I respect that neighborhood so much and I would encourage them to look at down zonings.

A discussion followed on the area.

Ordinance 5145 as Recorded in the office of the City Clerk.

Bridgedale Plaza Appeal: An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2904 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. ***This ordinance was left on the Second Reading at the May 6, 2008 City Council meeting. This***

ordinance was left on the Third Reading and then Tabled at the May 20, 2008 City Council meeting to the June 3, 2008 City Council Meeting.

James Atwood, Mr. McDonnell's attorney clarified the accusation on improperly excluding some of the residents of a nearby development that he brought to the City several years ago and stated that it was not true. Mr. McDonnell has made an effort to make this project a win win relationship between both the City and his own economic interest. I think it would send the wrong message to developers who go that extra mile to create that win win relationship to vote no on this project.

Alderman Thiel: Who maintains the detention pond if it is on private property?

James Atwood: In return for the right to use the offsite retention pond for the runoff water the property owners association per the plat and the agreement the City has the responsibility to maintain the detention pond.

Alderman Thiel: But they have to be able to get to it.

James Atwood: Yes. They will not be excluded for that purpose whatsoever.

Alderman Thiel: Is this how it is normally done Ron?

Ron Petrie: That is how it has been done where the City does not accept that responsibility to maintain those.

Alderman Thiel: The POA just has to maintain it, they don't own it?

Ron Petrie: That is correct; it is a very unusual situation.

Alderman Thiel: Who is liable for the detention pond doing what it is supposed to do?

Ron Petrie: There originally was going to be a dry detention pond and there was sufficient volume to handle the additional flows from the dry portion of it. The area where it drains into it was known that area was problematic and it was agreed that it would be handled in Phase II of Bridgedale. I am not completely convinced that it is not working as designed.

Alderman Gray asked about the covenants.

City Attorney Kit Williams: The City does not want to get involved between independently contracting parties. The City is not a party to this contract.

Matthew Petty, a citizen stated this would push the environmental envelope of Fayetteville. The sales tax revenue associated with storage units can't be denied. If you refer to the staff report the Planning staff denied Planning Area 2 on the basis that it did not fit with our 2025 Plan Goals. I urge you to make a decision tonight for all parties involved with those things in mind.

Jimmy Smithe, a citizen stated the other three phases of the development are positive enough to outweigh any negative impact in my mind of the storage facility.

Jim Luper, a citizen asked all the residents of the three neighborhoods who are in opposition to the project to please stand.

Several members of the audience stood.

Michael Wingo, a resident of Stonebridge spoke in favor of the development. He stated I am looking forward to the amenities it can bring without having to get on Highway 16. He stated I would like to have a storage facility close by.

Alderman Allen: I look at this and it seems to me that we have made efforts to make the storage units as positive as we can but they are still a storage unit and these folks are opposed to it and don't want it by their homes. It does not comply with what staff has recommended. Maybe we need to look at it again and see if we want to rethink where storage units belong. The way that it is now I cannot vote for this.

Alderman Ferrell: If this ordinance should fail what do you think most likely would take the place of this development?

Jeremy Pate: A rezoning would have to happen because part of the property is still zoned agriculturally and in this area the potential for a low intensity non residential use to serve this neighborhood is a positive. Staff would continue supporting uses such as that. I believe that supportive services overall are a need. I would anticipate residences, multi-family and single family uses within the boundaries of the project.

Alderman Ferrell: Would you suspect that bearing in mind what is there now that we would see the same lot size on residential construction?

Jeremy Pate: In today's market that is what is being constructed in the City of Fayetteville. We have seen very few RSF-4 preliminary plats come forward recently. We are seeing quite a few planned zoning district proposals with smaller lots.

Alderman Thiel: I appreciate what the developer has done to try to make the storage units tolerable to the neighborhood and the concessions he has made with the project. The neighborhood still feels strongly about the storage units. I don't believe this is an ideal location for them. I would love to see Clint come back with something to make up monetarily within that area where the storage units are. I don't see how I can support this at this time.

Alderman Jordan: Why were you not in favor of the storage units being in this development?

Jeremy Pate: Looking at policy decisions the Council and Planning Commission have made many storage facilities we as staff looked at is to see if is a compatible use and would it contribute to a community in conjunction with our six primary goals of the City Plan 2025. For

us it's a compatibility issue and the land use pattern that was being proposed with a mini storage use does not contribute to a neighborhood environment.

Alderman Jordan: So to sum it up it just doesn't fit.

Alderman Lucas: The ordinance that we currently have makes storage units a conditional use. You can't have a conditional use in a PZD I understand.

Jeremy Pate: What we would do in a conditional use is look at what kind of screening, trees, fencing and that is what the Planning Commission would look at as a conditional use. Mini Storages are not allowed even as a conditional use anywhere within a residential district. They are allowed in industrial and heavy commercial, if I ask myself could this be zoned C-2 and have a conditional use I would have to say no.

Alderman Jordan: What is the normal square footage of what you usually see?

Jeremy Pate: They vary so widely. Most of them are in industrial districts around the city.

Alderman Jordan: Would this be the largest you have ever seen in a residential area?

Jeremy Pate: I am not aware that we have any mini storage in residential areas.

Alderman Gray: I feel conflicted about this project. I have visited with the owner and developer a number of times. I have listened to our Planning staff and I feel at this time in view of what the Planning staff has recommended to us and in view of our visits and feelings of the resident I just don't feel I can support this at this time for the City of Fayetteville.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 2-5. Alderman Ferrell and Rhoads voting yes. Alderman Lucas, Jordan, Gray, Thiel, and Allen voting no. Alderman Cook was absent.

The ordinance failed.

Forest Hills PZD Rezone Appeal: An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2793 Forest Hills, located at Wedington Drive, south of Salem Road, containing approximately 82.38 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the May 20, 2008 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

(Note: A motion was made on Page 13 of the minutes to change the agenda to discuss Item # 5 (Forest Hills Master Street Plan Amendment Request) before finishing the discussion on Item # 4 (Forest Hills PZD Rezone Appeal). The discussion started at this point in the meeting on Unfinished Business # 5 (Forest Hills Master Street Plan Amendment Request).

Forest Hills Master Street Plan Amendment Request: A resolution for R-PZD 07-2793 Forest Hills amending the Master Street Plan, realigning Golf Club Drive, a proposed north-south collector street, as described and depicted in the attached maps. *This resolution was Tabled at the May 20, 2008 City Council meeting to the June 3, 2008 City Council meeting.*

Jeremy Pate: I just passed a memo out with potential changes for your consideration tonight. The first is potential for an additional condition of approval regarding Salem Road extension with Phase I. Secondly because all this is intertwined as the Planned Zoning District and the Master Street Plan Amendment has ramifications on that I want to go over that.

Jeremy displayed 3 different maps which showed three different options. He briefly explained the options.

Option #1 is to remove the existing diagonal Master Street Plan that connects Golf Club Drive to Mountain Ranch at Persimmon and replace it with a collector street interior to the development. This would remove any connection to that intersection whatsoever.

Option #2 is what staff has recommended in your current reports. The diagonal line is replaced with a straight line along the east side of the Ozarks Electric property and connects up to a public street also within this development.

Option #3 would be to realign that street along the common boundary. It still lines up with Golf Club Drive but then goes to the common property line and connects back up to the Forest Hills project and Salem Road.

Staff is not in favor of Option #1 however that is what both property owners would prefer. We feel it is a very important street to have to connect to that intersection of Wedington and Golf Club Drive simply because that is a planned and funded signalized intersection. Either Option #2 or #3 makes that same reality come true for future development. Option #3 is more equitable to Ozarks Electric because it divides the responsibility onto two property owners as opposed to one.

Staff did not recommend approval of the Forest Hills project and neither did the Planning Commission. You are obviously charged with a final decision on the rezoning application. This is a rezoning and land use only it is not a development application so we are not really looking at the details of the development. This is more of a Master Plan level of project.

Mayor Coody: On Option #3, was this ever presented in the past and rejected for some reason or is this the first time we have seen an option like this for the project?

Jeremy Pate: This is the first time we have looked at an alignment along the common property boundary.

Mayor Coody: That is generally what we try to do right?

Jeremy Pate: It depends. You will notice in our Master Street Plan around the City that it certainly does happen in some instances. It is very common for two property owners to share in those expenses so that the development cost is not thrown to one property owner.

Mayor Coody: I see the issues on both sides how Ozarks Electric didn't like the idea of the street being on their property and now here we are on the third reading and now the option is to split it with the project that has been through the process now for several months. I can see how that would be frustrating to the Alford development as well.

Jeremy Pate: We did take a look at what ramifications it would have. We did discuss this with the engineers for the project today and they may be able to shed some more light on what they came up with this afternoon.

Mayor Coody: If the City Council approves Option #3 would the Wal-Mart Development be required to build this half of the road or would it remain unbuilt until the Ozarks property develops?

Jeremy Pate: It would likely remain unbuilt simply because a half of a road wouldn't really serve anyone unless they wanted to utilize it for access to their drive. The actual connection to Wedington would not occur unless Ozarks Electric sold the property and developed.

Alderman Jordan: On the Option #3 plan how will that affect the developer?

Jeremy Pate: The immediate affect would be some right of way dedication. We would likely consider that a thru collector which requires half of 59 feet. I believe it would just affect one building. It would certainly affect some parking. We did scale where the line would be. We are looking at a concept level plan so we expect that there will be changes when this comes back through with a large scale development. There may be changes that occur regardless of whether this happens or not.

Alderman Jordan: The connection from Wedington to Persimmon, would that road be built?

Alderman Lucas: Salem Road.

Jeremy Pate: It is part of this project. Whether it would be built in Phase I or not that is something that the developer and Council have been discussing. That was not part of our recommendation originally.

Alderman Jordan: So basically we are saying that we would "L" this thing in and then piece mill this road down through there.

Jeremy Pate: The proposal that was presented before staff and the Planning Commission was not to extend Salem all the way to Persimmon.

Alderman Jordan: I understand that but he is offering to do that. Otherwise this road is probably not going to get built anytime soon. That means that everything that is built on this first or second Phase is going to pile onto Wedington without anyway back to Persimmon.

Jeremy Pate: I have not discussed if there is any changes in the developer offering that road or not.

Alderman Jordan: Probably Mr. Alford won't want to offer that being that you are going to take a chunk of his property and he is going to have to do that road. I wouldn't.

Alderman Lucas: On Option #2 that goes down the line again?

Jeremy Pate: Option #2 doesn't quite go along the property line. It is more on Ozarks Electric Property and then it goes down to a proposed public street.

Mayor Coody: I think it is completely on Ozarks property until it gets down and takes a hard turn.

Alderman Jordan: So that wouldn't affect Mr. Alford's property?

Jeremy Pate: It would affect Ozarks Electric property more.

Alderman Lucas: I am concerned about Salem getting built all the way to Persimmon. What would be the option of using Option #3 down to that road instead of going all the way to Persimmon?

A discussion followed on the three different options.

John Alford, Managing Partner for Forest Hills: We are in reverse order here and the street amendment is actually after the zoning but because it impacts our development I would really like you to consider that street amendment first before we get to the zoning. There are several things I do not like about it. Mr. Alford explained his concerns about the options.

He went on to express his concerns about the street amendment and the streets he is going to build in this project. I am not interested in an additional street right of way that I am going to have to give the land, the landscape buffer and then make a contribution when we go in for the development to pay for half of this street that probably will never be built. I would appreciate it if you would vote to abandon the street like we originally requested.

Mayor Coody: We understand your position. We made it clear to Ozarks Electric that their obligation would be on paper but nothing in reality for anytime on the time horizon. They asked us to make an option for the Council to consider that would split this between both properties. We are on the last reading and to bring this up now is not fair to anybody. Staff is doing what

they were asked to do and trying to be fair to both sides. I appreciate their work on this but I think that the Council will probably find a way to try and accommodate your development as well as minimize the impact to Ozarks as well.

John Alford: I think we are all in agreement that probably nothing will ever be built there. For my development I am going to have to pay money and give land that I can't use if the street is approved where it goes on the border of both properties. I think Ozarks Electric wants the street abandoned as we do and that is the number one choice. I am willing to give a private curb cut over on the west side of our property where the drive is between the Neighborhood Market and the out lots to allow the customers of Ozark Electric to verse back and forth between the two projects. My cost in this has gotten way out of hand and I am willing to do exactly what I said I would do which is build Salem in the first phase and pay for it and the other improvement to Persimmon as well as Jewel Street.

Clinton Bennett, a citizen: After hearing Mr. Alford speak as a citizen if we get the opportunity to get 6,000 square feet of roads that are added to our community in a positive way I would hope that you would support that.

Danielle Ellis, with Crafton and Tull Sparks representing Ozarks Electric: They are in favor of abandoning the street. They have concerns with showing the street in their parking lot. Their concern is with the alignment shown in Option #2 their whole parking lot is gone and part of their yard that they are building right now is gone as well and it leaves them with no place for their members to park if that were to happen. Once that line is on the paper it is there.

Rebecca Price, Attorney representing Ozarks Electric: Ozarks Electric's first choice was always to eliminate this. Option #3 would be our second choice. What we have a problem with is Option #2. I would ask that you bare in mind we are being asked to have a line on our property entirely as a street that may have to be built that is not a result of anything Ozarks Electric is doing now or ever plans to do as far as we know. There is no rational for putting the entire thing on us. Remove it per Mr. Alford's suggestion or divide it down the property boundary line. We are concerned with Option #2. I would again ask you to eliminate it or go with Option #3.

Mayor Coody: This wasn't just moved over to Ozarks Electric. This was approved by the City Council in December of 2007 so it has been on the Master Street Plan for about a year and a half it's just that Ozarks didn't know about it until recently.

Alderman Jordan: I propose that on the street that we take Option #2 and we line it up with Golf Club Drive and take it as far as Jewel Street and then from there on we abandon it down to Persimmon. In return Mr. Alford will build Salem from Wedington down to Persimmon in the first phase.

Alderman Jordan moved to amend the Master Street Plan to take Option #2 and line it up with Golf Club Drive, take it as far as Jewel Street and then from there on we abandon it down to Persimmon. In return Mr. Alford will build Salem from Wedington down to Persimmon in the first phase. Alderman Lucas seconded the motion.

This amendment was not voted on. It was amended. See below.

Alderman Thiel: Normally I would support that but after hearing the discussion about abandoning this, I actually favor abandoning it. If you don't take it all the way down to Persimmon you really haven't gained a whole lot.

Alderman Jordan: Let's take it all the way to Persimmon then.

Alderman Thiel: Your amendment though is to stop it.

City Attorney Kit Williams: Since we are out of order in our agenda why don't you make a motion to adjust your agenda so you can consider Old Business #5 right now?

Alderman Ferrell moved to adjust the agenda and consider Unfinished Business #5 Forest Hills Master Street Plan Amendment Request before considering Unfinished Business #4 Forest Hills PZD Rezone Appeal. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

Alderman Jordan: We could hold this here and take it to Street Committee next week.

Alderman Thiel: I am on the Street Committee and I would prefer we thrash it out tonight and I believe that is what the developer would like for us to do.

Jeremy Pate clarified Alderman Jordan's previous motion to amend.

Ron Petrie: If you look at the existing Master Street Plan there to Jewel primarily on Ozarks Electric you may consider leaving the existing Master Street Plan as it is to Jewel and just eliminate everything south.

Alderman Jordan: That is what I meant to say, abandon it from Jewel down. Then just make your "L" a little higher.

Alderman Thiel clarified the Master Street Plan lines on the map.

A discussion followed on the master street plan lines.

Mayor Coody: Would you amend your amendment?

Alderman Jordan: I will.

Alderman Lucas: I will amend my second.

Alderman Jordan: To follow the Master Street Plan as it's on the map to Jewel and then abandon it after that.

Alderman Jordan moved to amend his amendment to follow the Master Street Plan as it's on the map to Jewel and then abandon it after that. **Alderman Allen** seconded the motion.

This amendment was not voted on. It was amended. See below.

Alderman Thiel: I hope that the people in the audience representing these companies see the difference and see that this is splitting the difference.

Mayor Coody confirmed that they were in understanding.

John Alford clarified the proposal. He stated it looks like that within 50' or 100' of Jewel it crosses our property. If we could define that that is where it crosses then I could probably live with that.

Alderman Rhoads clarified the location for Mr. Alford.

Mayor Coody: It is not surveyed out on any real estate. Our guess would be just as good as yours since it is just a theoretical dotted line on a map right now. It looks like it does come onto your property 100'.

John Alford: I would ask you to consider that we would have to give the 30' of right of way for about 100' there. I would also ask that we not have to make any payment to the city for that road with the understanding that it is very unlikely that the road is going to be built.

Mayor Coody: We wouldn't ask for any kind of payment in lieu for Golf Club Drive extension would we?

Jeremy Pate: That is usually something the Planning Commission considers when they have look at the development. In most applications there is an assessment for a half a street for the portion of frontage that is along this property and we have several of those in town.

Mayor Coody: In this scenario what would the staff's recommendation be to the Planning Commission on this?

Alderman Thiel: Even though it is not built you would require that assessment and not plan to be built?

Jeremy Pate: It is called a delayed off site improvement in our ordinances and the Planning Commission determines if the improvement is a realistic improvement there is an assessment that can be taken for five years. After that five year period if it's determined that that improvement is not going to occur and it can be returned back to the development.

Alderman Jordan: This is why we need impact fees.

Ron Petrie: If we were still talking about extending Salem in Phase I, if there was an assessment it would probably be delayed late into the project at a very late phase.

Mayor Coody: If we give the money back after five years and we are pretty certain that this extension of Golf Club wouldn't be built in five years then it would seem reasonable that we could amend this to Alderman Jordan's recommendation and maintain the Master Street Plan more or less down to Jewel and make a recommendation not to assess delayed offsite improvements to the developer. Would that be a reasonable assessment?

Jeremy Pate: If that is part of the motion.

Alderman Jordan: I will stick that on the motion.

Alderman Lucas: I second.

Alderman Jordan moved to amend his amendment by adding "and not assess delayed offsite improvements to the developer." Alderman Allen seconded the motion.

City Attorney Kit Williams: I noticed that Jewel is a private road so we would have a collector going down to connect to a private road.

Mayor Coody: We don't allow private roads to connect to public roads isn't that right?

Jeremy Pate: We do but not typically collector streets. That is why all your maps show an extension over to Salem. The two options that are shown show an extension to Salem Street as a public street. It is likely that it would be constructed to public street standards to handle the traffic that Wal-Mart is going to have on it. I would anticipate that would be part of this recommendation but I am glad you clarified that. If it is not intended to be a collector street that connects to Salem it essentially is a dead end collector that doesn't really get a public street connection back to Salem or to the west.

Alderman Lucas: Are you talking about Jewel?

Jeremy Pate: Correct, they are not proposing Jewel to be a public street at this time west of Salem.

Mayor Coody: This leaves us with a motion and a second to approve leaving the Master Street Plan to Jewel and not having the off-site improvements assessed.

Alderman Jordan: The reason I want to leave that connection to Wedington, someday we may need that connection. I want to be sure that we have two connections coming out of the development.

Alderman Lucas: We have Salem and Ruppel and nothing in between at this time. That is why I am concerned about it.

Mayor Coody: Jeremy, if we do cut off the Master Street Plan dash line from Jewel on down to Persimmon if Ozarks ever were to sell to Mr. Alford and he wanted to develop it then the staff and the City Council could still make that a requirement for approval.

Alderman Lucas: Did we decide that that is legal to go down to Jewel?

City Attorney Kit Williams asked with Mr. Alford whether or not this is acceptable to the applicant.

John Alford: The aerial that we have an overlay on shows that the Master Street Plan as it now exists touches our property at the south end of the existing parking lot of Ozarks Electric and that might be a reference point as to what the distance is and where it actually meets the property line.

Jeremy Pate clarified that the Master Street Plan is in GIS and they could very accurately determine where the line exists along the parcel lines.

John Alford: On the issue with Jewel Street yes it is going to be built to City standards but it is currently on our plan as a private road. It will be fully built as part of the development all the way to the Ozarks Electric property line.

Mayor Coody: Why would it be a private road?

John Alford: The city has some ordinances with regard to how Wal-Mart would have to build the back of their grocery store if it was a public street.

Alderman Lucas: I thought the store faces east.

John Alford: The store faces north.

Mayor Coody: Jeremy, if this was a public street and Wal-Mart was facing Wedington would that still be a public street instead of a private street?

Jeremy Pate: If it were a public street our ordinances require it to be designed to at least resemble and be articulated as such if it were a public street.

Mayor Coody: So basically we are requiring them to make this a private street if we want Wal-Mart to face Wedington?

Jeremy Pate: Yes, if the street and Wal-Mart are located where they proposed it that is correct.

Alderman Lucas: It was my understanding that we asked them to turn the store.

John Alford: Our original design had the store facing Salem which would be facing east. At the request of staff we turned the store to face Wedington.

Jeremy Pate: The motion is to leave the existing Master Street Plan in place from the intersection of Golf Club Drive and Wedington down to Jewel as a collector street, and to make a recommendation to the Planning Commission to not assess for the street connection for future development and also that Salem Road essentially becomes the collector street.

Alderman Lucas: And all the way to Persimmon in the first phase.

John Alford: Yes that is correct. Salem will be built in Phase I from Wedington to Persimmon and it will be a collector street and become a part of the Master Street Plan.

Alderman Jordan: That gives us two exits for future if we need it.

Upon Roll call the motions to amend passed 6-0. Alderman Thiel was absent during the vote. Alderman Cook was absent.

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

Resolution 123-08 as Recorded in the office of the City Clerk.

Forest Hills PZD Rezone Appeal: An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2793 Forest Hills, located at Wedington Drive, south of Salem Road, containing approximately 82.38 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

Mayor Coody: We are now on the Forest Hills Rezone Appeal on the third reading.

John Alford gave a brief description of the development plan.

Alderman Jordan: Mr. Alford could you tell us why you can't mix the houses in with some of the townhouses.

John Alford: We have discussed this matter with regard to the various mixed housing. One of the concerns that we have about those kinds of projects is they are very difficult to finance. We have mixed up the various types. We have four living types in this development. We have done everything that we can do to accommodate staff's concerns and your interest in the 2025 Plan.

Alderman Jordan: What is your price range on the garden homes?

John Alford: The garden homes would start at \$125,000 to \$135,000. You can make it more expensive by adding a lot of things to the interior.

Alderman Jordan: How many of those do you have?

John Alford: I believe there are 80 units shown.

Alderman Jordan: Starting at \$125,000?

John Alford: Yes sir.

Alderman Jordan questioned the rain gardens and detention ponds.

John Alford: We have talked with Sarah Lewis and her company about the possibility of participating with us in some design of some of these areas. We hope to eliminate some detention on the southwest end of the property. I think we can work with the floodplain area and we are going to try our best to eliminate as many detention areas as we can.

Alderman Jordan: And replace with rain garden?

John Alford: With rain gardens, bioswells and that sort of thing.

City Attorney Kit Williams: I think that Jeremy suggested the term of condition about building the road all the way through. Is that something that needed to be added at this meeting?

Jeremy Pate: I believe it was actually added to the last item.

City Attorney Kit Williams: I think it should be a condition of approval to this PZD though.

Alderman Jordan: Do we need to add something about the rain gardens and bioswells?

Mayor Coody: I think that if Mr. Alford is going to talk with Ms. Lewis and trying to do some good there I think we will take him at his word on that.

City Attorney Kit Williams: That will be condition of approval #22.

Alderman Jordan moved to add condition of approval #22 to the ordinance. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Cook was absent.

Ordinance 5146 as Recorded in the office of the City Clerk.

Alderman Ferrell: When will the Wal-Mart neighborhood be open?

John Alford: Our plan is to submit a large scale fairly quickly within 30 days and we hope it will be out for bid by December.

New Business:

Abshier Heights Planned Zoning District – Extension of Approved PZD: An ordinance to waive Chapter 166.20 of the Unified Development Code, expiration of approved plans and

permits, for the R-PZD 06-1883 (Abshier Heights) and to provide for a one-year approval extension.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: In April, 2006 the City Council approved a planned zoning district called Abshier Heights with 23 dwelling units on four acres. They had the typical one year with a one year extension available to them which they did exercise. One building is close to being completed from what I understand. That building will be utilized to market the rest of the project. Much of the infrastructure is under construction currently. A lot of the infrastructure underground has occurred. It is simply the building permits for the remaining five buildings that have not been completed. We are recommending a one year additional time frame in which the applicants will be able to obtain those building permits, in accordance with all the other standard requirements and conditions of approval they would have to meet.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Allen seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Cook was absent.

Ordinance 5147 as Recorded in the office of the City Clerk.

Role of the Government Channel Discussion.

Mayor Coody: The last item of the agenda is the role of the Government Channel discussion. Nancy you brought this forward.

Nancy Allen: Yes I did. It seems that I have often taken on the role on the Council of being a question asker. Sometimes I know the answers to the questions when I ask them and other times I don't. I think some things need to be asked because citizens have a right to know and by asking questions you get more sunlight in government and the more sunlight you have in government to me the better it is, if it doesn't feel right then sometimes it is not. I have some questions and I was hoping others would and we could have a little discussion about this.

I will start off with asking the question. Why did the forum stop after all these years? Whoever wants to answer the question, I do not know who they are directed to.

Susan Thomas, Public Information and Policy Advisor: Mayor, we may want to consider a new title for this position. There have been several recommended over the last couple of weeks. I wanted to bring those to your attention. Self appointed cable czar, which I thought was a good option, public information czar, propaganda minister, minister of enlightenment and propaganda and tonight someone thought maybe I should add minister of enlightenment and intelligential enforcement. That may be a discussion that we want to have down the road.

Mayor Coody: None of them mentioned the word conspiracy in there. I am disappointed.

Susan Thomas: Well I will work on that. I will get that started. To address Alderman Allen's first question seriously, after the April 30th forum the definition of limited public forum became clear to me. Limited public forum is what is allowed in the Council approved policy set for the Government Channel and in listening to that forum and in my conversations with Kit it became apparent to me that what we were doing was outside the established policy. Some people will argue that I set new policy, some people might argue that I was outside of my prerogative or jurisdiction but I think that if you look at what the policy says it clearly outlines limited public forums. If you listen to the conversation that was on April 30th what we were doing falls outside of that legal definition as it was presented. So, the next day I had another conversation with the City Attorney and it seemed that we should probably stop breaking policy so the planning for the two forums was stopped. Those were the only ones that I think official planning had started on. That was the high school location and the Walton Arts Center expansion. There are several other forums that have been proposed, requested, but none that had formally started a planning process such as those two.

Alderman Allen: Okay I have quite a few here.

Susan Thomas: Shoot, go right ahead.

Mayor Coody: Does that answer your first question?

Alderman Allen: Somewhat. It seemed to me Susan that when you said you were going to take over as the administrator to give the administrators report at the Telecom Board that's really equal to taking over what seemed to me to be an independent channel that was away from politics.

Susan Thomas: I would have to respectfully disagree with that. The Cable Administrator position is the director of the Cable Administrator Division which I supervise. There was no employee in that position; there was nobody at the Government Channel that expressed any interest in taking up the duty of serving on the Telecom Board so I am not sure how a supervisor usurps subordinate positions duties. I am not sure that is possible.

City Attorney Kit Williams: Can I add something to that too? The recommendation that forums be shown on the public access station, not to be stopped but to be shown on the public

access as opposed to government, was expressly to remove any possibility of politics being shown on the Government Channel. My concern on there is that I think the government channel should be showing the government in action. Gavel to gavel coverage of the meetings not only of this board, but all the important committees in the City. When it comes to advocacy or politics or promotion, that really should not be on the Government Channel. That should be on our public access channel. The difficulty I had when I was talking to Susan about this was trying to figure out: "could I come up with some definition that would meet constitutional standards and challenged before a court to have some sort of forum that would not go over into the area of advocacy, promotion, or politics?" I didn't think I could really come up with a definition like that because when you are having a discussion among people in a round table, then people are going to say what they think. Who is going to be the moderator to say wait a minute, I am the czar, I am the idea czar and now you are getting into advocacy so I am not letting you talk any more? That to me is a situation that we should not get into especially when we have a public access channel that is our free speech channel that anybody can get involved in. That is, to keep politics away from the Government Channel is why I thought it made more sense to have the free wheeling, public affairs sort of forums to be shown on the public access channel which is what I thought that it was designed for. I thought the Government Channel was designed for the government coverage, but not a free wheeling sort of public forum.

Alderman Allen: I think an argument could be made that the City Council is a forum.

City Attorney Kit Williams: We do have actually a limited public forum here, we allow comments, but the comments must be based and directed toward the agenda item. That is okay that will meet constitutional muster. I am not concerned about that going into court because it is not an unlimited public forum. It is limited right to the agenda items that are before the Council. We have created a limited public forum, in this room, for that. That is fine, and I think that is certainly defensible.

Alderman Allen: I will come back to that because I am not a lawyer and don't even play one on TV here. Who is in charge?

Mayor Coody: Who is in charge of?

Susan Thomas: Who is in charge of?

Alderman Allen: Of the Government Channel.

Susan Thomas: Right now Rick Delahoussaye is in charge of the administrative day to day stuff, the scheduling, making sure the guys are here to film the meetings, the programming, developing the schedule and running the operations.

Mayor Coody: He has been down there for how long?

Susan Thomas: Quite some time. I don't know exactly how long.

Mayor Coody: At least eight years.

Susan Thomas: A long time.

Alderman Allen: It just seems to me that if we shut down these kinds of discussions on the Government Channel we are shutting down our opportunities to have different perspectives and ideas. I think an argument could be made that we are doing that same sort of thing on the Government Channel now with gavel to gavel idea for example when the Council and people were speaking for the tax a couple of years ago, the Four, For, For vote should there have been a disclaimer for that? Was that illegal?

City Attorney Kit Williams: I think that there should be a limit on how much promotion would be going on even at a City Council meeting. You certainly have to decide whether or not you are going to vote for a tax and to discuss the issues about that. That is clearly proper to do. On the other hand I think that the City Council should during a regular meeting refrain from being cheerleaders and say everybody out there needs to go out and vote for the tax. I think that is probably something I would like you not to do.

Alderman Allen: Do you think we did that? I wasn't on the Council then.

City Attorney Kit Williams: I don't remember that happening at one of the meetings.

Alderman Allen: I am talking on the Government Channel there where promotions for the, I am not saying there should not have been, I am just saying that there were.

City Attorney Kit Williams: There was one kind of press conference like thing that I saw that Mr. Bemis had saved and put on Goggle. I don't get the Government Channel so I didn't see it before, but I saw it then and everyone had t-shirts on Four, For, For Fayetteville. If I had been asked about that ahead of time, I would have recommended that that not be on the Government Channel. That should have been on public access or just on a commercial station. That would be my recommendation in the future. I would like to see all advocacies in a promotion like that not on the Government Channel. Although I will say I am a little more lenient than Katherine Shurlds, who is the University Professor that wants to have all of that off. I think we can still have debates, electoral debates on the Government Channel because I think that can be done in a way that will meet the Constitutional requirements that we don't have any discretion on what is being shown. In other words I could write the rules that would say that if you are a candidate that has filed for election or reelection, prior to the election, during that period of time after the filing date and up to the election that there can be debates handled by a nonpartisan group like the League of Women voters on the Government Channel. That is a narrowly drawn definition. There is no discretion. In other words, the government doesn't get to say who is on and who is not. It is just whoever is a candidate. I think that would pass the free speech Constitutional muster, and we could still have that on the Government Channel. My problem was that when we get into public forums I don't know how to define them in such a way that the courts will say that we are not exercising our discretion to determine whose view point gets expressed.

Alderman Allen: Why did that change Kit? Why is that a concern now and it wasn't a year ago?

City Attorney Kit Williams: Frankly I didn't realize that all of this was going on. I have actually participated in round tables but I assumed that they were going to be shown on public access. When it was brought up, they requested this forum on forums, I got educated when I participated in the forum on forums and found out about what was going on and realized that we were in fact creating a public forum on the Government Channel. You can do that if you want to, you certainly can do that. It is not earth shaking. The sky is not going to fall, and the world is not going to end if we continue to have forums on the Government Channel. It is a policy decision that you can make. But what I want you to know is that we really will have real difficulty limiting what these forums are going to be. There might be view points that you don't want to hear. It might not be on the kind of issues you want to hear and the government can't be in the issue censorship business. If we allow that be prepared for whatever somebody might ask to be shown there. The second thing is there will need to be money appropriated for the Government Channel to continue to do this and there will be a limited number of public forums that they can finance. My recommendation to Susan if that is your choice then it is a first come first serve. You do it at the first of the year, and everyone gets in line. Once the first six have been financed, then there will not be any more the rest of the year unless you want to do a budget adjustment. But it can be done. The public forums that have been done in the past, I don't have a problem with any one of them. I sat on one with some cell phone companies, and I thought that was interesting. I don't have any problem with what has been shown on there now and maybe things won't change. I don't know, but from my perspective I wanted to bring this to your attention that the government channel was basically designed to educate our citizens and give them a clear view of their government in action rather than something that might really not have much to do with the government.

Susan Thomas: I would also like to add to the question of why it is just now coming up. It is just now reaching this level of an agenda. It is just now reaching your agenda. It is not a new debate; it's not a new issue. The conversation has been had multiple times over the years; some of you have been involved in those conversations. This particular conversation started three years ago this month when the Telecom Board developed a policy sub-committee to look at a new Government Channel Policy and from that was born the Policy and Procedures Sub-committee. So it didn't just come up, it's not a new issue. There are this many meetings that have been had just on policy and procedures. So it's not new, not a new issue.

Mayor Coody: If I remember my dates right, in 2000 there was a City Council debate on this issue and then 2003. I said three years ago it started again and here we are in 2008. So this has been going on for a while. And I am sure it was going on before 2000 as well.

Susan Thomas: I have an article from 2000 and I brought copies for you all because it might as well have been in today's paper. It was funny going back and reading all the history, all the articles from the last eight to ten years, a lot of it, they are the exact same questions, they are the exact same issues and for whatever reason the matter hasn't been resolved. I think the matter hasn't been resolved for some of the reasons that Kit was just talking about. We keep trying to create a limited open forum. You just can't do that. The model that I am recommending and Kit's recommending is actually the strictest model, Professor Shurlds would be a little stricter than what Kit is proposing, but it is the strictest model that you can have for programming that would limit the potential for partisan influence, political influence, for anybody. One thing to

keep in mind is that just because a board is appointed doesn't mean they don't have an agenda. That is true for every board and commission across the City. You all appoint those individuals to serve, they have an ordinance that dictates what they do, Planning Commission has their rules, but it doesn't mean that they are going to be impartial, it doesn't mean that they are not going to have an agenda and somebody is going to have to be making decisions on what we are going to show and what are we not going to show. Who is going to participate and who is not going to participate? Who gets to make those decisions? The Mayor, me, the Cable Administrator, the Telecom Board as a whole, who gets to make those decisions? Who is fair enough, who is impartial enough, to make those decisions? Based on what I have read I don't think that many people would be happy with anybody that you put in that position. The person who gets put in that position is probably not going to be happy about it either.

Alderman Allen: Well let me just run on down my questions here and then hopefully some other Council members would like to comment and people in the audience. One thing I wondered about was since I was the one that requested that round table about the school location; I thought it was unusual that I didn't find out about it from staff. I found out about it from another email and that seemed, I don't know, does the staff trump the Council's opinion on what is to be on? I didn't understand why I wasn't informed.

Susan Thomas: That was a mistake and you should have been informed. The decision was made very shortly after the forum to do that. There were a lot of other things going on that week in relation to the PEG Center and the administration of that center, there were other things happening. I will take responsibility for that, that fell through the cracks and you should have absolutely been notified first as the requester of the programming.

Alderman Allen: Okay, what percentage would you say of the current programming is devoted to forums before it got shut down.

Susan Thomas: Again I want to reiterate that no one is suggesting that we not do the forums. It is what channel the forums are on. So I don't think it is fair to characterize as shutting them down.

Alderman Allen: On the Government Channel.

Susan Thomas: We are not proposing they be shown on the Government Channel anymore. It's limited, I think if you read Marsha Meinichak's article in the paper it listed the forums. I have a list of the forums over the last two years. The candidate forum, the number of those is lengthy and that is just during election season and you will see those a lot and they get played a lot for good reason. As far as the issue forums go, I've got the list.

Alderman Allen: That's okay.

Susan Thomas: Okay.

Alderman Allen: Okay, then who is going to determine what it is we are going to learn in the rest of the programming on there? I have been watching it a lot lately and I have seen; and I like

the Kate Brothers, but I have seen them play a whole lot out at Gulley Park and I saw the dedication of the courthouse three or four times and who is going to decide?

Susan Thomas: That is an important question and that is one of the things that I have had a problem with. How are these decisions being made, who is deciding? Who is deciding to put a 1992 Gulley Park concert on the channel?

Alderman Allen: Well shouldn't it be that the Telecom Board just submits a policy.

Susan Thomas: It should be so clearly articulated and outlined of what is allowed and what is not allowed that there is no question and there is no decision to be made. There is no "well maybe we should show this or maybe we shouldn't" or "maybe this is a good program or maybe it isn't." There should be some procedure things put in place that says okay we are not going to show a fifteen year old Gulley Park concert or the University concerts, should we even be showing the University Symphony and the other musical events from the University. I don't think that we should, I don't think that those programs should be on there. But for whatever reason they were being programmed. That was one of the issues that I had a problem with and I couldn't get a clear explanation on what was the philosophy behind how we did the programming. I think that is an important thing to answer. There shouldn't be a lot of room for creativity in there. It should be clearly spelled out.

Alderman Allen: I think we need some absolute definitions.

Susan Thomas: I couldn't agree with you more. The concerns that people have voiced over the last few weeks about political influence and manipulation and controlling the channel are legitimate concerns which is why you want the strictest model of programming in place for the Government Channel which is not what we are doing right now.

Alderman Allen: Maybe we need to look at a sub-committee but you didn't answer my question about shouldn't the Telecom Board just submit a policy.

Susan Thomas: I think the Telecom Board would be completely within their purview to recommend a policy to this Council on how to run the programming. I think that is probably the more appropriate avenue to go.

Alderman Allen: Okay, I will stop for now and let somebody else say something.

Alderman Thiel: I just want to follow up on some questions that were asked. Well maybe I just want to respond to some of your questions and my reaction to them. You know one of your last questions related to showing these old things and things that have been taped. One of the complaints I hear from people is that they don't get enough repeats of basically the government. The City Council meetings, the committee meetings, a lot of people work during the times that they are shown, they can't catch one. They are asking a lot of times requests for copies and so forth. I feel like if you fill that up with Government meetings even if they were repetitive following the meetings I think that would be a good thing. I have heard people complain about that they have to tape them so they can watch them because they are not shown frequently

enough as a follow up. Instead there is this other stuff that could be shown on the Public Access. I might as well jump into this because I have always been a huge proponent of Public Access for years and years. I don't know if I necessarily agree with Katherine or the City Attorney about candidate forums however when I was President of the Local League of Women Voters, Richard was involved back then and we did the forums through Public Access, CAT. Marion Orton was a big instigator in that because she wanted to promote CAT and get producers down there. We always had five or six reluctant league members becoming producers just so they could produce, we had to do it all, but it was great fun. We did that for many years. So I guess there is a lot to be said about the candidate forums, I am not really going to get into that, I don't have a real opinion other than it did enable more people to be producers and this certainly holds true with the forums. I support forums. I would not be opposed to forums being on the Government station if they were strictly city government issues. For example we have ward meetings, of course that is not really a forum, but we had ward meetings taped or something like that. That is strictly a city issue. My problem is going beyond what is really a City issue on the Government station because it dilutes the public access, the CAT. They are always struggling to get or continue their volume of productions and producers. I feel like there is a forum for that. I think the public feels like the Government station should relate only to City government. I think there is a very big issue, which I think either the City Attorney or Susan brought up, and that is the city resources. As long as you have individuals being producers for CAT a certain amount of cost for producing forums that is being bared by the public that is interested in producing that and seeing that forum or whatever. If everything was allowed on the Government station then it would just overwhelm the City resources and they would have to be like the City Attorney said just basically limited, take a number there is so many we can do per year. I don't know, I guess that is about all for now.

Susan Thomas: Brenda, I think you are right that there is a huge opportunity for CAT here to create more relevant, salient, and legitimate programming. Not that the independent shows are not legitimate but Government, you know what I mean. I probably shouldn't have used that word, sorry producers. I love you guys.

City Attorney Kit Williams: You are going to get another nickname now.

Susan Thomas: Yeah I know I am going to have more names; my skin has thickened up over the last couple of weeks. But it is an opportunity for them to expand their programming and expand what they do. I think that they are enthusiastic about that opportunity. The other thing is that there is the argument that well the number of forums and the resources have never been an issue before. Well there are a number of forums lingering, another reason why this has recently been brought to a head, there is a list of forums out there and the last of forum on forums was the first of many that were going to be initiated because there is a handful of citizens that are not satisfied with progress that has been made on the policy and procedures, they are not satisfied with what was happening so they are initiating the forums on their own. So it is going to become more of a problem as more and more of these are requested. I would also argue that this discussion tonight will prompt even more requests for forums. Once it is understood that it is an open forum my guess is that I am going to open my email tomorrow to lists and lists and lists of requests. They're actually already coming in just from the dialogue in the last two weeks in the

newspapers. So that is a true concern and again who decides? Who decides which ones get shown, which ones we do, how we spend our resources.

Mayor Coody: Alright, did you have any other questions? Any other Council people?

Alderman Jordan: Yeah, I've got a couple. My concern in all this is basically Susan the Telecom Board and their responsibility. From what I have and I sat on one of these committees several years ago and it was quite a hoot but at the end of the day we basically decided that the Telecom Board was going to make recommendations. What this Council did not approve of could be appealed to the Council much like the Planning Commission does.

City Attorney Kit Williams: Well actually, they are making recommendations and you make the decisions.

Alderman Jordan: It seems to me that they are out of the loop right now of this whole thing. Is that the case are they? I mean where is the Telecom Board in all this Susan is what I am asking.

Susan Thomas: I don't think they are out of the loop at all. Out of the loop on what specifically?

Alderman Jordan: It would be the discussion that they would make a recommendation to this Council. What is the recommendation of the Telecom Board?

Susan Thomas: What is the question?

Alderman Jordan: What do they see as this forum issue?

Susan Thomas: You would have to ask them. My issue is that the policy outlines limited public forums. Limited public forums were defined by the City Attorney and others on April 30th and it was clear that what we were doing was outside of the Government Channel policy which was brought to you by the Telecom Board and approved by the Council. They were not outside of that loop. I am likely not going to go request permission from a board to stop breaking policy. I am going to go ahead and stop doing that as soon as I know that we are doing it.

Alderman Jordan: So they were kept in the loop that we were breaking policy?

Susan Thomas: I think that that was part of the discussion on April 30th. The question even came up during the forum is what we're doing okay? Is this very forum that we are having okay? That was when the discussion, that's when it was happening. That is when those decisions were made.

City Attorney Kit Williams: I do think that the Telecommunications Board could certainly study this issue and recommend to you for your final decision on what is best to do and that surely would not be out of line. They have rights to do that.

Alderman Jordan: That is all I am saying.

Alderman Allen: That is what I was suggesting.

Alderman Rhoads: Not only would it not be out of line it would be the totally appropriate thing to do and I understand Susan's point. She is trying to maintain the policy that that board set and we approved and so she shouldn't be damned for doing that. I know you are not damning her.

Alderman Jordan: No, no I am not. I am just trying to get clarification Robert.

Alderman Rhoads: I know that and I didn't mean to say it that way. We are premature in this discussion I think.

Susan Thomas: I would agree with that.

Alderman Jordan: I would agree with that.

Susan Thomas: That stack of DVD's right there is one of the reasons that we are probably here tonight. A decision was not made. There has been three years of discussion about it, the sub-committee recommended, made a list of recommendations, progress was not being made on that, citizens started initiating forums because they weren't happy about it and here we are tonight having this discussion. That is what happened.

Alderman Rhoads: But a decision was made. You made the decision to enforce the policy.

Susan Thomas: From an administrative standpoint yes.

Alderman Rhoads: Right. Which now all the good citizens of Fayetteville that have a dog in this fight or they have an opinion they can talk to the Telecom Board, the Telecom Board chews on that and then gives us a.....

Alderman Jordan: Makes a recommendation. That is the only thing I am saying.

Alderman Allen: Absolutely.

Alderman Ferrell: Mayor may I make one.....

Mayor Coody: You may please.

Alderman Ferrell: Robert you used a word a second ago, you said policy and when I read through this I think this may be part of where we need to clear some stuff up about the role of an advisory board or a policy making board. It says the City Council must also clarify the role of the Telecommunications Board. If they are truly an advisory board a change in the language of the ordinance is required. I think that is something we have to look at. If they are an advisory board, just like Lioneld you said they would come to us with their advice and then the Council would set the policy.

Alderman Jordan: I don't know if the Planning Commission is a good example but they will make recommendations on developments and things like that and this Council will decide whether those qualify or if we don't agree with them, we do agree with them, we pass and we don't pass them. We appeal their decisions if we don't like it. The only thing I am saying is I don't want to get into a situation where we have moved beyond the group that is suppose to be making the recommendations. That is all I am saying.

Alderman Ferrell: One more thing Mayor, Kit in one of your memos you said I believe I could draft constitutional provisions that would authorize Mayoral and City Council election debates moderated by non-partisan groups such as League of Women voters. I could also draft provisions for similar debates for equal time for both sides when an ordinance has been initiated or referred to voters. Both of these can be shown on the Government Channel without creating a quote "public forum" which prevents content on viewpoint limitations. I kind of like that idea, I don't know whether the rest of the Council does but when we've got elections going on among Alderman, Mayor or whatever it is I think that is something that is germane and I would be an advocate if you felt comfortable and you could word something like that when we finally come down to this.

Mayor Coody: One question I would have is where it says both sides are equally represented, who chooses who for what side. How does that work?

City Attorney Kit Williams: They have done that in the past, I think Mayor, like on the impact fees. Normally you will have two sides on that issue and they will choose their own representatives. So I think that we can work with that. It needs to be moderated by a non partisan group like the League of Women Voters or some other non partisan group; it doesn't have to be the league. I think I can draft language that the courts would say it is constitutional and doesn't infringe on anybody's First Amendment rights because it will take our discretion away because we are not supposed to have any discretion on what to decide. But by just saying whoever the candidate is during these debates, they get to debate and if you are not a candidate you can't debate. Then on the initiated acts or the referendum, then we would get two sides. There would be a side for it and a side against it. We will let them choose their own representatives. I think that the courts would think that that is reasonable, and they will allow us to do that.

Mayor Coody: Okay thanks.

Alderman Lucas: Are we interested in determining whether it's an advisory board or whether they act on their own or what?

Susan Thomas: Kit you might want to refer to the memo you issued this afternoon.

City Attorney Kit Williams: I put it in your box. I don't know if you have had a chance to look at it. It is pretty brief. There has been some issue about the extent of duties that have been placed on the Telecom Board by the ordinance that you passed: Section 33.210 (B) of your Code of Fayetteville. This was the ordinance that was drafted by your ad hoc group Lioneld when you and Don Marr struggled for months I think trying to come up with a good ordinance. Subsection

(a) of that says the Telecommunications Board shall advise the City Council and make recommendations on Telecommunication issues. Then subsection (b) says further the Telecommunications Board shall have the following duties and responsibilities. The first two are the ones that are a little bit confusing. The first one says "oversee the administration of the City's PEG facility". The second says "oversee the administration of any cable television channels". There has been some concern that "oversee the administration" could mean that the ordinance was intended to give the Telecom Board supervisory authority over City employees. As I have tried to explain earlier, the Mayor is empowered to supervise City employees. Thus, the City Council is without legal power to give itself or another board the supervisory authority over employees. When you look at this ordinance and you try to interpret it there are some basic rules of interpretation that our Supreme Court has told us about. One of them is "we will give the words in the statute or ordinance their ordinary and common usage." So I looked up "oversee" in the Webster Collegiate Dictionary that I have in my office tenth edition, 2001 edition. The first definition, the most common usage for "oversee" was quote "survey. watch." The second definition was "inspect, examine." The third and last which is the least common usage was "supervise." Thus, the most basic rule of ordinance interpretation of "oversee" would be to survey or watch, possibly inspect or examine, but not necessarily supervise. Another rule of ordinance construction or interpretation is that the law or the ordinance must be interpreted so as to make it legal or constitutional if that is possible. The statutes, the Arkansas Code Annotated Section 14-43-504 "Mayor" states under (a)"the mayor of the city shall be its chief executive officer and under (b)"the mayor shall 1. Supervise the conduct of all officers of the city". Since the Mayor is statutorily empowered to supervise all city employees, an ordinance granting the Telecom Board the powers to oversee the administration cannot legally mean to grant any supervisory powers because the statutes have already granted that to the Mayor. Instead "oversee" must be interpreted as its primary customary meaning to watch or inspect the administration of the PEG facility. So that is what "oversee" facility means is to watch or inspect it. This would help the board fulfill its primary purpose, which is stated right at the very start of the ordinance, quote "to advise the City Council on Telecommunication issues." So I think that it is clear that they are an advisory board. The ordinance makes them an advisory board. It doesn't give them power to supervise City employees; it could not do that legally. So they are an advisory board that makes recommendations to you, and frankly they have done a good job through the years. I have gone to some of their meetings. They listen to people that have complaints; they intercede and talk to the cable company and try to help the people out. I am a strong advocate of the Telecom Board. I really appreciate them being here, and I think right now would be a good time for them to look at this issue again.

Susan Thomas: I would recommend that your questions be very specific of what you are asking them to answer.

Alderman Jordan: I will take care of that end of it.

Alderman Thiel: I guess that is my question, what are we asking them to answer?

City Attorney Kit Williams: I think you are specifically looking at the forums and are they going to recommend that the City Council fund public forums on the Government Channel or

should these forums be shown on Public Access. Isn't that your major question, where should the forums be shown, Government Channel or Public Access?

Alderman Jordan: You might even get into it a little more in depth about what type of forums they think needs to be shown and let the Telecom Board make a recommendation of what they define the forums at.

City Attorney Kit Williams: The devil is always in the details though. I can tell you in the first amendment area of the law we are limited when we start trying to choose types. The courts do not want to give us very much discretion because they are afraid we will choose the types that we like, the viewpoints we like, and governments can't do that.

Alderman Thiel: If I understand you right, the policy does not really truly allow for forums.

Susan Thomas: The policy says limited public forums. It is a very short section.

Alderman Thiel: Limited. Again what are we asking?

Susan Thomas: I guess you are asking if they are going to recommend a change in the policy.

Alderman Thiel: That's what I think we are asking.

Alderman Jordan: Yes.

Alderman Lucas: We have a policy already.

Alderman Thiel: We already have a policy and I don't know if I really necessarily want to change the policy.

Alderman Jordan: Me neither. I would like to hear from the Telecom Board and see what their opinion is on that too.

Alderman Thiel: Okay.

Susan Thomas: It may be very possible to have that discussion right now.

Alderman Thiel: It what?

Susan Thomas: It may be very possible to have that discussion tonight. I don't know that additional sub-committee meetings and additional years worth of conversation is the most effective approach. I think there are a lot of people here that have things that they would like to say. I am going to, if there are no other questions for me directly, you can yank me back up here when you need me.

Mayor Coody: Do we have any other questions for Susan right now?

Alderman Allen: Not now.

Mayor Coody: Mr. Drake, are you the Chair of the Telecom Board now?

Richard Drake, Telecommunications Board Chair: Yes sir.

Mayor Coody: Come on up.

Richard Drake: How are you all doing? I am Richard Drake, Chair of the Telecom Board. I have been on the Policies and Procedures Committee for a long time. Actually it seems like for about 20 years. I feel like we have been building a racing car for about two years and then one of my neighbors came and blew it up. We have been discussing a lot of things over the last two years. We have been talking about how many people can request a forum, maybe if something was an advocacy program, one program in particular. One of the things we have never discussed is not to have forums on the Government Channel. I just want to make a point before we start though that whatever we talk about tonight it really ought to go back to the Telecom Board to talk about. We shouldn't be making any decisions here tonight. I don't want to diss the Telecom Board and I am not going stand here and say yeah lets make a decision tonight.

Mayor Coody: I think everyone agrees with that perspective.

Richard Drake: I think anybody watching at home right now, especially if they are not familiar with what is going on, they are going to start thinking about issue forums and they are going to start thinking has anybody gone down to the Government Channel and just requested forums on anything? Oh my God, either A. that is so cool or my God what a terrible waste of government resources you know. We know just from our own personal experiences the last two years that these issue forums have been 100% devoted to government and what has been pertinent to government in Fayetteville. I know for a fact dealing with these forums, because I have been on a number of forums and round tables even before I got on the Telecom Board that they were only done, they had to be done, in terms of government meetings and other programs took priority before the issue forums. So it's not like you had an issue forum and then suddenly the City Council or sub-committee meeting well they couldn't get filmed because there was an issue forum and you had to take camera people for the issue forum. That just never happened. It's not like the issue forum took precedence. It's not like anybody at the Cable Administration was saying sorry guys you are kind of screwed because we have got this issue forum and that is more important than your government meeting. So as far as resources were concerned the issue forums are pretty much on the bottom of the totem poll. We have seen the list in the newspaper so I am not going to go down the list of what meetings we have had. A lot of us have been on the government forums and a lot of us have been on the round tables so we know that these are forums and round tables that are pertinent to Fayetteville.

I have been involved with CAT, with Public Access since 1991 and if they were moved to Public Access and I am going to tell you that they could be done well, the CAT producers could do them well because I have saw them done well on Fayetteville Open Channel in the early 90's, I have seen them done well on Access for Fayetteville, I have seen them done well on CAT. I know the staff could do a good job at CAT if they were contract productions. I know if someone

came in and did a long take on CAT, like one of you could go down to CAT and say I would like a long take, you could go in once a year and request a long take and you could contract a free production once a year and staff would do a production for you. The only caveat there is that again it can be one sided. We talk about how on the Government Channel all sides have to be presented. That doesn't mean all sides of the Universe that meant all pertinent sides that you could find in a discussion. So you didn't have to go out and find the Rosicrucian's or the Knights of Columbus to sit at your round table. You had to find everybody with a pertinent point of view to sit on your round table or issue forum, or luau, or whatever you were calling it any particular week and you had to get them there. If you couldn't have them there it wasn't worth having a round table. So CAT could do them well the only caveat is you don't have to have all sides presented. I just want to say that if they were on CAT they would look as professional as they do on the Government Channel.

When we make policy, a policy is a long and arduous procedure that I hate. Sometimes when I go to policy and procedure meetings I wish I was getting my wisdom teeth taken out because I hate it. I hated it when I was on the CAT Board, any board I have ever been on I have always hated policy and procedures because it takes a lot out of you. We don't make policy and procedure for us, when we make policy and procedure we don't assume that Mr. Coody is a Mayor, we don't assume Ms. Allen is an alderman, we don't assume that Mr. Williams is the attorney. We make policy and procedure for the people who follow you. We make policy and procedure for people five years down the road, ten years down the road, and fifteen years down the road. Basically we make policy and procedure for people who may be a bunch of uneducated yahoos who may sit in your seat several years down the road. So we make policies and procedures to protect the interests of the people in Fayetteville. We set up a solid wall around the rights, around the Government Channel, around the rights of everybody so those uneducated yahoos that are sitting in your seats fifteen years from now can't come on like the hoards outside the City of Rome and just dismantle it and say well our intentions are good and it just seems like a really good idea at the time. It's like sometimes in this discussion I feel like Cassandra just before the battle of Troy and I'm saying don't let that horse in the city because it looks real pretty man but there is people inside it that you don't want in your city. I think that everybody has the best of intentions here but I think we are opening the door to something that is real dangerous for us. I think the reason our policies and procedure meetings are so fractious and so long is because we are creating an important policy and procedure and I think that we have to keep the Telecom Board in the loop and keep the Telecom Board strong so that we are creating policies for the people who come after you to protect the people of Fayetteville who come after you because we are protecting the future people in Fayetteville. That is pretty much all I want to say at first. Does anyone have any questions?

Mayor Coody: Does anyone have any questions for Mr. Drake? Thank you Richard.

Richard Drake: Alright, thank you very much.

Mayor Coody: Would anyone else like to address us tonight?

Katherine Shurlds: My name is Katherine Shurlds and I teach media law at the University and I was at one time manager of Fayetteville Open Channel and at one time Chairman of the Cable

Board. I have been around during many of those discussions. Mainly I wanted to come down here and express support for Kit because I feel like I helped get him in this mess. I was on that last forum on forums during which the subject was, I understood the subject to be, are these issue forums appropriate for the Government Channel and that may have just been my take. I have been ringing that bell for many years although I have participated in forums, I don't deny that. I think they are great, I think the forums are terrific, I just don't think they belong on the Government Channel. One of my main problems is I don't understand what the problem is with putting them on a public channel, on the Public Access Channel. It is there, it's there for the reason for people to express their opinions and so I think that is what these forums are and that is why they ought to be there. The one argument that I have heard and read since this came up most recently is that on the public access channel there is no requirement that both sides or all sides be represented whereas there is on the Government Channel. Having known and loved Fayetteville people for 25 years now, 30 years I guess it is I don't think there is any panel of five or six people that would ever tell all Fayetteville people that this is balanced. We are very strong in our opinions, we have strong opinions, we are well informed and we have our feelings about things. I would think that anyone watching practically any panel that someone has put together is going to find something wrong with it and that is the kind of voice that ought to be on the Government Channel.

I think the Government Channel ought to be the voice of the Government. That makes me some kind of horrible conservative person I think, a strict person I guess it is. I think that is what the Government Channel is for. Government Channels in the PEG system are very very different under the law. The educational and Government Channels are very different than the public channel. The public channel, the government cannot have any say in the content. On the Government Channel it can have a say in the content but if you go over that line of Government programming I think you open yourself up as a public forum like the public access channel which is what Kit was saying. I agree with Richard about that the forums that I have seen on the Government Channel certainly have been pertinent to Fayetteville but in the future, this future that he is worried about and we should all be worried about, who is going to decide what is pertinent. Pertinent itself is a word that can be twisted and lets say that down the road Fayetteville passes an ordinance against trans fats and you have been through the smoking ban and you know that a trans fat ban wouldn't be any fun either. Maybe somebody will think that the person who loves Trans fats, that's not pertinent. Who is going to be that person that makes that decision? That is what it comes down to. When you are talking about the Government voice, who is going to be the person to make that decision? I think that is something you can avoid because you have a nationally acclaimed Public Access channel. If you didn't it would be a whole different question, but you do. I just don't see any reason why these programs aren't on Public Access.

Mayor Coody: Thank you Kathryn. Any questions for Dr. Shurlds?

Louise Cramer: I am Louise Cramer and I have got 25 years on the good woman who preceded me. I think this is by far the best part of the evening. I wish we would have had more people here because I love what you guys are talking about. I think it is serious and responsible. I certainly don't agree with all of it. I happen to love my country and my Bill of Rights and my constitution and I'm worried about proscriptions being superimposed and I think that is one of

the things that has been great about this discussion and the wonderful questions members of the Council have asked and so on and God bless you and more power to you. One of the things I worry about as a regular citizen is I think the press on this matter has been lousy and it has made people I like and respect look not too heads up. I am interested in the whole discussion being elevated. I think some of the proposals that have been made tonight will help it a lot to make the discussion at a different plain and done by experienced and responsible people who have the good of the entire community at heart. More power to you.

Mayor Coody: Thanks Louise. Anyone else that would like to address us?

Jim Bemis, Telecommunications Board Member: I want to thank you all for listening to me again as you have over the last ten years discussing the same item as Ms. Thomas has said. Repeatedly on the Telecom Board, in various committees, before you all, sub-committees, we discussed the same items and nothing happened. That is the reason the seven citizens requested the forum on forums. I agree with Ms. Thomas, we need to discuss that but I am embarrassed that we are here tonight not at the behest of the Telecommunications Board but through process that I still don't understand. Why are we here tonight when the Telecom Board was not involved in making advisory decisions? You may have seen the paper that I was going to ask you tonight to form again the same sort of sub-committee that you did in 2003. We had representatives of the Telecom Board, representatives of the Council, representatives of the City Administration, we had the City Attorney's office, and we had this broad group that we just heard discussed. How do we elevate the discussion here? That is what I would like to see you do. I don't think we are going to make any headway tonight talking about individual comments. Mr. Williams prefaced his remarks to you all by saying it is not illegal or a constitutional problem. We are dealing in the area of opinion. My opinion is just as good as anybody here. I am going to say again tonight and I hope you will discuss it, anything any Council member says is City business is City business. That is my opinion and I would like to see that discussed. I do hope you will consider the sub-committee. Thank you very much.

Mayor Coody: Thank you Jim.

Marvin Hilton: Good evening I am Marvin Hilton. I have been a citizen of Fayetteville for 16 years. I was the Cable Administrator for 13. Of all the things that were said here, I could say a lot but I think the most important thing I can say is that, I think there is not really a problem with the forums being on the Government Channel. They have comprised a very small part of the programming. We have not really spent that much time producing forums because there haven't been that many. I think the real problem is probably voter apathy because the forum we did on impact fees you may have remembered that only 11.2% of the Citizens voted on that issue and it failed by one vote.

City Attorney Kit Williams: It was a tie.

Marvin Hilton: I think later on somebody, I don't remember.

City Attorney Kit Williams: First it won by one vote but then an overseas ballot came in and it was a tie and in order to pass it had to have one extra vote.

Marvin Hilton: It was close and only 11% of the people voted.

Mayor Coody: It was 2015 to 2015.

Marvin Hilton: Yeah, and if you will look closely at the ordinance that created the Telecom Board and the policy you will see that it calls for such things as issue forums. It actually mentions that in the policy. It says to provide information about issues facing the local government. There has been a clause in the policy since 1992, that is when the Government Channel started, and I personally cannot remember any citizen complaining about a forum. There have been no complaints. Also, forums are very common on Government Channels across the country. It is not unusual at all. The beginning of a lot of the Government Channel policies will say you cannot advocate any cause candidate or viewpoint but following that it will say you can have issue forums that are balanced. That is a very common policy. I think there have been more problems with keeping informational programs non partisan than there have been problems with the forums. Sometimes partisan themes creep into the informational programs. I think the First Amendment is violated with the informational programs because occasionally, not too often you have religious elements that appear and sometimes I have wondered boy, maybe I should edit that out of the program because you know we are not suppose to be doing that, I don't think. A good example of that is I believe it was around 1998 I was over in my office and someone from City Hall called me and they were kind of in a panic and said Marvin can you come over real quick in five minutes. We have some really important guests in the City Council room that we would like for you to record it. I grabbed all my equipment and I got over here and as I was setting the equipment up I was a little bit worried because I kind of wondered about the content of the program, maybe it wouldn't be appropriate but since the guests were from out of town I didn't want to start discussing this, I thought it would be kind of impolite so I went ahead and recorded the program. It turned out to be a really beautiful program featuring the Zambian A Capella Choir singing hymns right here in this room. It is a good program but you know it is one of those few programs that have nothing to do with Government; it was a choir from Africa singing hymns in our City Council room. Anyway, just some comments and unless there are questions that is all.

Mayor Coody: Do we have any questions for Mr. Hilton? Thank you. Anyone else?

Aubrey Shepherd: I don't have much to say but I decided I would come up here and not miss the opportunity since it is an important subject. I agree with everything said about fairness and complete coverage of meetings. I love them, I watch them, and I could be the person who watches more than anybody else in town. I have been on the telecom board now only five months and it is an interesting experience. We haven't made many decisions so we haven't brought that much advice to you guys which I understand is what we are suppose to do and I hope we will do better with that in the future. I am perfectly willing to look at these policies that you are talking about. I haven't seen a problem with forums in the past and I have watched quite a few, but in my mind I can't remember which ones were on CAT now in some cases and which ones were done on Government Channel but I believe they are important. I think we ought to be sure we have a policy that allows the right ones that everybody will agree is government business. With that said I think that the public school decision and the Walton Arts Center things that are very important to the City it has to do with the way we build infrastructure for a

new school and how our citizens are accommodated and the Walton Arts Center has a lot to do with how the future of our City might go in certain respects. Those particular two I can't imagine that we couldn't find a way to do without considering beyond the pail. Maybe they are good examples, maybe those are good ones to talk about cause I haven't seen the list of the ones Susan has been requested to do, it maybe pretty off the wall. I agree we need to work on this and I think the Telecom Board will want to continue that process and give you a decent report of anything that we can suggest. Thank you for listening to this tonight because it probably was time to talk about the Telecom Board.

Mayor Coody: Thank you Aubrey. Did you have a question?

Alderman Lucas: Aubrey, those two issues that you were talking about, would they not be appropriate on the Public Access Channel?

Aubrey Shepherd: We discussed this at the last Telecom Board Meeting and we had someone who pointed out that the School Board and the University Board of Regents is about to be in negotiation over property and whether to buy this and whether to move here and these things. They would be the subject of this. They directly oversee that channel, the educational channel. The University has most of the hours and High School has a limited number of hours that they are allowed to use. Back in the day we thought the student newspaper and then by projection in today's world where we have got electronic media, the student run media of all kinds including their internet site and so forth might be pretty darn independent of influence from the Board of Regents or the School Board and have an advisor who might sort of set some limits and guide them in doing the right thing but they would do a lot of things. We had a spokesman from the University Station who suggested that it wouldn't be possible for them to do it on the educational channel because both of those groups would have a vested interest and possibly not want to share the information of what they are trying to decide or not want to have it publicly discussed any more than it already is which is pretty hard to imagine.

Alderman Thiel: Well you asked about CAT. You didn't say the educational channel.

Alderman Lucas: CAT, not on the educational.

Aubrey Shepherd: There is no problem having them on CAT but it is not as simple as having them on the Government Channel and you don't have the same audience. Now I have experienced when we used CAT in the past for some shows about neighborhood issues that when I would go around and tell the neighbors well here is the time the show is going to run on CAT and some certain people would feel very offended and didn't even want to hear the word CAT because it had some naughty shows after midnight and they didn't want them in their house. So they wouldn't watch the neighborhood show at 9:00 am in the morning because it was on that station. So we deal with a certain prejudice because not everybody wants to find out what other people want to express when you say they have freedom of speech. They want to limit it more than you and I and most people I think do but there are those people. It would be possible but there is not a system quite the same way to broadcast these public meetings. CAT can do it and as Richard has said and Kathryn has said it can be professionally done on CAT. I don't have the money to pay them to do one if I were one of the seven citizens. Maybe seven of us can get up

the money to pay CAT their small fees to broadcast. So I think if it is government business and there is a forum or round table I think it still should be here. I think we do have to try and come up with policies that everybody here in this room would agree are suitable to separate those things in the mean time.

Alderman Ferrell: Can I ask you one quickie?

Mayor Coody: Yes sir. You can ask him a quick question, I don't know about a quick answer.

Alderman Ferrell: A quick answer and a quick response. If CAT can do, don't you think there is a possibility that it would increase the viewership of CAT?

Aubrey Shepherd: Well I hope so, I would like to get rid of that perception and people just don't tune in after midnight or whatever.

Alderman Ferrell: How did you like that "If CAT can do"?

Aubrey Shepherd: I am not even going to try to repeat what you said Bobby.

Mayor Coody: Thank you Aubrey. Anyone else have any comments for us tonight? The Council's recommendation to the Telecom Board is to get together and work up some kind of time frame or recommendation for Susan.

Alderman Jordan: Time Frame.

Susan Thomas: Programming model.

Alderman Allen: Submitting a policy. I would also like to thank the Council for allowing me to bring this discussion item forward.

Mayor Coody: Obviously it was needed.

Alderman Allen: Yes, and I hope that the Telecom Board will work on developing a policy.

Susan Thomas: Let me just restate the two questions that I asked you all last week that I had from my perspective. **One was the role and scope and authority of the Telecom Board whether they have administrative authority to write procedures for implementing policy or are they an advisory board.** It seems that we have determined tonight that the Legislative intent of the Telecom Board ordinance is that they are an advisory body.

Alderman Thiel: Yes.

Alderman Lucas: Yes.

Susan Thomas: Am I clear on that.

Alderman Ferrell: Yes.

Alderman Lucas: Do we need to make that in sort of a.....

Susan Thomas: Well that is what it says and Kit has his memo on interpreting what oversee means according to Webster's so that question is answered. **The second question was determine whether you want the Government Channel to serve as an open public forum for any and all viewpoints or if you want the channel to serve as a limited public forum which would allow for the extremely limited debates that Kit has spelled out.** I think the programming of the channel that is the question you are asking of the board to answer?

Alderman Lucas: Uh huh.

Alderman Thiel: Yes.

Alderman Gray: Yes.

Susan Thomas: Okay.

Alderman Lucas: Until they come back with a solution can we go with this. Enforce the policy until they come back with some sort of recommendation or something.

Susan Thomas: Okay. I just want to reiterate from my perspective that I think the forums are great, I think if you look at this list and I think that the Government Channel staff has done a fantastic job producing the forums. The value and worthiness of the forums is not the question. It's who produces them, who makes the decisions, who decides what is a pertinent issue. Is the Telecom Board your knight on a white horse shining and coming to protect the city. Is that the role of that board? Is that the protector that we need or do we just need to not worry about who makes these decisions? That is from my perspective what the issue is. So I hope that the Telecom Board will bring you a recommendation that is acceptable to the full Council.

Alderman Allen: I would like to add to that a little bit. I would like them to talk a little bit about the content in general and whether something could be interpreted as propaganda or just kind of not to be just specific to the forums.

Susan Thomas: I would also say as the supervisor of that division that if we go with a recommendation of what the City Attorney and I have presented that it is my intent to not have something like the rally press conference shown on the Government Channel. It is my intention to not have anything that looks like, smells like, and tastes like partisan politics or promoting of an issue.

Alderman Allen: I think that is very important.

Susan Thomas: I think it is important too. I think that the Administration; the Mayor and I; in the last couple of weeks have been characterized as trying to come in and control the content when in reality what my perspective is and I believe what the Mayor's perspective is is to not

have us making those decisions. That in my opinion is the best way to handle the situation. So I think the Telecom Board is probably clear on what you are asking of them and I hope that they will come to a quick resolution for you.

Alderman Gray: Do we need to put some time frame on it?

Mayor Coody: I think that is probably not a bad idea. How long do you think would be reasonable Susan?

Susan Thomas: Well, the Telecom Board officially meets once a month. They are given the authority and the ordinance to meet as often as they need to and they will need to meet probably, Mr. Drake can probably answer this question for you, but I suspect what they will do is have a meeting and decide how to proceed. What I would recommend is let them have that first meeting and set their timeline of how long they think they need to make a decision and then we will just get an email back to the Council on what you should expect.

Mayor Coody: Richard, what is a reasonable time frame do you think?

Richard Drake: We meet in June and this is not really that complicated of an issue. I would think we could have a decision for you. Don't write this down in stone okay.

Mayor Coody: We will treat it like the street plan.

Richard Drake: Treat it like most things I say. My guess is we might have something for you by August. That gives us two months. That will give a committee from the Telecom Board two months to work on something.

Mayor Coody: Alright, that sounds great. Thanks Richard.

Alderman Thiel: I have a quick question and clarification for what Susan said. Sorry Robert.

Alderman Rhoads: No, I am just stretching my legs, I'm okay.

Alderman Thiel: Well actually I think I just lost my question. We are both tired.

Alderman Ferrell: Go ahead and adjourn Mayor.

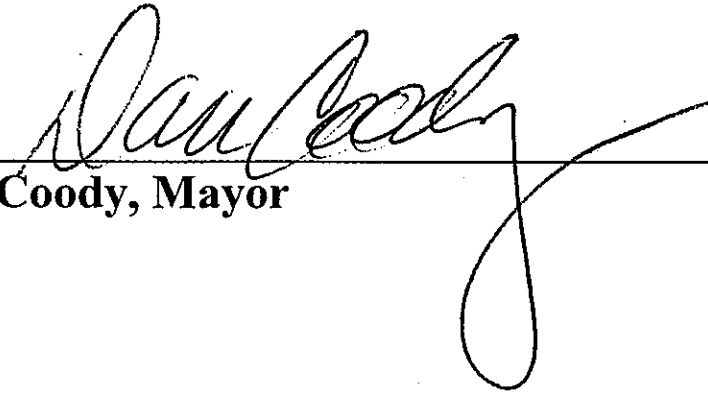
Alderman Thiel: There you go.

Mayor Coody: Alright, are we finished up here? Susan one thing I want to say is that there have been some pretty personal and virulent, negative attacks in the newspaper and all you have been doing is looking out for the public's best interest here. A lot of us appreciate that and I haven't seen such a personal attack in a long long time. It's hard to take but we appreciate you.

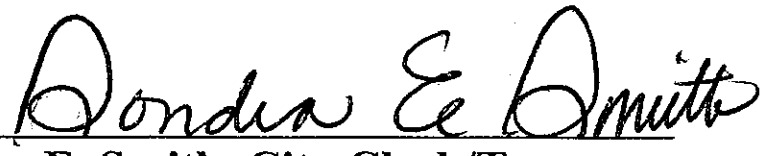
Susan Thomas: Thank you very much.

Mayor Coody: Alright, anything else? Meeting adjourned.

Meeting adjourned at 9:23 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

**City of Fayetteville Arkansas
City Council Meeting Minutes
June 17, 2008**

A meeting of the Fayetteville City Council was held on June 17, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Gray, Thiel, Cook, Allen, Rhoads, Ferrell, Lucas, Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance was recited.

Mayor's Announcements, Proclamations and Recognitions:

None

Presentations, Reports and Discussion Items:

- 1. Historic District Commission Appointment:**
Appointed by the Mayor and approved by the City Council.

Cynthia Kalke – One Term Ending 06/30/11

Mikel Lolley – One Term Ending 06/30/11

Leslie Belden – One Unexpired Term Ending 06/30/09

Alderman Cook moved to approve the Historic District Commission nominations. **Alderman Allen** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent during the vote.

2. Nominating Committee Report:

Alderman Cook read the Nominating Committee Report. A copy of the report is attached.

Alderman Ferrell: Kyle is this out of the ordinary not to have applicants for some of the openings. Does that happen from time to time?

Alderman Cook: It does happen from time to time. The Civil Service Commission is unusual because they had someone step down at the last minute, so I don't know if they really had enough time to get applications for that one. The Construction Board of Adjustments and Appeals, we usually fill that but from time to time we do have openings. The Tree and Landscape Committee, I hate to say but we almost always have an opening on the Tree and Landscape. It does happen.

Alderman Allen: Mr. Hilton applied for that position, I wonder if you could explain the reasons why you thought he would be an inappropriate candidate.

Alderman Cook: Speaking for myself, in our discussion and I'll the other members speak also, we did talk about Mr. Hilton. I think personally he is highly qualified with his knowledge; there's no question about that. I think there was some concern with him being terminated by the City and whether that would affect his judgment on the board. That was what I got from our discussion. I'll let the other members speak, too.

Alderman Gray: I know that Mr. Hilton is quite qualified. We are very well aware of that. We just felt at this time, with all that has been going on, that it was not a good fit to put him on the board at this time.

Alderman Rhoads: I would take exception to the word "inappropriate". I want to see if there are other folks out there. I thought we talked about extending the time. Maybe I'm remembering this wrong, Kyle, but he's not necessarily ruled out as much as we'd like see if there are other candidates out there.

Alderman Jordan: So you're still open to look at other candidates?

Alderman Rhoads: Am I remembering that even close?

Alderman Cook: We did discuss that since we didn't make a recommendation that it would be on the table and the Council could discuss that.

Mayor Coody: So is it your wish to extend the time frame for the applications for this position?

Alderman Lucas: I think they're always open.

Mayor Coody: Opened until filled?

Alderman Lucas: I agree with all of them, we discussed it in length. I'm the other member on the Nominating Committee and I agree. I was just disappointed there weren't more applicants.

Alderman Allen: I guess I don't know why he was terminated so it's hard for me to make a judgment.

Mayor Coody: So do you want to leave it open until filled. Is that the recommendation from the Nominating Committee Chair?

Alderman Cook: That was my understanding.

Alderman Gray moved to approve the Nominating Committee Report. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Approval of the May 20, 2008 City Council meeting minutes.

Approved.

Park Land Dedication Funds: A resolution approving a budget adjustment in the amount of \$195,450.00 to reallocate Park Land Dedication funds within the Southwest Quadrant.

Resolution 124-08 as Recorded in the office of the City Clerk.

State and Tribal Assistance Grant (STAG): A resolution authorizing the Mayor to apply for a State and Tribal Assistance Grant (STAG) from the U. S. Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as the City's authorized representative in all matters relating to the procurement and administration of said grant.

Resolution 125-08 as Recorded in the office of the City Clerk.

Wal-Mart Corporate Grant: A resolution authorizing Fayetteville Parks & Recreation Division to accept a grant from Wal-Mart Corporate giving in the amount of \$10,000.00 to partially fund the Lights of the Ozarks; and approving a budget adjustment to recognize the grant revenue.

Resolution 126-08 as Recorded in the office of the City Clerk.

Wedington Drive Widening Project: A resolution approving a payment to the Arkansas State Highway and Transportation Department (AHTD) in the amount of \$30,889.11 for a change

order to cover city-requested revisions to the Wedington Drive Widening Project; and approving a budget adjustment in the amount of \$31,000.00.

Resolution 127-08 as Recorded in the office of the City Clerk.

Humane Society of the Ozarks Donation: A resolution accepting a donation of \$20,000.00 from the Humane Society of the Ozarks to benefit the Fayetteville Animal Shelter; and approving a budget adjustment recognizing the revenue.

Resolution 128-08 as Recorded in the office of the City Clerk.

Security Equipment Purchase: A resolution approving the purchase of operational and security equipment and cameras from Spytown USA in the amount of \$26,771.82 for the West Side Wastewater Treatment Plant; and approving a contingency in the amount of \$2,500.00.

Resolution 129-08 as Recorded in the office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals: A resolution to approve the hiring of a Parks Maintenance Worker II replacement employee.

Connie Edmonston, Parks & Recreation Director: This is a full time maintenance worker who is responsible for mowing, weed-eating, trimming, pruning, cleaning and picking up trash. This is very essential to us especially this time of the year.

Alderman Jordan: Connie, I know it's a full-time position, how come it cannot be filled with part-time personnel.

Connie Edmonston: Because of the hiring freeze. We need this person year round. It is a summer position but during the winter we utilize them in other areas. They help with Lights of the Ozark and on athletic fields. The position is very essential.

Alderman Ferrell: Is there any chance of migrating occasionally an obligation from the General Fund into Parks.

Mayor Coody: Parks comes out of General Fund.

Connie Edmonston: Maintenance is not allowed to have HMR money spent on it. We can not apply it to Parks Development. This is totally a maintenance position.

Alderman Ferrell: Any maintenance dollars can not be funded by HMR?

Connie Edmonston: Correct. It's only for promotional and development of parks.

Alderman Lucas: That was because when the vote was taken it was left off the ballot. Isn't that correct? It was a mistake.

Alderman Ferrell: That could be amended but it would have to go to the public?

Mayor Coody: You have to go back to the public.

Alderman Lucas: You said this is a year round position, I wondered if the Lights of Ozarks won't take as much manpower because we don't have the big trees to cover. It might be less this year.

Connie Edmonston: Actually we have \$15,000 less in money to buy new lights.

Alderman Lucas: Well that's good. It's come at a good time then.

Connie Edmonston: But as you know we're taking in more park land. We're having trails developed. Our duties are becoming more.

Alderman Cook: From the trails perspective as we continue to build out these trails, the parks take on more duties for those. I know a couple of years ago we asked for an extra maintenance worker just for the trails maintenance alone and that was denied. So I know from the trails perspective they are taking on more.

Mayor Coody: Well that's just part of the problem. I've been talking to some developers and I've asked them to help fund the installation of some landscaping, developers will do the installation but they ask the city to do the maintenance. We can't take on that maintenance. So we're walking away from some free beautification work because we can't take care of what we have. One of these days we're going to have to really rethink our position on our parks and landscape maintenance to keep Fayetteville a beautiful town.

Connie Edmonston: We are having more and more acres of our parks that we are leaving more natural because of all the new parks we are taking on that need attention. Some day in the future we'll be glad that we have those parklands.

Mayor Coody: We're glad we have them now. We just wish we could maintain them as we wish we could.

Alderman Cook moved to approve one Parks Maintenance Worker II position. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-2. Alderman Lucas and Jordan voting no.

Resolution 130-08 as Recorded in the office of the City Clerk.

Amend Chapters 151, 152 and 166: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 151: Definitions, Chapter 152: Administration and Chapter 166: Development in order to prohibit or regulate decentralized sewer systems within the city limits. *This ordinance was left on the First Reading at the April 1, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled at the April 15, 2008 City Council meeting to the May 20, 2008 City Council meeting. This ordinance was tabled at the May 20, 2008 City Council meeting to the June 17, 2008 City Council meeting. This ordinance was left on the Second Reading. This item was left on the third reading of the ordinance June 17, 2008.*

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

City Attorney Kit Williams read the ordinance.

David Jurgens, Water & Wastewater Director: The ordinance as presented previously does not reflect some of the changes from the White Paper that was presented to the Water & Sewer Committee last Tuesday. In summary what that White Paper said and what we discussed last week was to prohibit decentralized sewers within the city limits of Fayetteville but allow, in unusual circumstances only by City Council approval, the consideration of an exception to that. If there is an exception to the ordinance customers on those decentralized sewer systems would have to pay impact fees at the time that the water connection is made. Staff will have to rewrite this ordinance in order to reflect those changes.

Alderman Ferrell: David is the language in the text now about the extenuating circumstances appeal to the Council or is that something you're going to add?

David Jurgens: That's something we're going to add.

Alderman Ferrell: Thank you.

Alderman Cook moved to table the ordinance to the July 15, 2008 City Council meeting. **Alderman Thiel** seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was left on the third reading and tabled to the July 15, 2008 City Council meeting.

Public Hearings:

Raze and Removal at 402 E. Center Street: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Roy Lee and Sandra Ruth Taylor located at 402 E. Center Street in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$4,945.00.

Yolanda Fields, Community Resources Director: There was a change in ownership on this property therefore we have to begin the notification anew. I would like to request that this item be tabled indefinitely.

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

This resolution was tabled indefinitely.

New Business:

ADM 08-3017 39 East South Street ROW Variance: A resolution approving a variance of the Unified Development Code Chapter 164.12 (F) Nonconforming Uses and Structures, Repairs and Maintenance and Chapter 166.18 Master Street Plan Setbacks, allowing the existing structure located at 39 East South Street to remain within the existing East South Street right-of-way and to be improved greater than the 10% allowed by code, within the existing limits of the structure.

Jeremy Pate, Director of Current Planning gave an overview of 39 East South Street. Three to six inches of the structure actually encroaches into the city's right of way. This is the last step in order to be able to permit this property owner to continue with his renovations. Staff recommends approval and the Planning Commission voted to approve the conditional use permit.

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

Resolution 131-08 as Recorded in the office of the City Clerk.

Wedeco, Inc: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of spare parts for the West Side Wastewater Treatment Plant's ultraviolet disinfection system from Wedeco, Inc. in the amount of \$54,300.79.

City Attorney Kit Williams read the ordinance.

Alderman Allen: I just don't quite understand why we would waive competitive bidding on anything. Why it's not feasible?

David Jurgens: Nobody else makes bulbs that will work in this particular ultraviolet disinfection system. There are only a couple of systems that are out there and the bulbs are not interchangeable at this time. It is fairly new technology that is protected by patent and nobody can make an after market type of bulb. It is not possible to get a competitive bid because there's

only one person that makes it. We expect that when the patents run out then there probably will be competitive after market type parts.

Alderman Allen: I think that's an excellent answer.

Alderman Ferrell: So it's a sole provider.

David Jurgens: Yes, sir.

Alderman Cook: I know some people have heartburn about the no bid contracts. I can't argue with that. I think in this situation that's what we have. At some point I would like to give staff direction, if at all possible, to think of that in future contracts for goods. So that if we could we would steer away from purchases of products like that. In this situation I don't think we have much choice.

David Jurgens: That's correct. There are two vendors and it is the nature of the specialized type equipment where you only have two or three manufacturers and they specifically made their stuff different from anybody else partly so there to be no competitive bidding, but also to make theirs different and special so they can be specified that way. Where ever we could we would specify or ask for an approved equal. We used approved equals when ever it is most cost effective alternative. We always go with the competitive bid whenever we possibly can. These two items that I have before you tonight are two of those cases where it's just not physically feasible. You can't make them work with any other part.

Alderman Jordan: So when you buy from this one company you're locked in?

David Jurgens: Yes sir. At this point when you buy from this company with the relatively new manufactured products you are locked in. Over time the competitive market will catch up but it has to be out there long enough for the patents to wear out.

Alderman Jordan: I guess my concern is that I hate giving a monopoly to a company.

David Jurgens: I agree.

Alderman Jordan: I said that at the Water and Sewer Committee meeting the other night. I have concerns about that. My concern about monopolies is that if they want to raise the prices they can and there's absolutely nothing we can do about it.

David Jurgens: Yes sir. I don't like being helpless either.

Alderman Cook: On the next item, I supported buying that equipment when we bought it. I believe in the competitive bidding process and I know now to try to look a little closer at that. I hate that we have to do that but that's what it is right now.

Alderman Jordan: It kind is what it is.

Mayor Coody: This has been going on since the beginning of time. It's just the way it's been done for as long as business has been business.

David Jurgens: When you have something brand new like this that is under warranty the manufacturer will void their warranty if you install something that isn't from the manufacturer and that's not worth the risk on a half million dollar piece of hardware or on a million dollar system. So it's one of those judgment choices that you make when you specify it up front.

Mayor Coody: All of our divisions are good in the city, but our purchasing department, they really do follow the specifications and guidelines. They go through a rigorous documentation process to get the best deal that they can. We always take the low bid unless there's some reason why we have to do something else. It really is the exception. It's not a common occurrence. We have a couple tonight but this isn't something that just happens every meeting. It's a pretty rare occurrence actually.

Alderman Allen: I understand that it is a rarity but just wanted to kind of echo what Alderman Cook said that whenever possible that it's real important to have competitive biddings. It's awful hard for people to understand when the bid is twice their annual salary and it just floats on through.

Alderman Ferrell: With the way technology is going today David, what is the life expectancy on this thing? Do you think that if the life expectancy is five or six years that the only constant anymore is change. There will be new technologies coming along probably.

David Jurgens: Yes there will be new technologies coming along however the fact that new technologies will come along does not degrade the performance of the system we have in place. This is a very effective method of disinfection and we have every reason to believe that in 20 years it will still be doing the job very well as long as it is properly maintained. There is no reason that the performance will be degraded. Even though there are new items available that doesn't mean that you have to use the new items just because it is available if it will still accomplish the task. We specified items that would last for the long term and we believe that this system in particular will continue to do that.

Alderman Ferrell: I think I like what I'm hearing. So what you're saying is as long as it's working well and maintained, regardless of the technology that comes along, we'll use it as long as it's economically feasible.

David Jurgens: Yes sir, absolutely.

Mayor Coody: In other words, just because it's old doesn't mean it doesn't have some use left in it.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5148 as Recorded in the office of the City Clerk.

Cues, Inc: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of sewer televising equipment from Cues, Inc. in the amount of \$27,627.78.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5149 as Recorded in the office of the City Clerk.

Northwest Arkansas Regional Mobility Authority: An ordinance providing for Fayetteville's participation in the Northwest Arkansas Regional Mobility Authority and approving an agreement with participating members of the Northwest Arkansas Regional Mobility Authority.

City Attorney Kit Williams read the ordinance.

Jeff Hawkins, Regional Planning Commission: The Regional Planning Commission is responsible for long range transportation planning in Northwest Arkansas. Years ago the federal government recognized that transportation problems and solutions know no political or jurisdiction boundaries.

He gave an overview of the transportation legislation and how federal funds are spent and how federal transportation investments are made. He said projects have to be approved by the

Transportation Policy Committee of which Fayetteville and all local governments in Northwest Arkansas have representation on.

The Northwest Arkansas Council is a private nonprofit and is very interested in promoting regional infrastructure improvements in Northwest Arkansas. The sooner an RMA is set up, the bugs get worked out, and we get everybody on the same page with regard to funding and implementing major projects at a regional significance the better off the region will be. We would encourage you to give consideration and approval to joining. The RMA is not a "silver bullet" there are still some severe limitations and constraints. Voter approval is required for virtually any of the funding measures that law provides for at this time and it is going to be a challenge to make it work for the region.

Scott Van Laningham, Northwest Arkansas Council: The Council is a private, nonprofit organization that is taking a look at this highway funding both at the federal and state level. As the price of gasoline goes up we are all driving less and buying more fuel efficient vehicles, so their revenue stream is flat if not declining. The cost to build a mile of new highway has skyrocketed. The Council has come to the conclusion that there must be a local component to this. We will continue to go after all of the federal and state funds we are entitled to. We're going to have to at least attempt to pass a local option. Any of these projects will have to have voter approval.

There are large regional projects and the Highway Department is very interested in partnering with local folks that are willing to step up and bring additional resources. With the increase in fuel prices we are going to have to look for alternatives. Mass transit is an authorized and eligible function for the RMA Board to consider. The mayors or their designees will actually be the representative to that Regional Mobility Authority. It will be a public entity subject to all of the FOIA requirements. The RMA will give cities an opportunity to try to meet some of the demands from constituents and the projects that they know need to be done. The Council has some projects that they have identified but again the RMA board, that public entity, is going to be the one that comes up with the final program that they will have to try to sell to the voters. The Council is prepared to do all we can to support and help. At some point if a RMA is successful and has some sort of funding source it will want to look at setting up staff.

Mike Malone, Northwest Arkansas Council and a Fayetteville resident: The financial obligations of the RMA are the financial obligations of the RMA alone. A decision by the RMA Board doesn't obligate the City of Fayetteville to provide funds for anything. A RMA Board decision may result in a question coming back to each of the member cities that are member to ask if the city wants to contribute to the potential costs. Also if the RMA incurs debts and sells bonds those bonds are backed by the faith and credit of the Regional Mobility Authority not the member cities. The obligations of the RMA are of the obligations of the RMA alone.

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

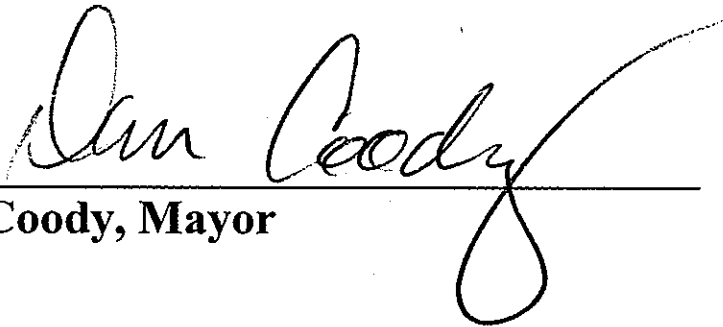
City Attorney Kit Williams read the ordinance.

Alderman Ferrell: We need to work cooperatively as a region. We need to move forward as a region to remain competitive and start building up our roads that overdue. I've read this back and forth, and I think the way that this RMA is set up things that will benefit the region and/or our city they are going to go to a vote before anybody is obligated. I think we need take a step forward. People in this part of the state have done this in the past, as opposed to waiting for somebody to come and push us. I think that we have an opportunity and this is the vehicle to help us. Thank you.

Alderman Thiel: If the City of Fayetteville does not have a representative then we've left ourselves out of any discussions. I'm not sure why we would not want to be a part of the authority. I tend to agree with Bobby. That would just give us our voice on the authority as to what they consider.

This ordinance was left on the second reading.

Meeting adjourned at 6:55 PM

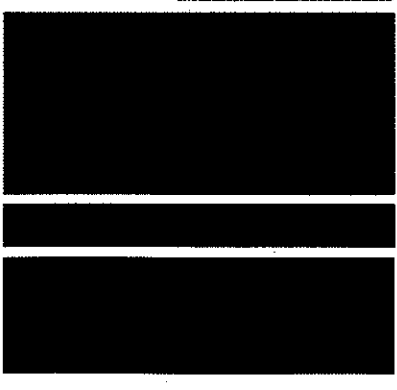
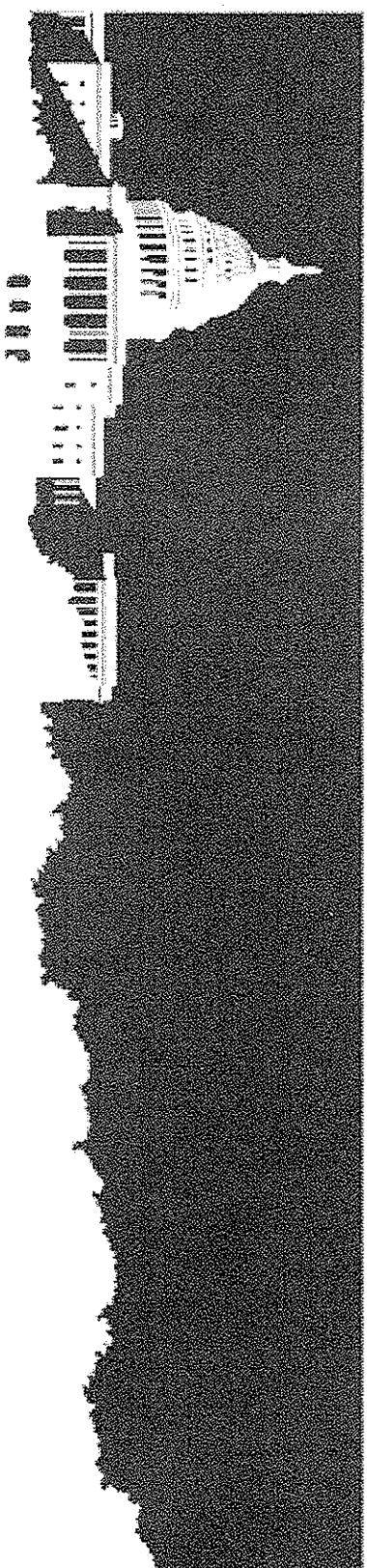


Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer

Van Scoyoc Associates, Inc.

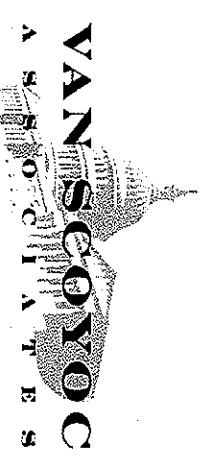


Fayetteville
ARKANSAS

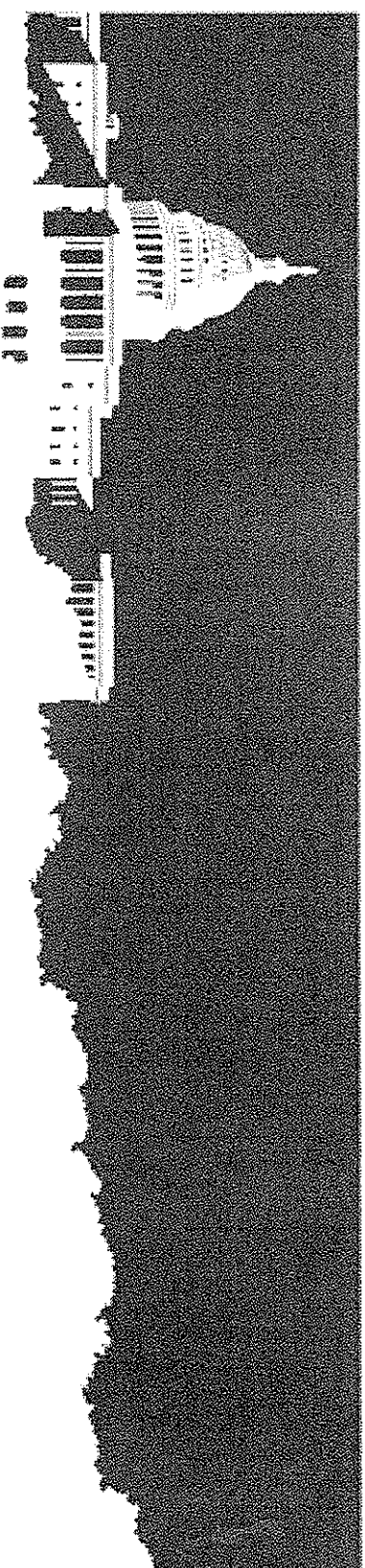
Working in Washington on Behalf of
the People of Fayetteville

Presented by Kevin Kelly, Van Scoyoc Associates
July 1, 2008

WWW.VSADC.COM | CONTACT: KEVIN KELLY | 202.638.1950

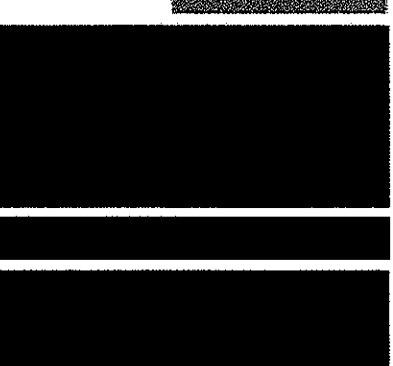
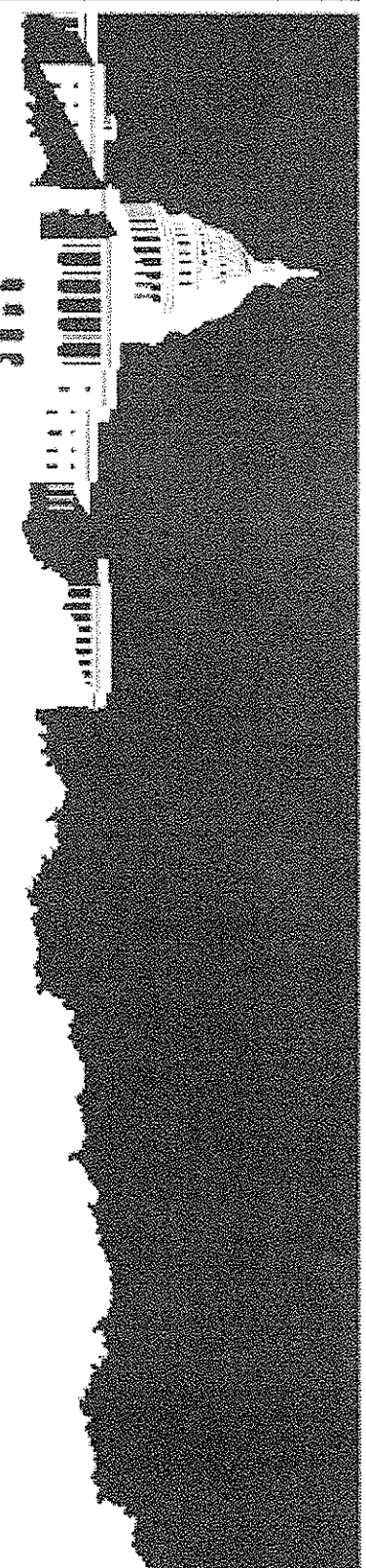


Agenda



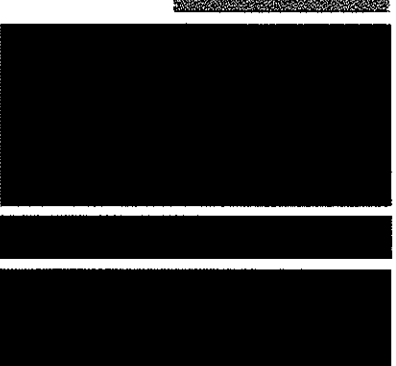
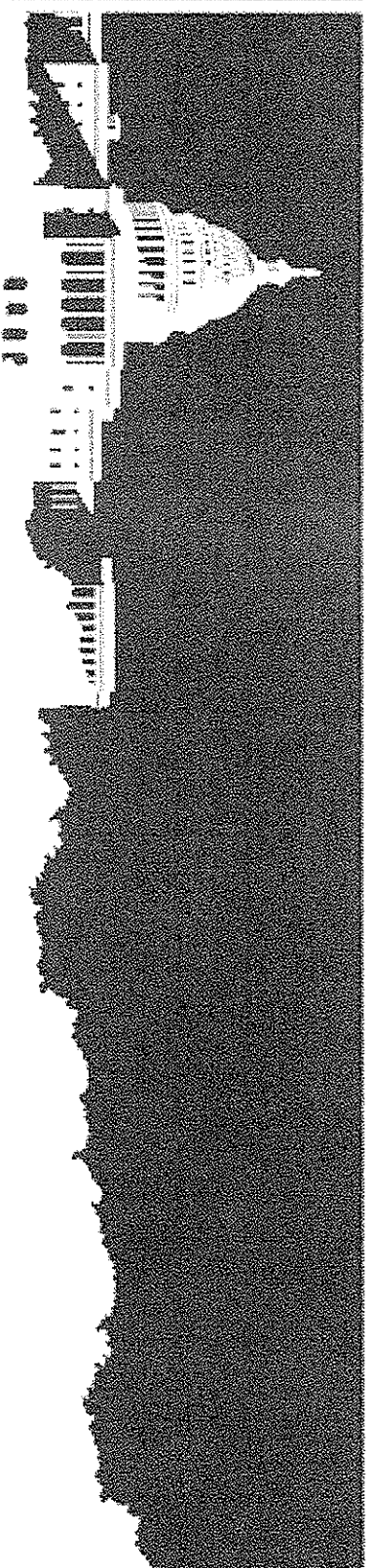
1. **VSA Overview**
2. **VSA Services**
3. **Assessment of FY 2008 Appropriations Cycle**
4. **FY09 Strategy: Federal Appropriations Timeline**
5. **The Road Ahead: Outlook of the 111th Congress**
6. **Conclusion**

VSA Overview



- Established in 1990. Now one of DC's most successful government relations firms.
- We have grown from three professionals and eight clients, to more than sixty-eight experienced legislative experts and over 300 clients.
- Emphasis on broad-based, bipartisan experience at all levels of federal government.
- Emphasis on individual client attention
- Practice Areas: Federal appropriations process, transportation & infrastructure, housing, environment, public safety and health care.
- Extensive experience in local government and economic development.
- Industry-leading client retention rate.

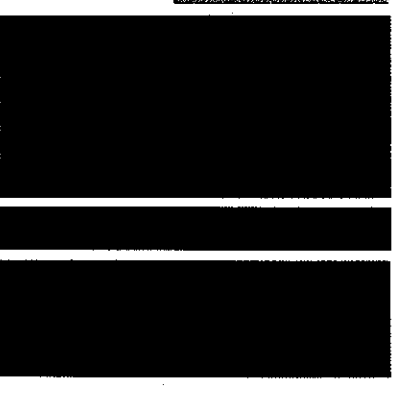
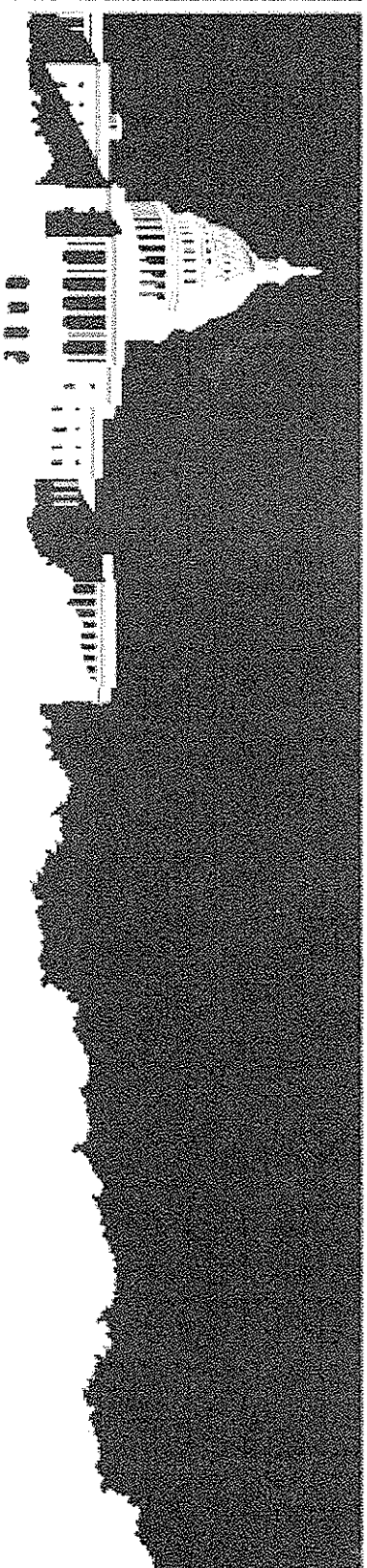
VSA Services



VSA assists municipal clients in obtaining Federal funding by providing:

- Strategic advice on trends on Federal funding
- Legislative and technical drafting services
- Comprehensive legislative advocacy
- A credible bipartisan presence on Capitol Hill
- An equally strong presence within Executive Branch Agencies
- Grant Opportunities

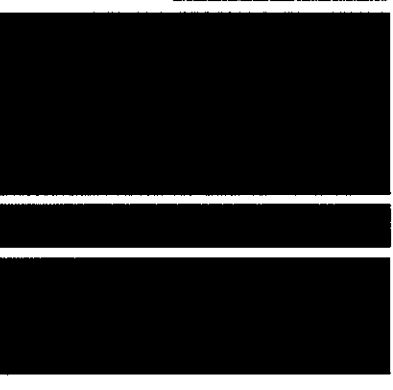
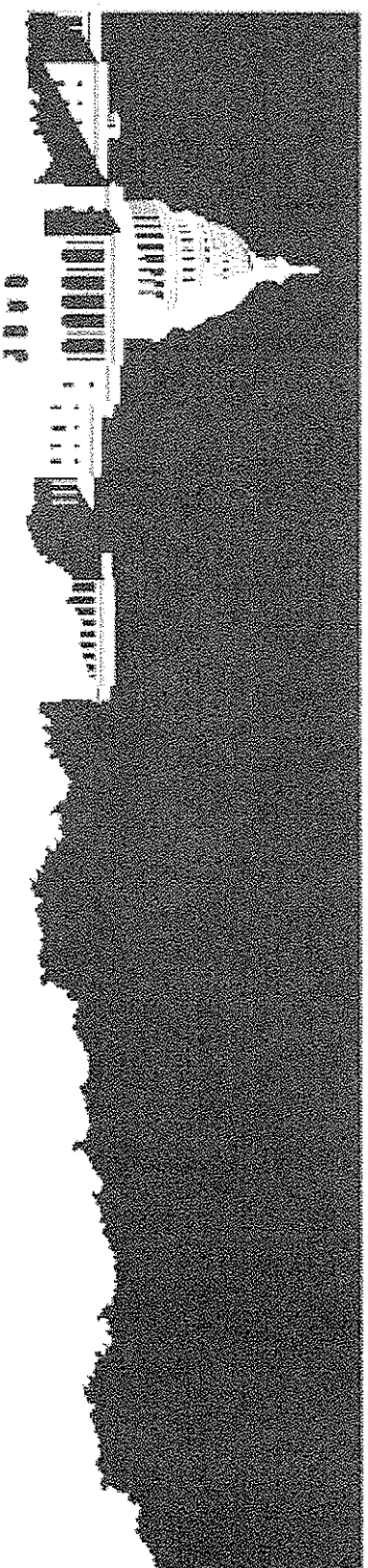
VSA's Action-Based Strategy



Fayetteville
ARKANSAS

- Develop creative and innovative solutions to broaden Fayetteville's support base
- Strategic partnerships with the University
- Letters of support from various interests in the City
- Provide a consistent, dedicated Washington presence on and off Capitol Hill
- More involvement between the City and the AR delegation
- Propose initiatives that stimulate NW Arkansas economy - **VSA has helped secure over \$16 million in federal funding since 2005.**
- Show convergence of local, state & federal funding support – how federal funds “seal the deal”

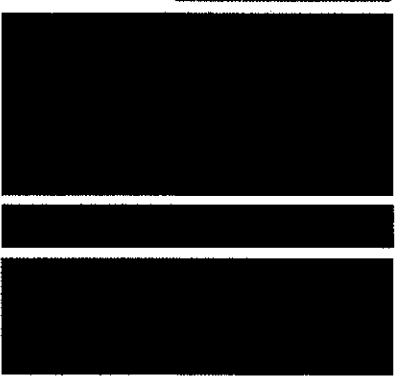
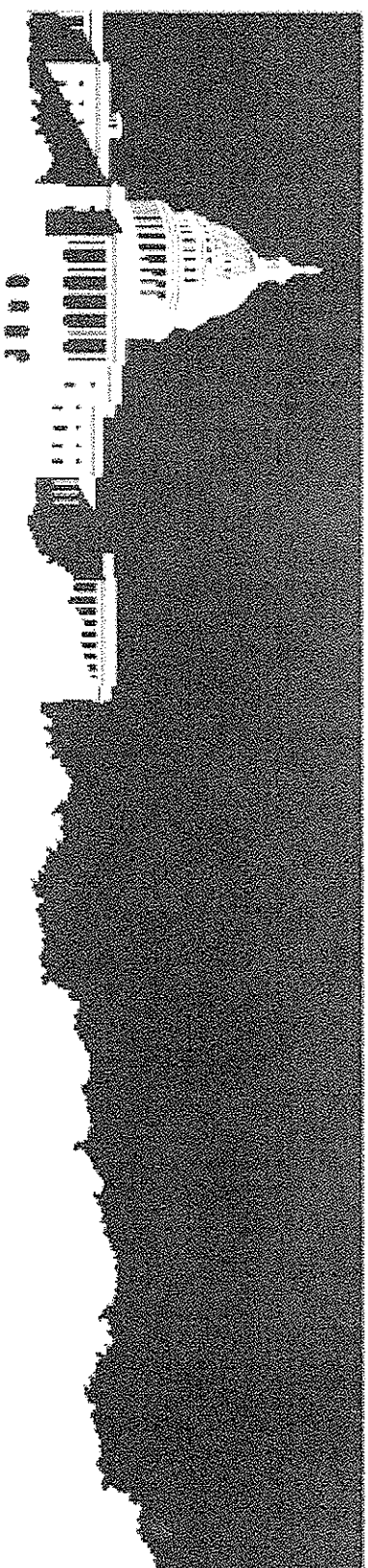
Working with Fayetteville



Fayetteville
ARKANSAS

- Communicated with City officials on proposals for the FY 2009 cycle
- Polished project proposals for submission
- Composed letters of support on behalf of Mayor Coody to the Arkansas Delegation
- Monitor and advise on legislation (SAFETEA-LU Corrections bill, Public Safety Employer-Employee Cooperation Act of 2007, etc.)

Working with Fayetteville



Visit to Capitol Hill with Mayor Coody on February 27, 2008

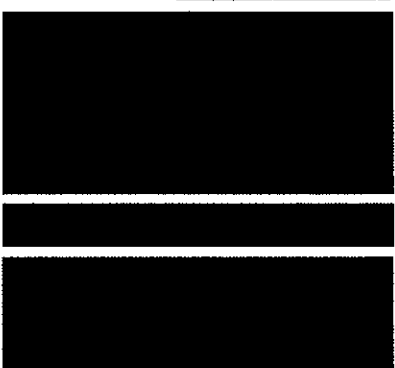
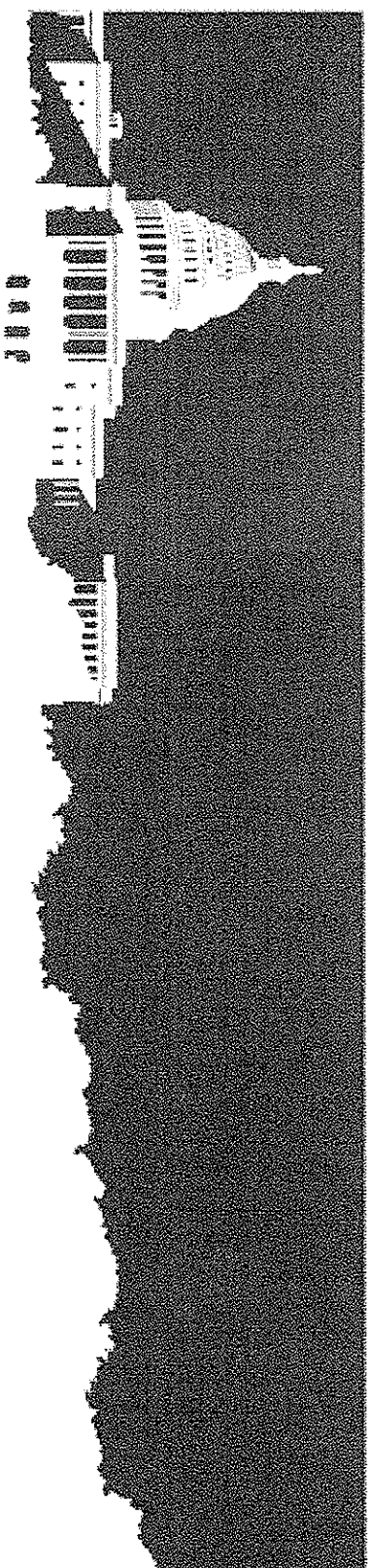
- Senator Blanche Lincoln
- Senator Mark Pryor
- Congressman John Boozman
- Congressman Marion Berry
- Congressman Mike Ross
- Congressman Vic Snyder

Consistent follow up conversations with Members and their staffs regarding projects

Visits to Federal Agencies to discuss grant programs (2007)

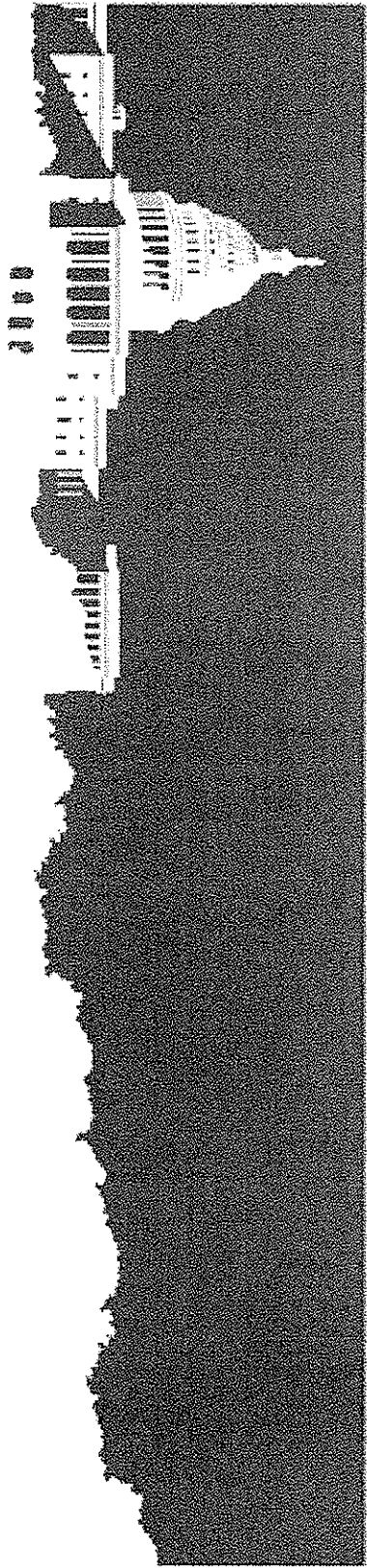
- U.S. Environment Protection Agency
- U.S. Department of Justice
- U.S. Department of Transportation
- U.S. Department of Housing & Urban Development
- U.S. Department of Labor

Assessment of FY 2008 Appropriations Cycle



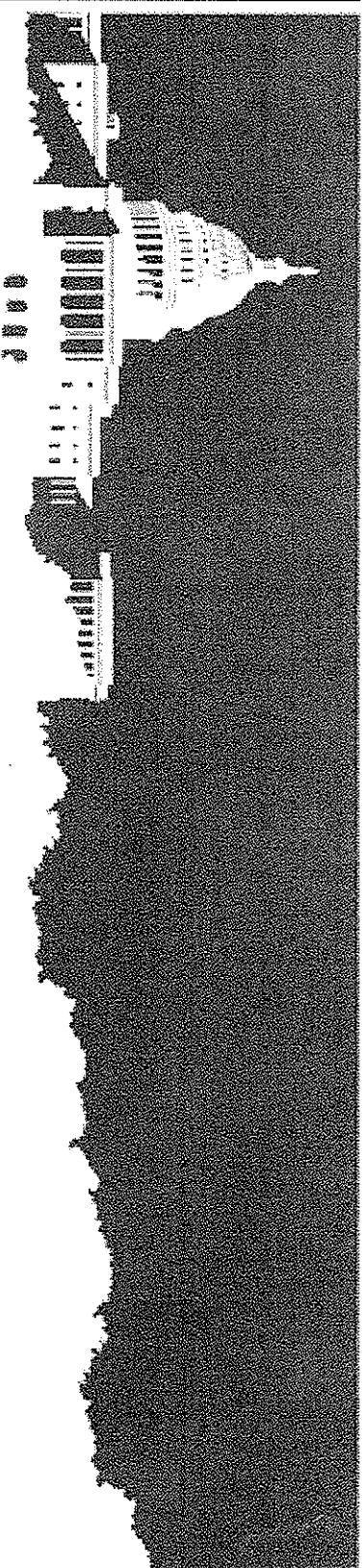
Project	Request	Funded
Fayetteville Expressway ED Corridor	\$9M	Not Funded
Wastewater System Improvements	\$4M	\$300,000
Housing Partnership	\$1M	\$670,000
Drake Field/Municipal Airport	\$3.6M	Not Funded
Illinois River - Scull Creek	\$1M	Not Funded
Simulcast Public Safety Communications	\$2.5M	\$446,500
Arkansas Research & Technology Park	\$2M	\$500,000
Total		\$1,916,500

FY09 Strategy:
Federal
Appropriations



FY09 Appropriation Requests	
Simulcast System for Public Safety Communication	Requested
Arkansas Research & Technology Park	\$2M
Fayetteville Regional Wastewater System Improvements	\$2M
Drake Field/Municipal Airport	\$4M
Fayetteville Housing Partnership	\$3.6M
Razorback Transit System Upgrade	\$1M
Highway 112 "Razorback Road" Improvement	\$600,000
	\$6.2M

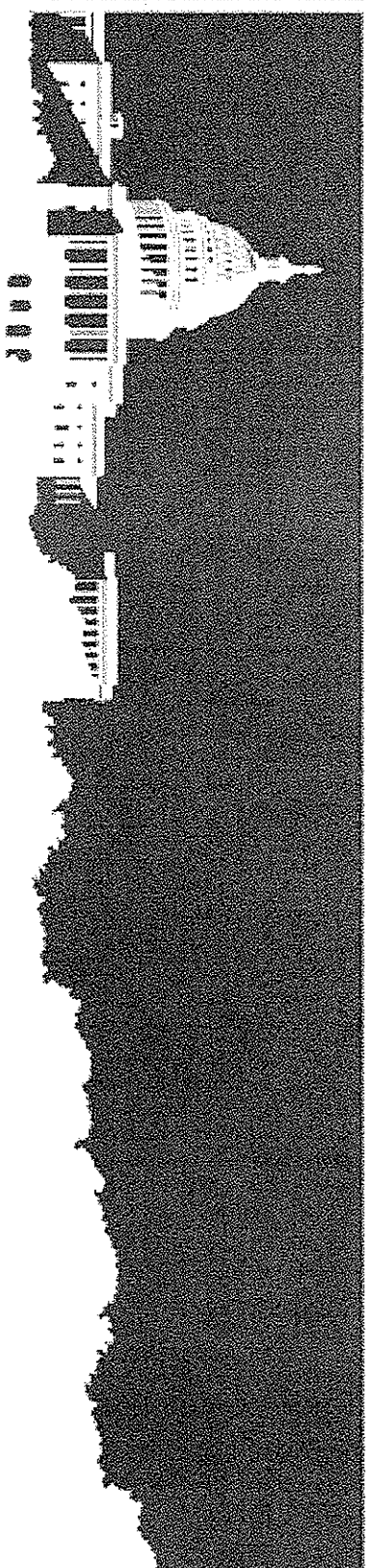
How the year
started...



Fayetteville
ARKANSAS

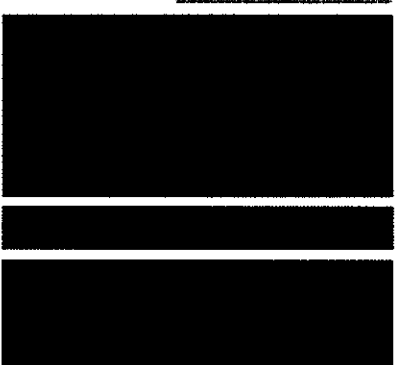
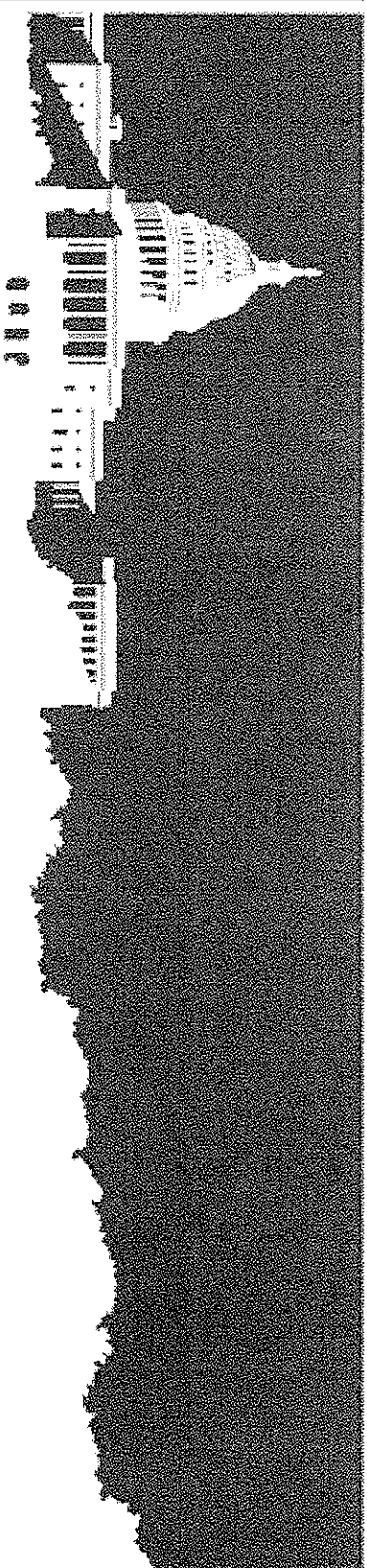
- **President Bush:**
 - A lame duck President with little to lose;
 - Will maintain a hard line on domestic discretionary spending;
 - Has again proposed unrealistically low numbers in his 09 budget for domestic needs.
- **Congress:**
 - Democrats hope to win POTUS 08; Outcome TBD
 - House leaders will continue to push for earmark reforms;
 - Political necessity/elections will complicate their efforts;
 - Local government has greater opportunities as a result.
- **CY 2008:**
 - A short legislative year requiring earlier action on spending;
 - Large opportunities to influence the Presidential transition;
 - Will legislation get enacted? 50-50 at best.

FY09 Budget End Game



- Congressional Leaders are following a two-track strategy:
 - Move forward with Appropriations if President is willing to move higher on some of his domestic spending levels;
 - Run out the clock on Bush and conclude FY09 Appropriations with new President next year;
- If **Obama** is elected, expect quick agreement in early 2009 and earmarks.
- If **McCain** elected, earmarks could be endangered, although McCain may want to avoid this fight so early on.

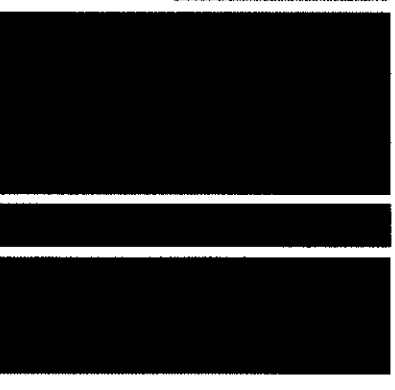
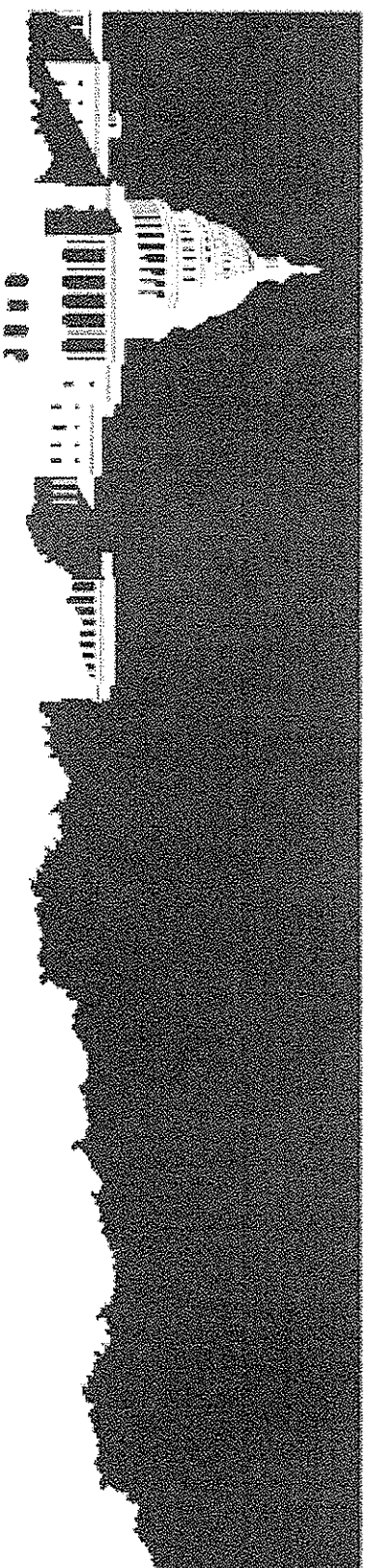
The Road Ahead



Issues for the President and the 111th Congress

- **Infrastructure**
 - New Highway Reauthorization Bill
 - Aviation
 - Water
 - Housing
- **Energy & Environment**
 - Rising fuel costs
 - Sustainability
- **Healthcare**
 - Affordability
 - Access
- **Immigration**
- **Budget Deficit**
 - Many competing priorities

Conclusion



- Consistent communication between the City and Van Scoyoc Associates
- Assess the needs of the City and its citizens and look for targets of opportunity at the federal level to address those challenges – legislative or non-legislative
- Continue to develop appropriations requests based upon Fayetteville's central goals
- Secure regional partnerships
 - Explore community support
 - Exhaust grant opportunities to generate additional programmatic support
- Delegation is poised to be significant players in 111th Congress

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, City Engineer

From: Sarah Wrede, Staff Engineer

Date: June 27, 2008

Subject: Resolution to accept a grant through the Arkansas Natural Resources Commission in a proposed partnership agreement with a subcontractor for a grant for water quality sampling, analysis and annual load determinations for TSS, nitrogen, and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River and utilizing in-kind match through staff time and current projects.

RECOMMENDATION

Staff recommends approval of a resolution authorizing acceptance of a grant including a partnership agreement with a subcontractor for water quality sampling, analysis and annual load determinations for TSS, nitrogen, and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River.

BACKGROUND

On July 1, 2008, the City Council approved a resolution to apply for a grant through the Arkansas Natural Resources Commission in a proposed partnership agreement with a subcontractor for a grant for water quality sampling, analysis and annual load determinations for TSS, nitrogen, and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River and utilizing in-kind match through staff time and current projects.

DISCUSSION:

The City of Fayetteville will be the contractor with Arkansas Natural Resources Commission (ANRC) for the 319 grant. The City will be responsible for contractual relationships and payment to the sub-contractor, purchasing sampling equipment, which is reimbursable through the grant, and providing the match for the project. The sub-contractor will be responsible for all remaining tasks of the project including: writing the Quality Assurance Project Plan (QAPP), collecting samples and analyzing the data from the water quality sampling station, computing the annual load for all parameters and reporting quarterly and annually to the City of Fayetteville and ANRC.

The proposed project costs are \$45,765 federal and \$34,524 of in kind match from the City of Fayetteville for a total of \$80,289. The grant was originally planned to use the Nutrient Reduction Plan as the total match. However ANRC decided that the only allowable portion of the Nutrient Reduction Plan to use as match would be the stakeholder meetings and staff time spent on Nutrient Reduction Plan related work. The match for the stakeholder meetings and staff time will make up \$9155.00. Project administration will make up \$5000 of the match. The additional match to make up the difference will be provided by the West Fork EPA through their Annual Watershed Outreach and Clean-up of the West Fork of the White River. These forms of in-kind match have been approved by ANRC.

BUDGET IMPACT

Funds are available in the Drainage Study/Phase II Stormwater Management account that has been designated for use to fund projects that improve stormwater quality in the City of Fayetteville. The grant includes the purchase of sample collection and analysis equipment in the amount of \$14,000. This equipment must be purchased at the beginning of the project and is reimbursable once the grant is awarded.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ENGINEERING DIVISION TO APPLY FOR AND ACCEPT A GRANT FROM THE ARKANSAS NATURAL RESOURCES COMMISSION FOR WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR TSS, NITROGEN AND PHOSPHORUS AT THE MALLY WAGNON ROAD BRIDGE ON THE WEST FORK OF THE WHITE RIVER; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Engineering Division to apply for and accept a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment recognizing the grant revenue.

PASSED and APPROVED this 1st day of July, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

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

Budget Year 2008	Department: Division: Program:	Date Requested 7/1/2008	Adjustment Number
-------------------------	--------------------------------------	--------------------------------	-------------------

Project or Item Added/Increased:
\$45,765 is requested in the Drainage/Phase 2 Stormwater Mgmt project.

Project or Item Deleted/Reduced:
None. To recognize \$45,765 in EPA Grant Revenue.

Justification of this Increase:
The funding is for the Water Quality Sampling, Analysis and Annual Load Determinations for Nutrients and Solids at the Washington County Road 195 Bridge on the West Fork of the White River Grant.

Justification of this Decrease:

Increase Expense Budget (Decrease Revenue Budget)

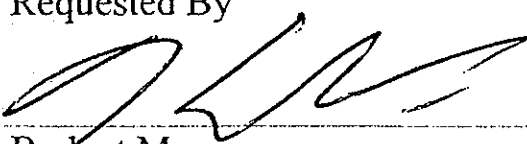
Account Name	Account Number				Amount	Project Number	
Bridge & drainage improve	4470	9470	5817	00	45,765	08059	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Federal grants-Capital	4470	0947	4309	00	45,765	08059	1

Approval Signatures

 6/30/08
Requested By Date

 6-30-08
Budget Manager Date

 6-30-08
Department Director Date

 6-30-08
Finance & Internal Services Director Date

Mayor Date

Budget Office Use Only

Type: A B C D E

Posted to General Ledger

Initial	Date
---------	------

Posted to Project Accounting

Initial	Date
---------	------

Entered in Category Log

Initial	Date
---------	------



Arkansas Natural Resources Commission



J. Randy Young, PE
Executive Director

101 East Capitol, Suite 350
Little Rock, Arkansas 72201
<http://www.anrc.arkansas.gov/>

Phone: (501) 682-1611
Fax: (501) 682-3991
E-mail: anrc@arkansas.gov

Mike Beebe
Governor

RECEIVED

JUN 19 2008

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

MEMORANDUM

TO: Mayor Dan Coody
City of Fayetteville

FROM: Earl T. Smith, Jr., P.E.
Chief, Water Resources Management Division

DATE: June 17, 2008

RE: SUB GRANT AGREEMENT (SGA 243)
Water Quality

Please review and sign the above referenced Sub Grant Agreement and return both originals to this office. A fully executed copy will be returned to you for your files.

An envelope is enclosed for your convenience.

ETS:lab

Enclosure

**SUB-GRANT AGREEMENT # SGA 243
BETWEEN
ARKANSAS NATURAL RESOURCES COMMISSION
AND
CITY OF FAYETTEVILLE**

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.
GRANT # F0455C999610316-1S
PROJECT 08 -113**

SECTION 1. - PURPOSE

The purpose of this Sub-Grant Agreement is to establish the responsibilities of the Arkansas Natural Resources Commission (Commission) and the City of Fayetteville (City) necessary to complete a cooperative nonpoint source pollution prevention project.

This project is to continue water quality sampling, water sample analysis and annual pollutant load calculations at the Washington County road 195 bridge on the West Fork of the White River.

SECTION 2. - GENERAL

The Commission is the recipient of a grant from the US Environmental Protection Agency (EPA) to be used for implementation of the project. A requirement of the grant is that state and local funds also be secured. The following is a summation of funding requirements:

SUMMARY OF FUNDS

<u>Source</u>	<u>Amount</u>
Funds provided to the City of Fayetteville	
EPA (997) –	\$45,765
ANRC (2RG-04)	\$
TOTAL FUNDS	\$45,765
CC 336485 FSC3808	
Funds provided by the City of Fayetteville (Cash or In-Kind)	\$34,524
TOTAL MATCH	\$34,524
TOTAL PROJECT COST	\$80,289

SECTION 3. – CITY RESPONSIBILITIES

1. Provide personnel, supplies, and other resources necessary for completion of the project as outlined in the attached scope of work.
2. Abide by all conditions of US EPA Assistance Agreement. The Administrative Conditions of the grant are attached and incorporated by reference.
3. Complete all milestones, tasks, and outputs as outlined in the project workplan in a timely manner.
4. Provide Quarterly Reports to the Commission within 15 days of the end of September, December, March, and June; including Progress Reports, Supporting Documentation, MBE/WBE Expenditures, and other matters required by the Commission.
5. Participate in an annual project evaluation and provide a report to the Commission on significant accomplishments and other information as required by the Commission resulting from this project. An Annual Evaluation Report will be submitted to the Commission by October 1st of each year.
6. Maintain financial records acceptable to the Commission. Submit to the Commission an annual audit of funds that have been provided under this agreement.
7. Request payment for services provided in accordance with the attached schedule of payments. Requests will be made no more than quarterly and will be accompanied by the required project progress report.
8. Provide funds to the project as scheduled in the summary of funds and in the project work-plan.

SECTION 4. - COMMISSION RESPONSIBILITIES

1. Administer the grant in accordance with US EPA regulations.
2. Make semi-annual reports to Region 6 of the US EPA on progress of the project.
3. Include activities of the project in its annual report on nonpoint source management to US EPA.
4. Provide payment in a timely and efficient manner for work performed in accordance with the attached schedule of payments.
5. Provide personnel, supplies and resources for completion of the project as outlined in the attached scope of work.
6. Abide by conditions of US EPA Assistance Agreement.
7. Make periodic inspections of the work to determine if it meets the requirements of the EPA Assistance Agreement.

8. The project will be assessed at the end of the first year by the Nonpoint Source (NPS) Staff. The NPS Staff will determine if the project is on schedule and all milestones, tasks, and outputs as outlined in the project workplan have been accomplished in a timely manner. Funding for the following year(s) of this project will be contingent upon satisfactory completion of tasks, by the completion date(s) as outlined in the schedule of tasks and outputs.

SECTION 5. - IT IS FURTHER AGREED:

1. Employees of all parties will cooperate fully with each other in such a manner as to maintain and enhance the image of all parties and any other agencies assisting the project.
2. Any advertisements or information released regarding the project must reference the contributions of the Commission and EPA.
3. Any and all equipment purchased by US EPA Assistance Agreement or Commission funds will be properly identified reflecting who provided funding for the equipment.
4. Any and all equipment and supplies purchased by US EPA Assistance Agreement or Commission funds will be surrendered to the Commission if the terms of this agreement are not met. Equipment purchased by US EPA Assistance Agreement or Commission funds requires the Commissions' approval prior to disposition.
5. The Sub-grantee will be required to participate in the Commissions' annual project review meeting and any other meetings and/or conferences the Commission deems necessary.
6. The Commission may terminate this agreement with a 30-day written notice at any time if it is determined by the Commission's Executive Director that the work is not within the terms and condition of this agreement including the project workplan and other grant requirements, or if the EPA determines that the work is not within the grant requirements.
7. This Sub-Grant Agreement will expire **September 1, 2009**.
8. The project duration will be 1 year(s), beginning- **July 1, 2008 to June 30, 2009**.
9. Final Report and Invoice are due no later than **July 31, 2009**.

Acceptance of this agreement is evidenced by signature below.

CITY OF FAYETTEVILLE

By: _____
Dan Coody, Mayor

Date: _____

ARKANSAS NATURAL RESOURCES COMMISSION

By: _____
J. Randy Young, Executive Director

Date: _____

**SUB-GRANT AGREEMENT # SGA 243
BETWEEN
ARKANSAS NATURAL RESOURCES COMMISSION
AND
CITY OF FAYETTEVILLE**

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.
GRANT # F0455C999610316-1S
PROJECT 08 -113**

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The purpose of this Sub-Grant Agreement is to establish the responsibilities of the Arkansas Natural Resources Commission (Commission) and the City of Fayetteville (City) necessary to complete a cooperative nonpoint source pollution prevention project.

This project is to continue water quality sampling, water sample analysis and annual pollutant load calculations at the Washington County road 195 bridge on the West Fork of the White River.

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TOTAL PROJECT COST	\$80,289

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8. The project duration will be **1 year(s)**, beginning- **July 1, 2008 to June 30, 2009**.
9. Final Report and Invoice are due no later than **July 31, 2009**.

Acceptance of this agreement is evidenced by signature below.

CITY OF FAYETTEVILLE

By: _____
Dan Coody, Mayor

Date: _____

ARKANSAS NATURAL RESOURCES COMMISSION

By: _____
J. Randy Young, Executive Director

Date: _____

SCOPE OF WORK
PROJECT 08-113
WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.

INTRODUCTION

A water quality sampling station was installed at the Washington County road 195 bridge on the West Fork of the White River just above the confluence of the three main forks of the Upper White River in 2002. This station is coordinated with a USGS gauging station at the same location. This station is instrumented to collect samples at sufficient intervals across the hydrograph to accurately estimate the flux of total suspended solids, nitrogen and phosphorus into the upper end of Beaver Lake from the West Fork of the White River. The West Fork is listed on Arkansas' 1998 303d list as impaired from sediment. The Upper White was designated as the states highest priority watershed in the 1999 Unified Watershed Assessment. Accurate determination of stream nutrients and sediment is critical for future determinations of TMDLs, effectiveness of best management practices and trends in water quality. This proposal is for continuation of sampling and load determination for the period from July 1, 2008 to June 30, 2009.

SCOPE

This proposal is for sampling station installation, water quality sampling, water sample analysis and annual pollutant load calculations at the Washington County Road 195 Bridge on the West Fork of the White River. The parameters measured from collected samples will be nitrate-nitrogen, ammonia-nitrogen, total nitrogen, total phosphorus, dissolved reactive phosphorus, turbidity, conductivity, sulfate chloride and total suspended solids. In addition turbidity, conductivity and pH will be measured in-situ and recorded in thirty-minute intervals. The City of Fayetteville will be the contractor with Arkansas Natural Resources Commission (ANRC) for the 319 grant. They will be responsible for contractual relationships and payment to the sub-contractor. The City of Fayetteville will also be responsible for providing the entire match for the project. Nelson Engineering will be the sub-contractor. The sub-contractor will be responsible for all remaining tasks of the project including: writing the QAPP, collecting samples and analyzing the data from the water quality sampling station, computing the annual load for all parameters and reporting quarterly and annually to the City of Fayetteville and ANRC.

METHODS

There are twelve significant storms during a year on average. Each storm will require an average of three composite samples. The budget is based on composite sampling, collection and analysis for twelve storms and twenty-six grab samples. This is the estimated analytical cost. Actual costs will be born by the sub-contractor regardless of the number of samples collected. (All significant storm events will be sampled) All samples will be analyzed for Nitrate Nitrogen (NO₃-N), Ammonia Nitrogen (NH₄-N), Total Nitrogen (TN), Total Phosphorus (TP), Soluble Reactive Phosphate (SRP) and Total Suspended Solids (TSS), turbidity, conductivity, sulfate and chloride. Nelson Engineering will collect all samples and all samples will be analyzed by the AWRC Water Quality Lab or another ADEQ certified lab using standard field and laboratory QA/QC procedures.

The sampler will be configured to take flow-weighted composite samples. The sampler will begin sampling after the stage has risen above a set trigger level. It will take a discrete sample after a fixed volume of water has passed. The discrete samples will be composited by combining equal volumes of each into a single composite sample for analysis. The discrete samples will be collected for compositing before all twenty-four bottles are filled or within forty-eight hours after the first sample. Storms will be sampled in this manner as long as the stage is above the trigger level. The trigger level will be four feet. Grab samples will be taken every two weeks. The data collected at this site will be used to calculate total pollutant loads and mean concentrations for the year. All data will be reported with field and laboratory QA/ QC data.

A YSI sonde will be used to collect data on turbidity and conductivity. The sonde is SDI-12 compatible and works in conjunction with the USGS DCP located on site. The data is measured and logged every 30 minutes and transferred to the USGS office every 4 hours along with other USGS stage and flow data.

The responsibilities of the sub-contractor include project management and coordination, QAPP plan writing, sample collection, field maintenance, sample analyses, quality control, data compilation, data interpretation and report writing.

Quarterly progress and quality assurance reports and a yearly written report will be prepared for this project. The report will detail the sampling results for the year as well as total calculated loads for the water quality parameters measured. Trends in water quality will be investigated and reported as soon as sufficient data becomes available. The report will be presented annually to the City of Fayetteville and ANRC. Payment of the sub-contract will be a lump sum, 25% of the total each quarter after submission of the quarter reports and a payment invoice from the sub-contractor to the City.

Budget totals: \$80,289

Requested federal funds: \$45,765(57%)

Required matching funds (or in-kind match): \$34,524(43%)

**Schedule of Payments
Project FY 08-113**

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.**

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

Item	Description	Budgeted Units	Unit Cost	Total Payment
1	Quarterly and QA Reports	4	\$10,000	\$40,000
2	Final Report	1	\$5,765	\$5,765
Total				\$45,765

**Schedule of MATCH
Project FY 08-113**

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.**

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

Item	Description	Budgeted Units	Unit Cost	Total Payment
1	Quarterly and QA Reports	4	\$7,500	\$30,000
2	Final Report	1	\$4,524	\$4,524
Total				\$34,524

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.**

Quarter: _____ (From) Date _____ (To) Date _____

				Cost this Quarter		Total Costs to Date	
Item	Description	Budgeted Units	Unit Cost	Units this Quarter	Quarter Cost =(Unit Cost x Units this Quarter)	Total Units to Date	Total Cost =(Unit Cost x Total Units to Date)
1	Quarterly and QA Reports	4	\$10,000		\$		\$
2	Final Report	1	\$5,765		\$		\$
Earned this Quarter					\$		\$
Total Cost to date							\$
Less Previous Payments							\$
Total Amount Due							\$

Prepared / submitted by: _____ Date: _____

**Quarterly Match Report
Project FY 07-113**

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.**

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

Quarter: _____
 (From) Date **(To) Date**

Date Submitted to ANRC: _____

				Cost this Quarter		Total Costs to Date	
Item	Description	Budgeted Units	Unit Cost	Units this Quarter	Quarter Cost = (Unit Cost x Units this Quarter)	Total Units to Date	Total Cost = (Unit Cost x Total Units to Date)
1	Quarterly Reports	4	\$7,500				
2	Final Report	1	\$4,524				
Total Billed							
Total Cost							
Less Previous Payments							
Total Amount Due							
Budget: \$34,524		Total Cost: \$		Cash Advance: \$0		Balance: \$	

Prepared/submitted _____ **Date:** _____
by: _____

Administrative Conditions

This Assistance Agreement is awarded in accordance with the **Federal Grants and Cooperative Agreement Act of 1977**. Areas of substantial EPA involvement, beyond the normal exercise of performance evaluation and program review, have been detailed in specific output objectives which resulted from negotiation between EPA and the recipient. These areas are included in the application for this award and have become a part of this Agreement.

1. The recipient covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this Agreement, in accordance with all applicable provisions of **40 CFR Chapter 1, Subchapter B**. The recipient warrants, represents, and agrees that it and all its contractors, employees and representatives, will comply with all APPLICABLE provisions of **40 CFR Chapter 1, Subchapter B, INCLUDING BUT NOT LIMITED TO** the provisions of **40 CFR Parts 31, 32, 34, and 35**. This award may be reduced or terminated at such time the recipient fails to comply with the program objectives, grant award conditions, or Federal reporting requirements.
2. Recipient standards of administration, property management, procurement and financial management, as well as records and facilities of recipients, their contractors and subcontractors are subject to audit and inspection by the Comptroller General of the United States and the U.S. Environmental Protection Agency in accordance with Office of Management and Budget (OMB) Circulars A-87, A-102, A-110 and 40 CFR Part 31. The recipient's standards governing procurement will be in accordance with 40 CFR, Part 31.36 and OMB Circular A-102. The recipient shall maintain a financial management system which meets the requirements of 40 CFR Part 31.20.
3. In accordance with the requirements contained in Section 6002 of the Resources Conservation and Recovery Act (RCRA), 42 USC 6962, the recipient is required to purchase items containing recovered materials. These requirements apply when the recipient purchases more than \$10,000 each Fiscal Year of any item covered by the following procurement guidelines including: paper and paper products (40 CFR Part 250); lubricating oil containing re-refined oil (40 CFR Part 252); retread tires (40 CFR Part 253); building insulation products (40 CFR Part 248) and cement and concrete containing fly ash (40 CFR Part 249). EPA publication **PROCUREMENT GUIDELINES FOR GOVERNMENT AGENCIES** dated December, 1990 (EPA/530-SW-91-011) provides specific recommendations for the implementation of these requirements.
4. Pursuant to EPA Order 1000.25, dated January 24, 1990, the recipient agrees to use recycled paper for all reports which are prepared as a part of this Agreement and delivered to EPA. This requirement does not apply to standard forms which are printed on recycled paper when available through the General Services Administration.
5. In accordance with **40 CFR Part 31.41**, the recipient shall submit an annual **Financial Status Report (FSR)**, Standard Form 269 or 269A, to:

U. S. Environmental Protection Agency, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

The final Financial Status Report (FSR) is due on or before 90 days after the end of the budget period. In accordance with Agency policy, all project expenditures reported by the recipient shall be deemed to include both the Federal and recipient share of the expenditures.

6. The recipient agrees to ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds, complies with the Hotel and Motel Fire Safety Act of 1990.
7. Under the Paperwork Reduction Act of 1980, Office of Management and Budget (OMB) clearance must be obtained prior to collecting information from 10 or more persons and will use EPA's name while collecting the information under this project. The term "person" means an individual, partnership, association, corporation, business, trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision. The EPA Project Officer is responsible for requesting clearance from OMB.
8. The Federal share of allowable expenditures chargeable to this assistance project will be financed by the EPA AUTOMATED CLEARING HOUSE (EPA-ACH) PAYMENT SYSTEM.

The recipient will strictly adhere to the accounting and reporting procedures described in the EPA-ACH Recipient's Manual for the duration of the project. Four conditions should receive special attention:

- a. Cash drawdowns will be made only as actually needed for disbursements.
- b. The recipient will provide timely reporting of cash disbursements and balances through semi-annual submission of a Federal Cash Transactions Report (SF-272) to:

Federal Cash Transactions Report Coordinator
General Accounting Team (6MD-RG)
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

- c. The recipient will impose the same standards of timing and reporting on secondary recipients, if any.
- d. When a drawdown under the EPA-ACH Payment System occurs, the recipient must show the Assistance Agreement Number(s) under "Financial Data" on the EPA-ACH Payment Request Form.

9. The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements:

a. The recipient accepts the applicable FY 2000 Minority Business Enterprise (MBE)/Women's Business Enterprise (WBE) "fair share" goals/objectives negotiated with EPA as follows:

MBE: CONSTRUCTION - 3.3%; SUPPLIES - 1.1%; SERVICES - 0.9%; EQUIPMENT - 1.1%
WBE: CONSTRUCTION - 4.5%; SUPPLIES - 5.2%; SERVICES - 7.5%; EQUIPMENT - 5.2%

b. (1) The recipient agrees to ensure, to the fullest extent possible, that at least the applicable "fair share" objectives of Federal funds for prime contracts or subcontracts for supplies, construction, equipment or services are made available to organization owned or controlled by socially and economically disadvantaged individuals, women and Historically Black Colleges and Universities.

(2) For assistance agreements related to research under the Clean Air Act Amendments of 1990, the recipient agrees to ensure, to the fullest extent possible, that at least the applicable "fair share" objectives of Federal funds for prime contracts or subcontracts for supplies, construction, equipment or services are made available to organizations owned or controlled by socially and economically disadvantaged individuals, women, disabled Americans, Historically Black Colleges and Universities, Colleges and Universities having a student body in which 40% or more of the students are Hispanic, minority institutions having a minority student body of 50% or more, and private and voluntary organizations controlled by individuals who are socially and economically disadvantaged.

c. The recipient agrees to include in its bid documents the applicable "fair share" objectives and require all of its prime contractors to include in their bid documents for subcontracts the negotiated "fair share" percentages.

d. The recipient agrees to follow the six affirmative steps or positive efforts stated in 40 CFR, Section 30.44(b), 40 CFR Section 31.36(e), or 40 CFR Section 35.6580, as appropriate, and retain records documenting compliance.

e. The recipient agrees to submit an EPA form 5700-52A "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year quarter the recipient receives the award and continuing until the project is completed. These reports must be submitted to the Regional MBE/WBE Coordinator within 30 days of the end of the Federal Fiscal quarter (January 30, April 30, July 30, and October 30). For assistance awards for continuing environmental programs and assistance awards with institutions of higher education, hospitals and other non-profit organizations, the recipient agrees to submit an EPA form 5700-52A to the Regional MBE/WBE Coordinator by October 30 of each year.

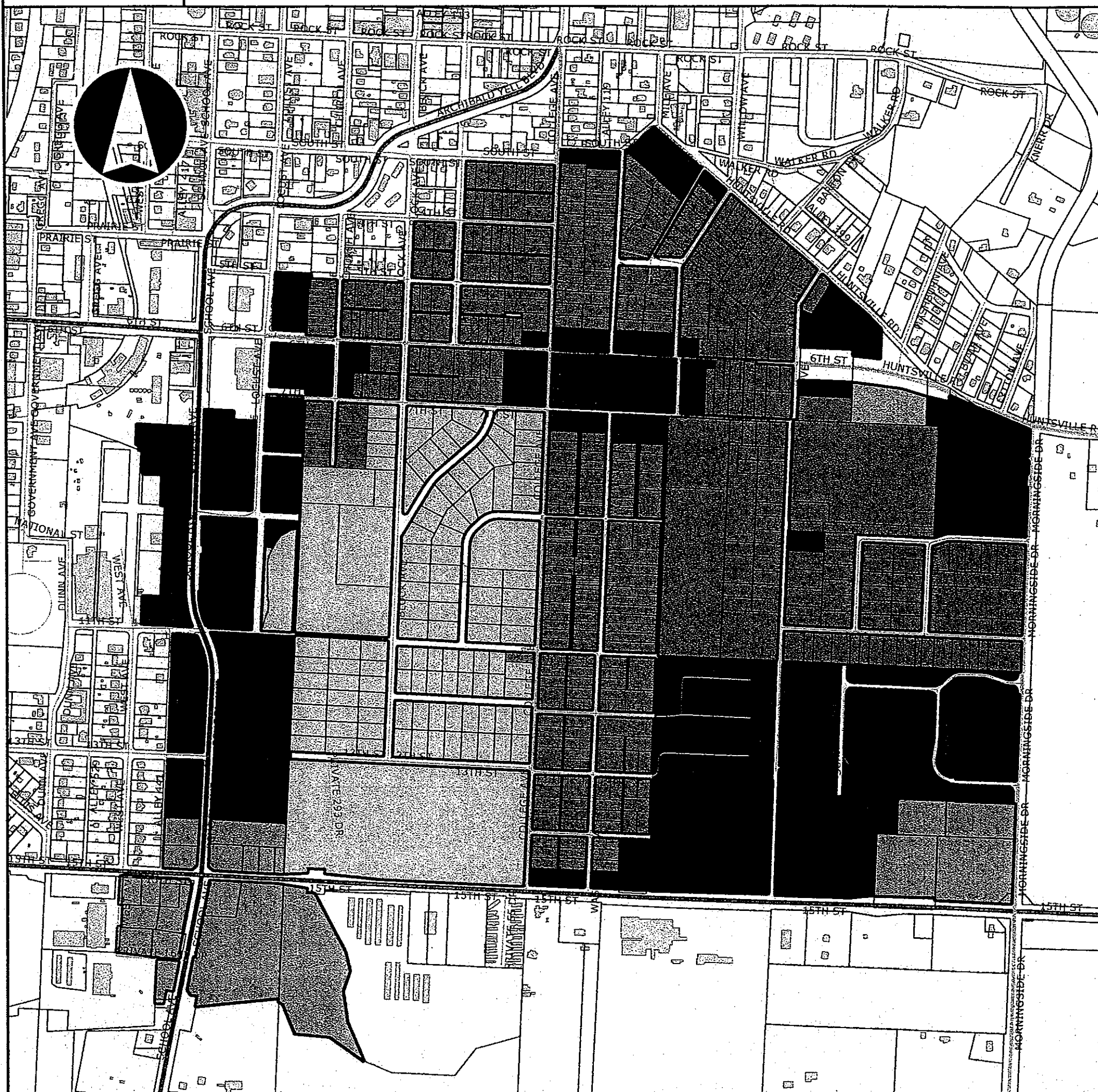
f. If race and/or gender neutral efforts prove inadequate to achieve a "fair share" objective, the recipient agrees to notify EPA in advance of any race and/or gender conscious action it

EXHIBIT "A" (MODIFIED)

RZN08-2971

WALKER PARK NEIGHBORHOOD

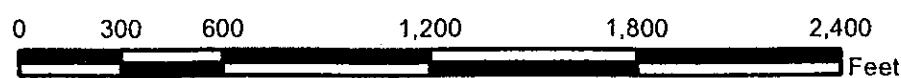
Proposed Zoning



Overview

Legend

-  RMF-18
-  NC
-  MSC
-  DG
-  P-1
-  R-PZD



Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
July 01, 2008**

A meeting of the Fayetteville City Council will be held on July 01, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Agenda Session Presentations:

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Van Scoyoc Presentation: Kevin Kelly

Agenda Additions:

A. Consent:

1. Approval of the June 3, 2008 and June 17, 2008 City Council meeting minutes.
2. **Bid 08-45 Benchmark Construction of NWA, Inc:** A resolution to approve a bid and award a contract in the amount of \$79,900.00 to Benchmark Construction of NWA, Inc. to construct a concrete pad for Solid Waste with a contingency of \$7,290.00.

3. **Bid 08-49 Deerskin Manufacturing, Inc:** A resolution to award Bid 08-49 to Deerskin Manufacturing, Inc. to purchase a chassis mounted animal control body in the amount of \$19,770.00 plus tax of \$1,828.73 for a total of \$21,598.73.
4. **Racial Profiling Prohibited Policy:** A resolution to approve an amendment to Fayetteville Police Department Policy 1.2.3 "Racial Profiling Prohibited."
5. **Frisco Trail Art Sculpture Donation:** A resolution to accept a donated metal art sculpture to be placed upon the Frisco Trail in honor of the Hoover Family.
6. **McClelland Consulting Engineers, Inc. Amendment # 2:** A resolution to approve Amendment # 2 to an agreement with McClelland Consulting Engineers, Inc. for engineering services for an additional year.
7. **Arkansas Historic Preservation Program Grant:** A resolution to approve a budget adjustment and a contract with the Arkansas Historic Preservation Program to receive a Certified Local Government Grant in the amount of \$7,500 to provide travel and training funds for the Historic District Commission and Staff.
8. **Arkansas Natural Resources Commission Grant:** A resolution authorizing the Engineering Division to apply for a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagnon Road Bridge on the West Fork of the White River.

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals:
2. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Association (POA) in an amount not to exceed \$69,674.00 to dredge the Boardwalk POA pond. *This ordinance was left on the First Reading at the August 7, 2007 City Council meeting. This ordinance was left on the Second Reading at the August 23, 2007 City Council meeting. This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting and Tabled to the October 2, 2007 City Council meeting. This ordinance was tabled indefinitely at the October 2, 2007 City Council meeting.*

This ordinance was left on the Second Reading.

3. **Northwest Arkansas Regional Mobility Authority:** An ordinance providing for Fayetteville's participation in the Northwest Arkansas Regional Mobility Authority and approving an agreement with participating members of the Northwest Arkansas Regional Mobility Authority. *This ordinance was left on the Second Reading at the June 17, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

C. New Business:

- 1. VAC 08-2916 (Hill Place):** An ordinance approving VAC 08-2916 submitted by Appian Centre for Design for property located at the southwest corner of 6th Street and Hill Avenue intersection, to vacate various utility easements and rights-of-way, within the subject property.
- 2. RZN 08-2971 (Walker Park Neighborhood):** An ordinance rezoning that property described in rezoning petition RZN 08-2971, for approximately 304.3 acres, bounded by Archibald Yell Boulevard, Huntsville Road, Morningside Drive, 15th Street and South School Avenue from RMF-24, Residential Multi-family, 24 units per acre, C-2, Thoroughfare Commercial, and P-1, Institutional to NC, Neighborhood Conservation, DG, Downtown General, RMF-18, Residential Multi-family, 18 units per acre, and MSC, Main Street Center.
- 3. Arkansas Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Executive Airport staff to apply for a grant in the amount of \$68,235.00 from the Arkansas Department of Aeronautics to fund an Airfield Security Project.

Announcements:

- 1. City Council Tour: June 30, 2008**

Adjournment:

City of Fayetteville Staff Review Form

A. 2
Bid 08-45 Benchmark
Construction of NWA, Inc.
Page 1 of 8City Council Agenda Items
and
Contracts, Leases or Agreements

7/1/2008

City Council Meeting Date
Agenda Items Only

Brian Pugh

Submitted By

Solid Waste & Recycling

Division

Operations

Department

Action Required:

Approving the award of Bid 08-45, Solid Waste Concrete pad re-bid to Benchmark Construction of NWA, Inc. in the amount of \$72,900.00 and approving a project contingency of 10% in the amount of \$7,290.00.

\$ 80,190.00

Cost of this request

\$ 93,527.00

Category / Project Budget

Composting Site Improvements

Program Category / Project Name

5500.5070.5816.00

Account Number

\$ -

Funds Used to Date

Solid Waste Improvements

Program / Project Category Name

02038/1

Project Number

\$ 93,527.00

Remaining Balance

Solid Waste

Fund Name

Budgeted Item

☒

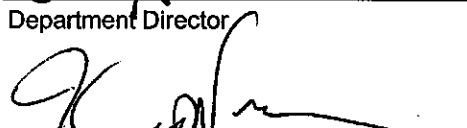
Budget Adjustment Attached

☐
Department Director

6-11-08

Date

Previous Ordinance or Resolution #

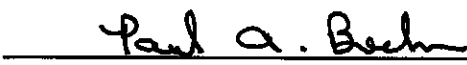

City Attorney

6-12-08

Date

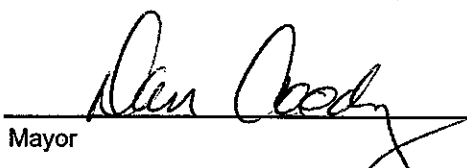
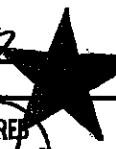
Original Contract Date:

Original Contract Number:


Finance and Internal Service Director

6-12-08

Date

Received in City
Clerk's Office6-11-08 
Mayor

6/16/08

Date

Received in
Mayor's Office

Comments:

City Council Agenda Item

Preprint agenda date and
item number inserted by
city clerk

To: Mayor and City Council
From: Brian Pugh
Date: June 10, 2008
Subject: Approving the award of Bid 08-45, Solid Waste Concrete pad re-bid to Benchmark Construction of NWA, Inc. in the amount of \$72,900.00 and approving a project contingency of 10% in the amount of \$7,290.00.

Recommendation: Staff recommends approving the award of Bid 08-45, Solid Waste Concrete pad re-bid to Benchmark Construction of NWA, Inc. in the amount of \$72,900.00 and approving a project contingency of 10% in the amount of \$7,290.00.

Background: Staff issued Bid 08-30 which was scheduled to be opened on 2-27-08. Bid was pulled by Purchasing to answer some questions about the grading work from various contractors. City Engineers then reevaluated the pad and deemed it ok for concrete to be poured. The Bid was re-issued as Bid 08-45 and opened on 6-6-08. The low bidder was Benchmark Construction of NWA, Inc.

Discussion: The Solid Waste and Recycling Division budgeted and planned for concrete work adjacent to the Compost Building. A concrete pad for storing dumpsters and containers for use with Solid Waste and Recycling operations will be poured in order to avoid ruts and other problems associated with a non-concreted area and traffic with Solid Waste vehicles.

Budget Impact: This is a budgeted Solid Waste Improvement Project number 02038.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A BID AND AWARD A
CONTRACT IN THE AMOUNT OF \$79,900.00 TO
BENCHMARK CONSTRUCTION OF NWA, INC. TO
CONSTRUCT A CONCRETE PAD FOR SOLID WASTE
WITH A CONTINGENCY OF \$7,290.00

**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 low bid to construct a concrete pad for solid waste and approves a contract with Benchmark
Construction of NWA, Inc. in the amount of \$72,900.00 with a project contingency of \$7,290.00.

PASSED and APPROVED this 1st day of July, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

City of Fayetteville
Bid 08-45, Solid Waste Concrete Pad Re-Bid
FINAL CONTRACT

This contract executed this _____ day of _____, 2008, between the City of Fayetteville, Arkansas, and Benchmark Construction of NWA, Inc. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Benchmark Construction of NWA, Inc. at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per bid 08-45 as stated in Benchmark Construction of NWA, Inc. bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #08-45, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay Benchmark Construction of NWA, Inc. based on their bid proposal in an amount not to exceed \$72,900.00. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and Benchmark Construction of NWA, Inc. consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 08-45 with the specifications and conditions typed thereon.
 - B. Benchmark Construction of NWA, Inc. bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and Benchmark Construction of NWA, Inc. and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Benchmark Construction of NWA, Inc.
5. Benchmark Construction of NWA, Inc. shall not assign its duties under the terms of this agreement.
6. Benchmark Construction of NWA, Inc. agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Benchmark Construction of NWA, Inc. performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
7. Benchmark Construction of NWA, Inc. shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Benchmark Construction of NWA, Inc. shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workmen's Compensation

Statutory Amount

Comprehensive General &
Automobile Insurance

Bodily Injury Liability

\$500,000 for each person injured.
\$500,000 for each accident.

Property Damage Liability

\$500,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by Benchmark Construction of NWA, Inc.

8. Benchmark Construction of NWA, Inc. to furnish proof of licensure as required by all local and state agencies.
9. This contract may be terminated by the City of Fayetteville or Benchmark Construction of NWA, Inc. with 10 days written notice.
10. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.
11. Changes in Scope or Price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2008.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

Attest:

Sondra Smith, City Clerk

BEARHMARK CONST OF NWA, INC.
CONTRACTOR

BY Stephen Smith, Pres.
NAME AND TITLE

ATTEST: COMPANY SECRETARY

Roger Row

333 W. DOPLAR ST, FAYETTEVILLE, AR 72703
BUSINESS ADDRESS

BID: 08-45
 DATE: 6/6/08
 2:00 PM
 CITY OF FAYETTEVILLE

Bid 08-45, Solid Waste Concrete Pad Re-Bid

BIDDER	Total/Unit-Key/Bid Amount	Deductive Alternate #1	Total/Unit-Key/Bid Amount	Deductive Alternate #1
1 Ames Construction Solutions, LLC	\$89,300.00	\$45,558.47	\$43,741.53	
2 Basic Construction	\$95,300.00	\$47,804.00	\$47,496.00	
3 Benchmark Construction of NWA, Inc.	\$72,900.00	\$45,000.00	\$27,900.00	
4 Construction & Engineering Solutions, LLC	\$80,845.00	\$49,662.00	\$31,183.00	
5 Heckathorn Construction Company, Inc.	\$119,735.00	\$51,990.00	\$67,745.00	
6 Natural Builders, Inc.	\$89,800.00	\$46,385.00	\$43,415.00	
7 Perme Excavating, Inc.	\$103,950.00	\$50,300.00	\$53,650.00	
8 RJR Enterprises, Inc.	\$106,000.00	\$49,600.00	\$56,400.00	
9 SSI Inc. of Northwest Arkansas	\$107,562.00	\$49,062.00	\$58,500.00	
10 Sweetser Construction, Inc.	\$117,623.00	\$42,614.75	\$75,008.25	

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED:

[Signature]
 A. FOREN - PURCH AGENT

WITNESS

DATE

6/9/08

City Of Fayetteville

(Not a Purchase Order)

Vendor # **68230** Vendor Name: **Benchmark Construction of NWA, Inc.**

Address: **08-45 - Concrete pad for Solid Waste Division** Fob Point:

City: State: Zip Code: Ship to code: **170**

Requester: **Brian Pugh** Requester's Employee #: **2133**

Item Description Quantity Unit of Issue Unit Cost Extended Cost Account Numbers

1 Bid Award 08-45 - Concrete pad for Solid Waste Division 1 Job 72,900.00 \$72,900.00 5500.5070.5816.00

2 \$0.00

3 \$0.00

4 \$0.00

5 \$0.00

6 \$0.00

7 \$0.00

8 \$0.00

9 \$0.00

10 \$0.00

Shipping/Handling Lot \$0.00

Special Instructions:

Subtotal: **\$72,900.00**

Tax: **\$4,455.25**

Total: **\$77,355.25**

Approvals: Mayor: Department Director:

Finance & Internal Services Director: Budget Manager:

Dispatch Manager: Utilities Manager:

Requisition No.: Date: **6/10/2008**
P.O Number: Expected Delivery Date: **7/2/2008**

Mail Yes: No: Taxable Yes: No: Quotes Attached Yes: X No: X

Division Head Approval: *John Pugh* Extensin: **685**

Project/Subproject # **02038** Inventory # Fixed Asset #

Purchasing Manager:

IT Manager:

Other:

City of Fayetteville Staff Review Form

A. 3
Bid 08-49 Deerskin Manufacturing, Inc
Page 1 of 6City Council Agenda Items
and
Contracts, Leases or Agreements

7/1/2008

City Council Meeting Date
Agenda Items Only

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid 08-49 to Deerskin Mfg. in the amount of \$21,600 including tax, for the purchase of a chassis mount Animal Control Body for use by Animal Services for animal control.

\$ 21,600.00

Cost of this request

\$ 546,618.00

Category / Project Budget

Light/Medium Trucks

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 375,721.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.2008

Project Number

\$ 170,897.00

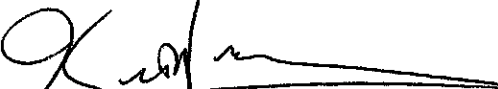
Remaining Balance

Shop

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐ 6-12-08
Department Director Date

Previous Ordinance or Resolution #

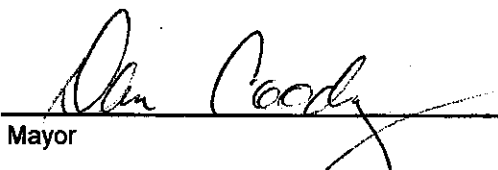
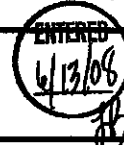
 6-13-08
City Attorney Date

Original Contract Date:

Original Contract Number:

 6-13-08
Finance and Internal Service Director DateReceived in City
Clerk's Office

6/13/08

 6/13/08
Mayor DateReceived in
Mayor's Office

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425



A. 3
cturing, Inc
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL
THRU: GARY DUMAS, DIRECTOR OF OPERATIONS
FROM: DAVID BRAGG, FLEET OPERATIONS SUPT. *2008*
DATE: June 12, 2008
SUBJECT: Purchase of Chassis Mount Animal Control Body

RECOMMENDATION: That City Council approve the purchase of one chassis mount animal control body for use by Animal Services in the amount of \$21,600.

BACKGROUND: At the February 19th, 2008 Council meeting approval was received for a ¾ ton cab chassis for use by Animal Services for animal control. The chassis was ordered. Fleet proceeded to get a quote from Deerskin Mfg. for a 6 compartment chassis mount body for the truck. The price of the body (with taxes) came in over \$20,000.

The specs were sent out for bid. Bid 08-49 was opened June 3, 2008; only one bid was received. The Bid Tab sheet is attached.

Funds for this purchase are available in Project 02078 – Light/Medium Trucks.

The purchase of this unit was approved by the Equipment Committee on June 10th, 2008.

RESOLUTION NO. _____

A RESOLUTION TO AWARD BID 08-49 TO DEERSKIN MANUFACTURING, INC. TO PURCHASE A CHASSIS MOUNTED ANIMAL CONTROL BODY IN THE AMOUNT OF \$19,770.00 PLUS TAX OF \$1,828.73 FOR A TOTAL OF \$21,598.73

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #08-49 to Deerskin Manufacturing, Inc. to purchase a chassis-mounted Animal Control Body in the amount of \$19,770.00 plus tax of \$1,828.73 for a total of \$21,598.73.

PASSED and APPROVED this 1st day of July, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 3
Bid 08-49 Deerskin Manufacturing, Inc
Page 4 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman
Kyle Cook
Adella Gray
Lioneld Jordan

FROM: David Bragg, Fleet Operations Superintendent

DATE: June 4, 2008

SUBJECT: Purchase Chassis Mount Animal Control Body

At the February 19th, 2008 Council meeting approval was received for a ¾ ton cab chassis for use by Animal Services for Animal Control.

Fleet proceeded to get a quote from Deerskin Mfg. for a 6 compartment chassis mount body for the truck. The price of the body with taxes, came in over \$20,000. As you know, this requires the unit to be bid out and it must go to Council.

Bid 08-49 was opened 6/3/08, only one was bid was received. The Bid Tab sheet is attached.

This unit was approved in the 2008 CIP budget and funds are available in Project 02078 – Light/Medium Trucks.

Cc:
Gary Dumas

APPROVED

6/10/08

20RB

BID: 08-49

6/3/2008

2:00 PM

CITY OF FAYETTEVILLE



Bid 08-49, Chassis Mount Animal Control Body

BIDDER

Total Price

1 Deerskin Mfg Inc.

Item 1

Item 2

\$19,170.00

\$600.00

\$19,770.00

***NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.**

CERTIFIED:

P. Vice

P. VICE PURCH MGR

WITNESS

A. Foran

DATE

6/2/08

City Of Fayetteville

(Not a Purchase Order)

Vendor #		14044		Vendor Name: DEERSKIN MFG. INC		Requisition No.		Date: 6/12/2008	
Address:				Fob Point:		P.O Number		Expected Delivery Date:	
City:		State:		Ship to code: 050		Mail Yes: No: XX			
Requester Barbara Olsen		Requester's Employee # 1940		Ship to code: 050		Taxable Yes: No: XX			
Item Description		Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	CHASSIS MOUNT ANIMAL CONTROL	1	EA	\$19,770.00	\$19,770.00	9700.1920.5802.00	02078.2008		
2	BODY PER BID 08-49. TO BE		EA		\$0.00				
3	INSTALLED ON UNIT 2124		EA		\$0.00				
4			EA		\$0.00				
5			EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
	Shipping/Handling		Lot		\$0.00				
Special Instructions:					Subtotal: 19,770.00				
					1,828.73				
					Total: 21,598.73				
Approvals:									
Mayor: _____ Department Director: _____ Finance & Internal Services Director: _____ Budget Manager: _____ Dispatch Manager: _____ Utilities Manager: _____ Purchasing Manager: _____ IT Manager: _____									

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7/1/2008

City Council Meeting Date

Greg Tabor
Submitted By

Police
Division

Police
Department

Action Required:

Council approve a resolution amending Fayetteville Police Department Policy 1.2.3 "Racial Profiling Prohibited".

\$0

Cost of this request

Category / Project Budget

Program Category / Project Name

Account Number

Funds Used to Date

Program / Project Category Name

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

6-13-08

Received in Mayor's Office

ENTERED
6/16/08
JTK

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police 

DATE: June 12, 2008

SUBJECT: Policy Amendment

Recommendation: Council approves a resolution amending Fayetteville Police Department Policy 1.2.3 "Racial Profiling Prohibited"

Background: The current Fayetteville Police Department Policies were approved by council resolution #3-99 on January 5th, 1999. The police department recently discovered that Fayetteville Police Department Policy 1.2.3 is missing certain elements required by Arkansas Code Annotated §12-12-1401 through 12-12-1404. Approval of this amendment will bring Fayetteville Police Department policy in compliance.

Discussion: A.C.A. §12-12-1402 requires law enforcement agencies to have a policy in prohibiting racial profiling. This proposed change will add formal definitions in section III (A) as well as add procedural changes in section IV (C, D). See the marked portions in attachment #A.

Budget Impact: None

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY

A. 4
Racial Profiling Prohibited Policy
Page 3 of 8



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

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

FROM: **Kit Williams, City Attorney**

DATE: **June 16, 2008**

RE: **Racial Profiling Prohibited**

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal flourish extending to the right.

Racial Profiling has long been prohibited by federal and state law as interpreted by our courts. Although there have been allegations of racial or ethnic profiling against a police department of another regional city, the Fayetteville Police Department has conscientiously ensured our officers would not engage in such improper behavior.

To further demonstrate our commitment to fair and nondiscriminatory treatment by our police officers, the Fayetteville Police Department is recommending that the City Council approve an amendment to the police department's Policies, Procedures, and Rules that complies with state and federal law by prohibiting racial profiling. I join with Police Chief Greg Tabor and his leadership staff in recommending your approval of the amended "Racial Profiling Prohibited" policy for our police department.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE AN AMENDMENT TO
FAYETTEVILLE POLICE DEPARTMENT POLICY 1.2.3
"RACIAL PROFILING PROHIBITED"**

WHEREAS, the Fayetteville Police Department has long emphasized fairness and nondiscrimination in all of its activities; and

WHEREAS, the Fayetteville Police Department desires to further emphasize its commitment to fair and colorblind enforcement of the law by adopting a formal prohibition against racial profiling.

**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 attached Fayetteville Police Department Police 1.2.3 "Racial Profiling Prohibited" as an amendment to the Fayetteville Police Department Policies, Procedures and Rules.

PASSED and APPROVED this 1st day of July, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

DRAFT

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Effective Date		Number	1.2.3
Subject RACIAL PROFILING PROHIBITED			
Reference Arkansas Act 1207 of 2003		Special Instructions	
Distribution All Personnel	Reevaluation Date 1 Year	No. Pages -3-	

I. PURPOSE

The purpose of this policy is to prohibit the act of racial profiling and to reaffirm the department policy to perform all duties impartially, without favor or affection or ill will and without regard to status, sex, race, religion, political belief or aspiration and to treat all citizens equally with courtesy, consideration and dignity.

II. DISCUSSION

This order recognizes Arkansas Act 1207 of 2003 to prohibit racial profiling and further establishes a directive to prohibit the use of race, ethnicity, national origin, or religion in deciding which persons should be subject to traffic stops, stops and frisks, questioning, searches and seizures, and other law enforcement activities.

III. POLICY

All officers of the Fayetteville Police Department are directed to adhere to the guidelines contained within this policy pertaining to "racial profiling" as defined by Arkansas Act 1207 of 2003.

A. Definitions

Biased Based Policing – A law enforcement action based on an individual's race, age, color, creed, disability, gender, religion or other belief system, or any other individual attribute, ethnic status or characteristic, or national origin rather on the individual's behavior or on information identifying a specific individual as having engaged in criminal activity.

- (3) Supervisors receiving a complaint of this nature will conduct a cursory investigation and forward any findings to the Chief of Police. If merited, the complaint will be forwarded to the Office of Professional Standards for further investigation.
- E. Internal or external complaints or allegations of racial profiling or biased policing shall be assigned to the department's Office of Professional Standards for an investigation. Appropriate corrective action will be taken if a complaint is sustained.
- F. The supervisor of the Office of Professional Standards shall complete an annual review of the department's training, internal or external complaints and the corrective measures taken if any complaints are sustained.

Racial Profiling – A law enforcement action based on race, ethnicity, national origin or religion in selecting which individuals to subject to routine investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity.

Reasonable Suspicion – A standard based on facts or circumstances which alone do not give rise to probable cause to arrest, but which do give rise to a suspicion that has some relevant basis and is not pure conjecture.

B. Prohibitions

Officers are prohibited from relying on race, ethnicity, national origin, or religion, to any degree, in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of police practices following the initial routine investigatory activity. Officers shall have reasonable suspicion or probable cause in compliance with the United States Constitution and Arkansas Rules of Criminal Procedures prior to stopping a pedestrian or motor vehicle, or engaging in detentions, searches, arrests, or other investigatory activities.

IV. PROCEDURES

- A. Officers shall professionally and courteously identify themselves by full name and department, state the reason for the stop, and when possible, provide written identification.
- B. Officers shall receive a basic training course on racial and cultural sensitivity and annual training in operating procedures that prohibit biased policing. This training shall emphasize the prohibition against racial profiling and include topics on community policing, law enforcement in a multi-cultural society, and racial, ethnic, and religious diversity. Officers will also complete foreign language training with an emphasis in Spanish, when possible, in accordance with state law.
- C. Officers shall adhere to departmental policy regarding the use of mobile video/audio systems (General Order #22).
- D. Supervisors are responsible for ensuring that all personnel read and understand the policies and procedures prohibiting racial profiling.
 - (1) Supervisors will routinely monitor officers' daily activity reports and encourage officers to report violations of this policy to determine whether any officer is engaged in a pattern of racial profiling or biased policing.
 - (2) Supervisors will not retaliate against an officer or officers who report acts of racial profiling.

City Council Agenda Items
and
Contracts, Leases or Agreements

7/1/2008

City Council Meeting Date
Agenda Items OnlyConnie Edmonston
Submitted ByParks & Recreation Division
DivisionOperations
Department

Action Required:

Resolution to accept a donated, memorial metal art structure on Frisco Trail in honor of the Hoover Family according to the Arts Council Policy.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

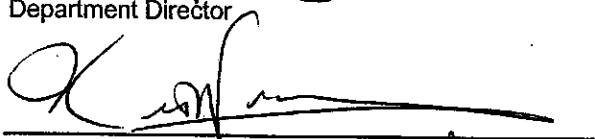
☐

Budget Adjustment Attached

☐

 6-13-08
 Department Director Date

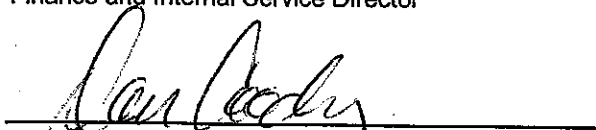
Previous Ordinance or Resolution #


 6-16-08
 City Attorney Date

Original Contract Date:

Original Contract Number:


 6-16-08
 Finance and Internal Service Director Date
Received in City
Clerk's OfficeU-130-20


 6/16/08
 Mayor Date
Received in
Mayor's OfficeENTERED
6/16/08


Comments:

City Council Meeting of July 1, 2008

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
From: Connie Edmonston, Parks and Recreation Director *CE*
Date: June 12, 2008
Subject: Resolution to accept an arts sculpture on Frisco Trail in honor of the Hoover Family

RECOMMENDATION Approval of a resolution to accept a donated, memorial metal art structure on Frisco Trail in honor of the Hoover Family according to the Arts Council Policy.

BACKGROUND Randy Werner, representing the University of Arkansas *Friends of Maureen*, requested to Parks and Recreation permission to donate, install and maintain a metal art sculpture that was built and designed by the late Steve Hoover. This group had worked with Maureen Hoover at the University Office of Pre-College Programs and has adopted the Frisco Trail area in honor of Maureen's passion for environmental issues. Maureen formerly worked for the City of Fayetteville.

The donated structure was donated by the Hoover Estate to the United Campus Ministry who partnered with the *Friends of Maureen* in memory of Steve, Sharon, Paul and Maureen Hoover's spirit and contribution to the City. This family were victims of a tragic car accident while vacationing in Mexico last summer. The location of the sculpture was reviewed and approved by the Parks and Recreation Staff and Trail Coordinator Matt Mihalevich. (Refer to Randy Werner's attached memo, sculpture design, location map and request form.)

DISCUSSION The Parks and Recreation Advisory Board approved the request to donate the metal sculpture, as well as the location on Frisco Trail at the March 3rd, 2008 board meeting. The sculpture will be located on the west side of Frisco Trail where it can be viewed by the trail south of Center Street. The request was forwarded to be reviewed by the Fayetteville Arts Council at their June 4th, 2008 meeting. The council endorsed the donated memorial art project entitled "City Fragments". (See attached memo from Hank Kaminsky, Arts Council member.) According to the Arts Council Policy, the Arts Council is to request approved donated public art, monument and memorial projects to the City Council for final approval. This is the first project to be reviewed by the Arts Council.

BUDGET IMPACT There will not be any budget impact for the Parks and Recreation Division for this project. The sculpture will be installed and maintained on a quarterly basis by the Pre-college Program Office at the University of Arkansas.

Attachments:

Fayetteville Art's Council Memo of Approval
University of Arkansas Pre-College Programs Memo and Arts Council Request Form
Parks and Recreation Advisory Board Meeting Minutes March 3rd, 2008

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
From: Hank Kaminsky representing the Fayetteville Arts Council
Date: June 12, 2008
Subject: To accept the gift of a Steve Hoover Sculpture

RECOMMENDATION

Approval of a Resolution accepting the gift of a work of sculpture entitled "City Fragments" by that late Steve Hoover to be added to the Fayetteville public art collection

BACKGROUND

The Arts Council is recommending the acceptance of this sculpture for inclusion in the cities art collection in accordance to the mandate of the Arts Council to promote and encourage the appreciation and enhancement of the arts and culture resources of Fayetteville. The donating organization has navigated the procedure for donating such works from filling out the required forms and having interviews with the Parks and Recreation Dept. and the Planning Dept and finally winning complete approval from the Fayetteville Arts Council.

DISCUSSION

Randy Werner of the group "Friends of Maureen" approached the city with a proposal to donate a steel sculpture by the late Steve Hoover, a Fayetteville artist of considerable reputation. The group had acquired the sculpture and wished to place it on a suitable pedestal near the Frisco walking trail. The group has affiliated with The Pre-College Programs Office of the University of Arkansas and the Campus Ministry to place and maintain the work. The placement was designed by the local firm Community by Design.

BUDGET IMPACT

The City may consider maintenance of approved donated art work, monuments and memorials if they meet City standards for construction and materials. However, complex or large memorials that require significant and costly maintenance would require insurance, a bond or an endowment fund, and a maintenance schedule by the memorial donor to ensure the project's condition is satisfactory to the City, as well as the donor. The posted insurance or bond should cover costs of installation and/or removal. If an adequate level of maintenance is not continued, the City reserves the right to remove or modify the project or a portion of the project. A Retention Policy, as well as a Deaccessioning Policy is established within the general policy regulations.

The placement of this work requires no commitment of funding from the city for maintenance or any other program. A maintenance policy by the groups involved is in place for the sculpture and includes inspections every 6 months of the site and the sculpture for any signs of deterioration. A plan and an endowment is in place for any required repairs.

Attachments:

Donated Public Art, monument and Memorial Policy, Request Form

RESOLUTION NO. _____

**A RESOLUTION TO ACCEPT A DONATED METAL ART
SCULPTURE TO BE PLACED UPON THE FRISCO TRAIL IN
HONOR OF THE HOOVER FAMILY**

WHEREAS, the City Administration, the Parks and Recreation Advisory Board and the Fayetteville Arts Council recommend acceptance of a donated memorial art project entitled "City Fragments" in honor of former city employee Maureen Hoover, her husband Paul (a municipal firefighter), and Paul's parents Steve and Sharon Hoover (Planning Commissioner); and

WHEREAS, placement of this art on the Frisco Trail is appropriate to honor this family who tragically died in an auto accident in Mexico.

**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 accepts the donation of "City Fragments" as a memorial to the Hoover family and authorizes the University of Arkansas Office of Pre-College Programs to install and quarterly maintain the sculpture at the designated location on the Frisco Trail.

PASSED and APPROVED this 1st day of July, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

{ friends of Maureen }

February 27, 2008

Parks and Recreation Advisory Board
City of Fayetteville

Dear Board Members:

We, the Friends of Maureen, propose to install a piece of Steve Hoover's artwork in the City of Fayetteville, as a dedication to the lives of the late Steve, Sharon, Paul and Maureen Hoover. The Hoover Family were victims of a tragic car accident last summer in Mexico. Maureen was the Director of Upward Bound Math and Science in our office, as well as a friend, colleague, and mentor. Each member of the family was a valuable and irreplaceable part of the community, and in their memory it is our wish to have this artwork placed in Fayetteville to celebrate the Hoovers' spirit and contributions to the city.

The Office of Pre-College Programs has recently adopted Scull Creek as part of the city's Adopt-A-Creek Program, and did so being inspired by Maureen's passion for environmental issues. As part of the adoption, our department will clean and maintain a section of the creek, as well as the trail that runs alongside it. This is an area where our Math and Science students have previously studied stream ecology during their summer programming. The sites that we have proposed for the sculpture run along the trail area we have adopted.

The Estate of the Hoover Family has generously donated a piece of Steve's artwork that is being refurbished and powder coated back to its original color (orange). The artwork will also be accompanied by a plaque in celebration of the lives of the Hoover Family. Attached you will find images of the sculpture and pictures of the proposed placement sites.

Respectfully,

{ friends of Maureen }

{ friends of Maureen }

February 28, 2008

The Friends of Maureen are partnering with United Campus Ministry to adopt a Steve Hoover sculpture that will be installed in the City of Fayetteville. United Campus Ministry is a non-profit organization that has agreed to assist in the donation process and have arranged to write a blank receipt to the Estate of Stephan Daniel Hoover, deceased. The estate has offered the piece of art with the understanding that it will be placed in the city as a celebration to the spirit and contributions of Steve, Sharon, Paul, and Maureen Hoover. Once the sculpture is acquired, the Friends of Maureen will be responsible for refurbishing, holding, installing, and maintaining the work. The sculpture has an estimated sale value of \$7000. It will be powder coated back to its original color (orange) and mounted with a plaque in honor of the lives of the Hoover Family.

Respectfully,

{ friends of Maureen }

Rev. Leslie Belden, Ph.D.
United Campus Ministry
At the University of Arkansas
902 West Maple
Fayetteville, Arkansas 72701

lesliebeld@aol.com

479.466.1061

March 24, 2008

To the Estate of Stephan Daniel Hoover,

When something so tragic occurs, as the automobile accident that claimed the lives of Steve, Sharon, Maureen, and Paul Hoover, friends and family try to think of ways to celebrate the lives of those who were taken, and to do whatever possible to take the light of their lives into the future. As a close friend of Sharon, I continue to grieve her loss every time I do something that we probably would have done together. I will never eat at *Taste of Thai* or have a glass of iced tea (with lots of extra lemon slices) that I won't wish Sharon was with me. And so I was so pleased when *The Friends of Maureen* approached me as the Campus Minister at the United Campus Ministry with the idea of partnering together to adopt one of Steve's sculptures so that it could be placed in a public place in Fayetteville for everyone to enjoy and remember the family.

It is so generous of the Estate to offer the piece of art, because I've seen many of Steve's pieces and they are not only beautiful but also considerably valuable. The estimated value of the piece that you are donating is \$7,000.00. And so I want to acknowledge the gift to the United Campus Ministry and thank you for it. United Campus Ministry is a partnership of the Presbyterian Church U.S.A., through the Presbytery of Arkansas, and First Christian Church in Fayetteville. We are a registered 501(C)3 corporation within the State of Arkansas, and so your donation is tax deductible for the full value of your gift. You have received nothing of monetary value for your gift – only the satisfaction of knowing that the legacy of Steve, Sharon, Paul, and Maureen Hoover will live on through the countless viewers of the piece of art.

The United Campus Ministry, as a non-profit organization, is receiving the gift, and in our partnership with *The Friends of Maureen* they will be responsible for refurbishing, holding, installing, and maintaining the work. We understand that the City of Fayetteville has also accepted their role in the process, and have pledged to place the sculpture in a public place, where it will be mounted with a plaque in honor of the lives of the Hoover family.

If you have any questions please don't hesitate to contact me.

Respectfully,

THE SCULPTURE



STEVE HOOVER SCULPTURE



FAYETTEVILLE ARTS COUNCIL
DONATED PUBLIC ART / MONUMENT / MEMORIAL
REQUEST FORM

Name: Randy Werner (Friends of Maureen)
Address: 161 S. Hill Ave
City: Fayetteville State: AR Zip: 72701
Phone - Home (479) 409. 8454 Work/Cell (479) 575. 3553
Email: rwerner@uark.edu

1. Types of Donation

☐ Monument ☐ Fountain
☒ Sculpture ☐ Other (Please specify below.)
☐ Memorial

2. Artist Description of Donated Art/Monument: A written description of the background/historical information associated with any donated art item, including but not limited to, information about the creation of the item(s) and materials used. Additional information may be attached. (Models and/or pictures are to be attached or submitted with the proposal.)

The sculpture was designed by the late Steve Hoover. Steve, Sharon, Paul, and Maureen Hoover were killed in a car accident, last Summer. The 'Friends of Maureen' have obtained the piece and wish to have it installed in Fayetteville as a celebration of the Hoovers lives and contributions to the city. The artwork is made of metal and will be powder coated back to its original color (orange). (pictures attached)

If a plaque is requested in this project, please complete the following:

Plaque Exact Wording: In Celebration of the Hoovers Maureen
Paul Sharon Steve Artwork by Steve Hoover

Size of Plaque: 8 x 12

Plaque Material: Aluminum

3. Biography of artist(s): (To be attached.)

4. Location for Donation: (Please prioritize.)

Priority 1

Site: Frisco Trail and Center St.

Specific Location: map attached
(Please attach a map.)

Site Geographic Justification: It is near Scull Creek and the library.
Also, it is visible from the street.

Priority 2

Site: Frisco Trail

Specific Location: map attached
(Please attach a map.)

Site Geographic Justification: It is near Scull Creek and the library.

Priority 3

Site: Frisco Trail

Specific Location: map attached
(Please attach a map.)

Site Geographic Justification: It is near Scull Creek and the library.

5. Project Budget

Site Preparation Required:

Narrative: Auger Rental

Cost: \$100

Foundation:

Narrative: Concrete, Steel, & Form Materials

Cost: \$300

Donated Art/Monument/Memorial:

Cost: Ø

Electricity Required:

Be specific:

Cost: Ø

Lighting Required:

Be specific:

Cost: Ø

Maintenance/Endowment:

Note: A maintenance plan must be attached. If an Endowment Fund is setup, please give proper justification for the funding required.

Cost: Ø

Other:

Be specific: Refurbishing Artwork and Site Plan

Cost: \$2000

Total Project Cost: \$2,400

6. Cost Exclusion: Please list any cost exclusion of this project.

landscaping. the parks department has said they would plant grasses around the sculptures foundation.

7. Additional Employment Required by Artist: Please list additional party(s) hired or employed by artist to assist with work:

8. Written explanation of legal issues, including but not limited to, identifying the current legal owner of the items, the existence of any copyrights, patents or other title rights in or to the item(s) - such as any interests to remain with the artist or designer of the item(s), and an explanation of any conditions or limitations on the donation of the item(s) and whether the City or donor will pay for such costs.

The Estate of Stephan Daniel Hoover, deceased, donated the artwork to the 'Friends of Maureen' who have partnered with the United Campus Ministry. Once obtained, the 'Friends of Maureen' are responsible for the piece.

9. The estimated value of each item, including appraisals of the item(s) if available:

The Estate of Stephan Daniel Hoover, deceased, estimated the artwork had a sale value of \$7000.

10. The anticipated date for the project to begin, construction schedule, and completion date: We would like to begin the project by May 9th, 2008. We hope to complete by the 1st week in June.

11. Environmental effects of the item(s): _____

12. Anticipated life of the item(s): 50+ years or as long as it stands

13. Please attach public support for the proposed donation.

14. Please attach a warrant of originality (if applicable).

Please include any additional information or documentation you deem as necessary or appropriate for the Fayetteville Arts Council to evaluate the project. Failure to provide the information outlined above may result in the City's rejection of this proposal until all the requested information is provided.

Maintenance Plan

The Pre-College Programs Office has adopted the section of Frisco Trail that the sculpture will reside on and plan to routinely clean the walkway and creek that runs adjacent. Our first clean up is scheduled for May 30th of 2008, and we plan to clean on a quarterly basis. We will schedule maintenance every January, April, July, and October. If time permits, we will bring our students to the trail for additional clean-up projects.

{Friends of Maureen} Contacts:

Francesca D'Agrosa (Adopt-A-Creek/Park contact)
Office – 575.3553 Home – 283.4614

Nikki Holland
Office – 575.3553 Home – 799.7658

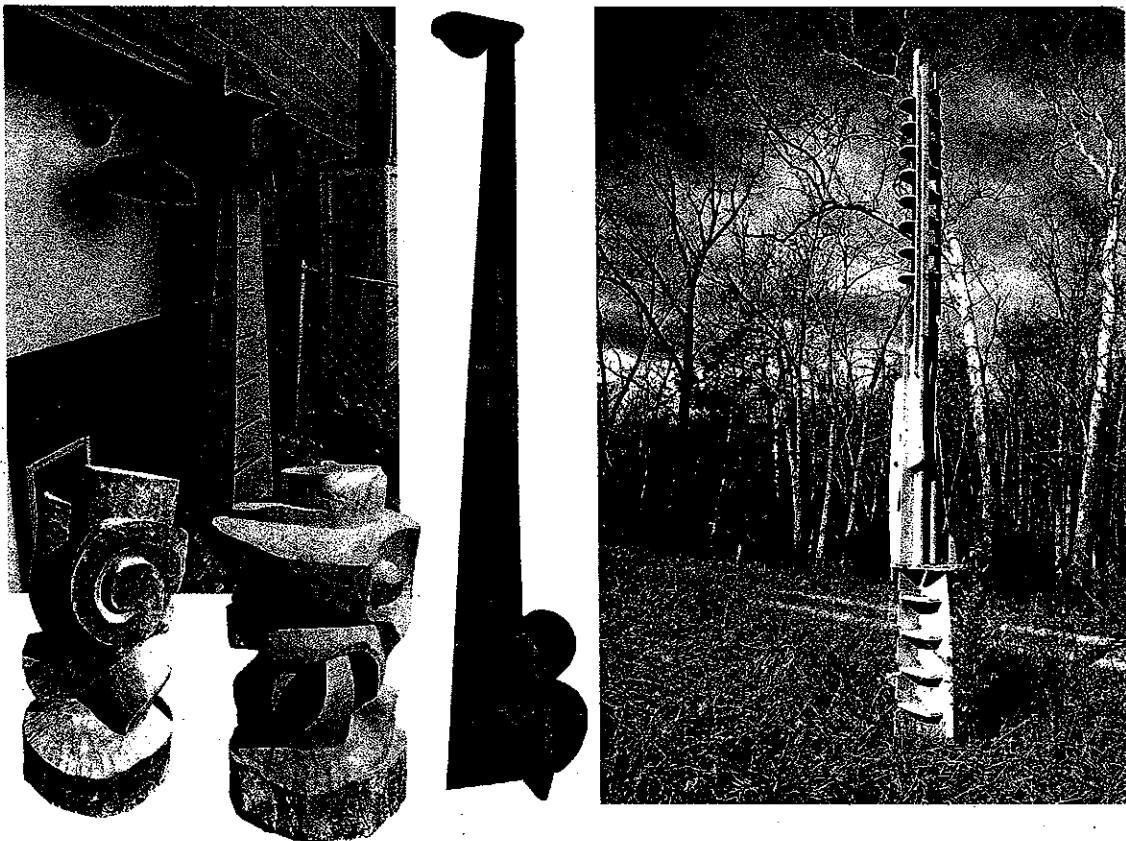
Keith Brink
Office – 575.3553 Home – 267.2506

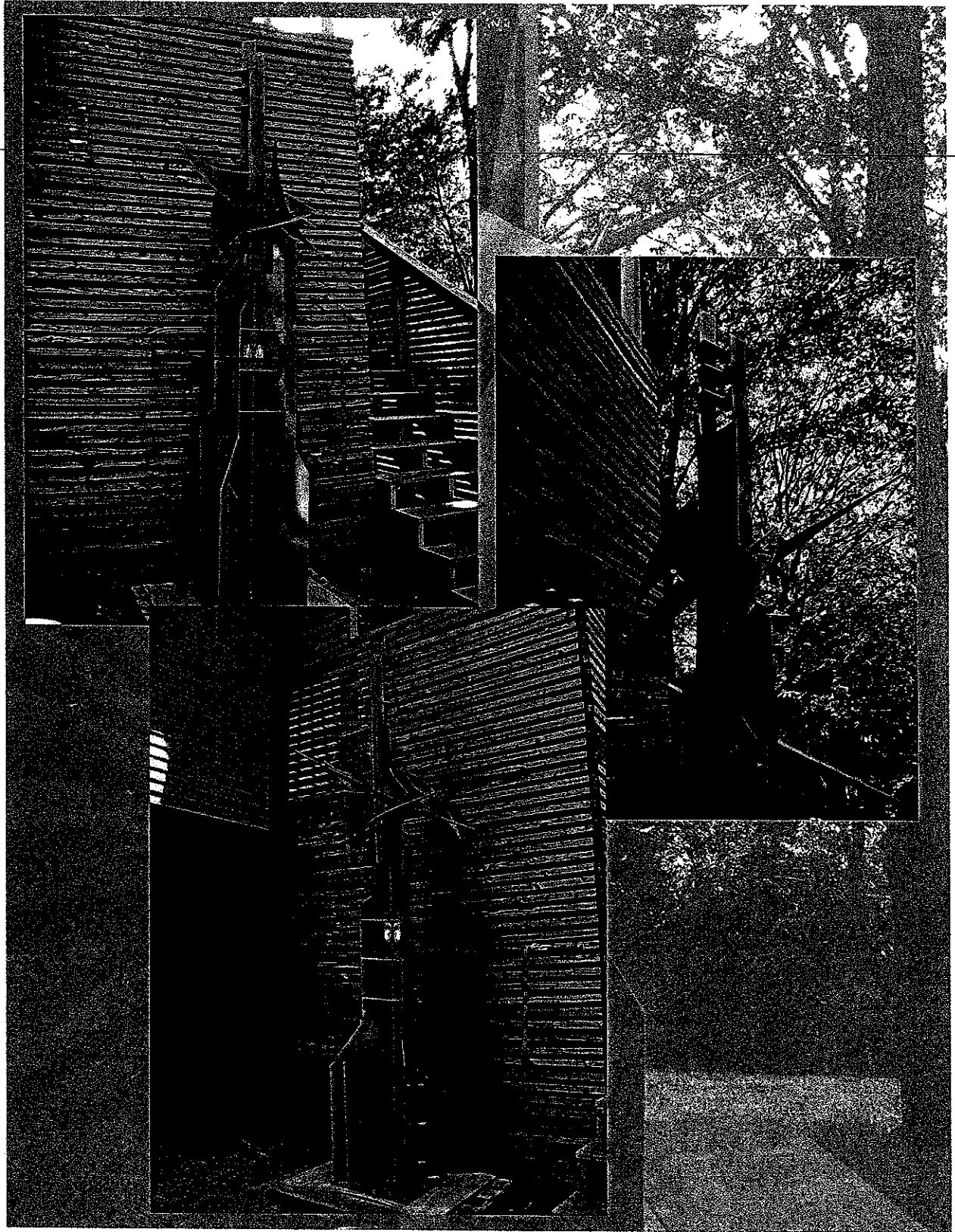
Randy Werner
Office – 575.3553 Home – 409.8454

The Artist

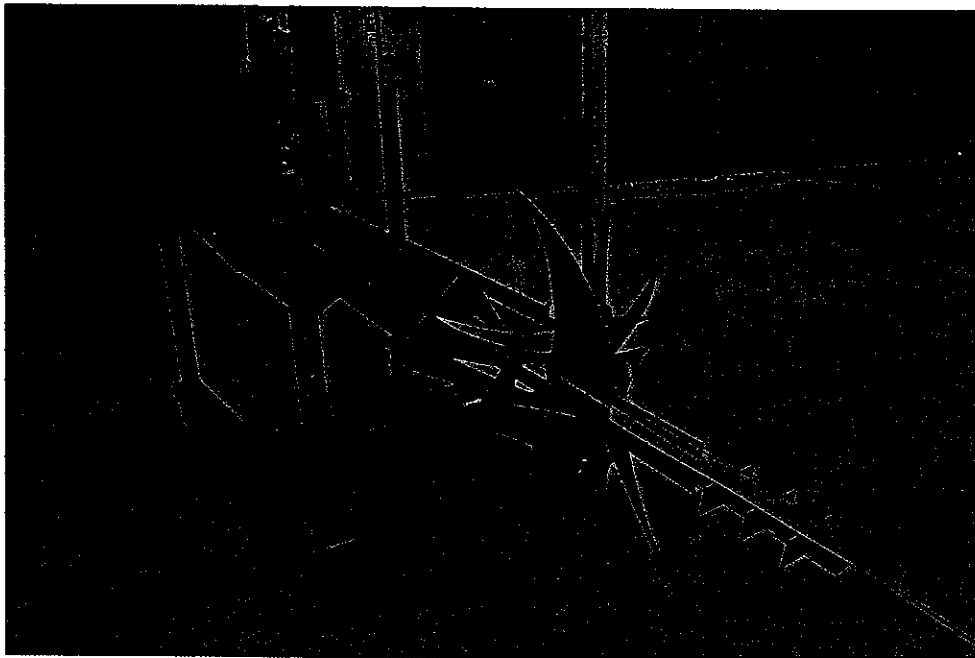
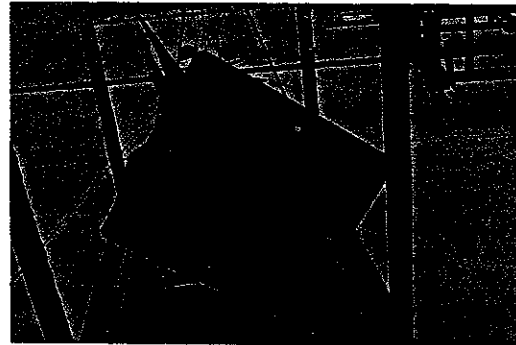
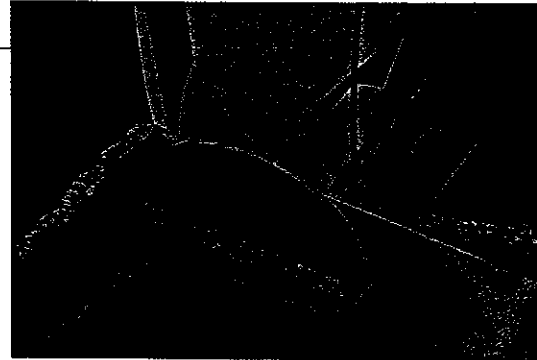
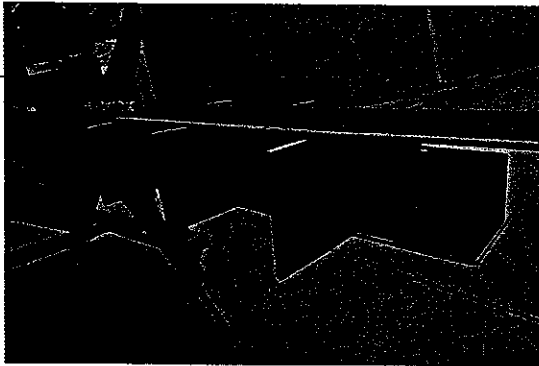
The late Steve Hoover spent much of his time creating sculptures, furniture, and many other works of art from various types of material. Although he worked with wood most of the time, he was not exclusive and created many of his pieces from metal as well. Steve was well known by many in the Northwest Arkansas community for his uniquely crafted works. He had lived in Fayetteville for the past 10 years with his wife Sharon. Steve spent a lot of his time developing art for the city and people of Fayetteville, and at the time of his death, was beginning work on an installation for the children's section at the public library.

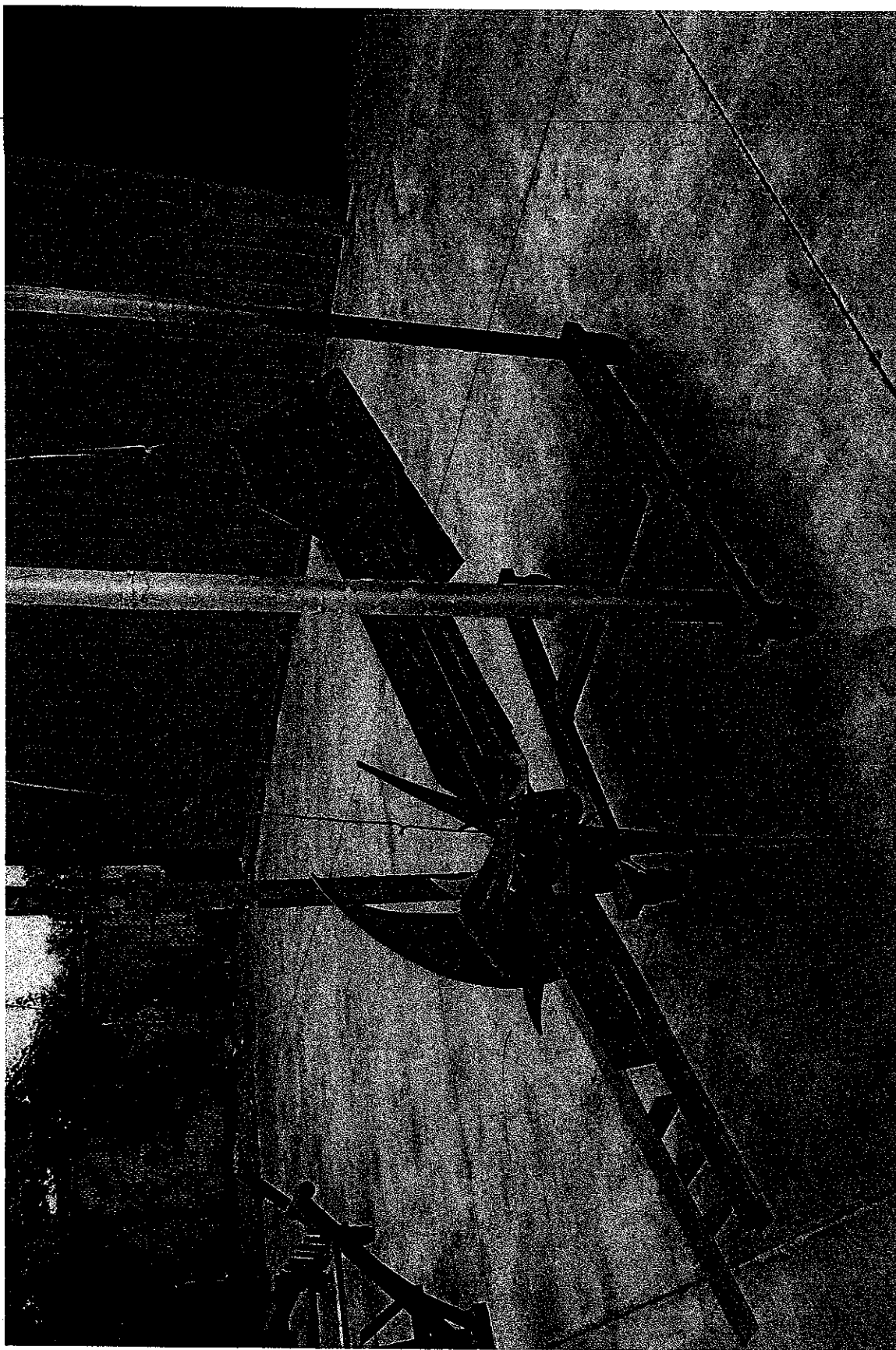
The sculpture that his family has donated is a metal structure that is being refurbished and powder coated back to its original color. It was discovered outside of his studio at Dead Horse Mountain, where it was covered in leaves and rust. The sculpture was originally painted orange but had later been covered in black. Both coats of paint were in bad shape, so it was repainted back to the orange that once stood. The powder coat finish will allow it to stand for many years to come. Below are just a few images of Steve's work.





Updated Photos (Powder Coated)













FAYETTEVILLE
PARKS AND RECREATION ADVISORY BOARD
Meeting Minutes March 3, 2008

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order by Parks and Recreation Board member Steve Hatfield at 5:35 p.m. on March 3, 2008 in Room 326 at the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present:

Parks and Recreation Advisory Board members Biendara, Jones, Waite, Mauritson, Hatfield, and Bitler were present. Colwell arrived at 6:10 p.m. Davidson was absent. Park Staff Edmonston, Coles, Wright, Jumper, Jones, Thomas, Trails Coordinator Mihalevich, and the audience were in attendance.

1. Frisco Trail Memorial Sculpture Proposal: Randy Werner, Technology Coordinator for U of A Office of Pre-College Programs

Staff Recommendation: Approval of the Hoover Memorial Sculpture Proposal on Frisco Trail. Trail Coordinator, Matt Mihalevich, also approved these proposed sites. This project will be the first proposal sent to the Arts Council for their endorsement.

Hatfield commented that it was a wonderful idea.

Edmonston said that this was the first project to go to the Arts Council. If it passed the Arts Council, then it would go before the City Council. There will also be a plaque with the sculpture.

Werner said the plaque would be in celebration of the Hoovers' lives.

Hatfield said that he like the second or third location best.

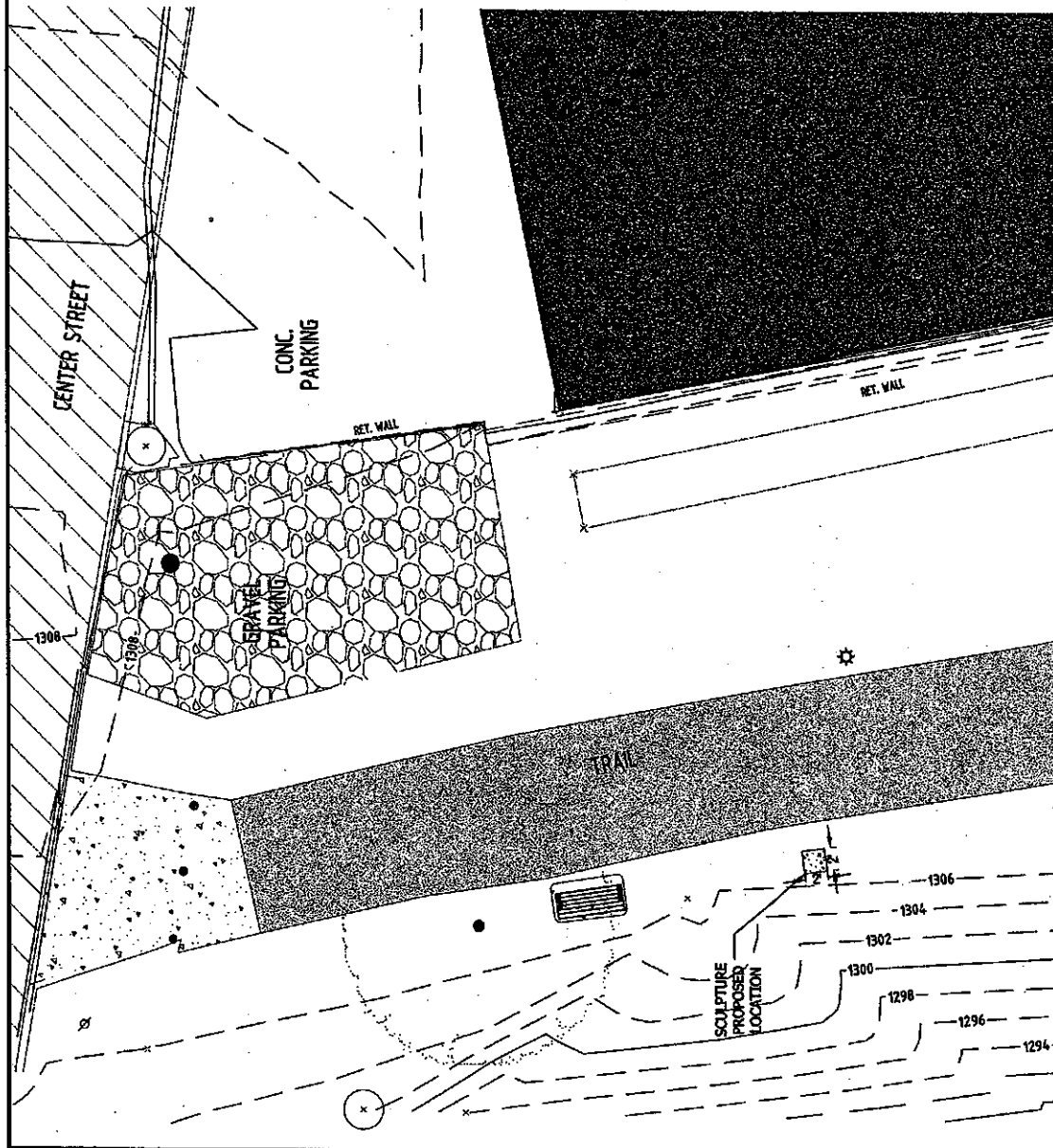
Werner commented that the sculpture would be on a concrete pad. The points on the sculpture would be at least seven feet off the ground for safety reasons.

Mauritson said that the sculpture is a great idea and needs to fit in with the environment.

Hatfield asked if a possible location would be across from the benches.

Mihalevich said that wouldn't be a good location, because the ground drops off really quickly.

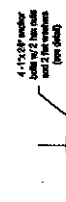
PRAB Motion: Mauritson motioned to accept Staff recommendation. Jones seconded it. Motion passed by voice vote 6-0-0.



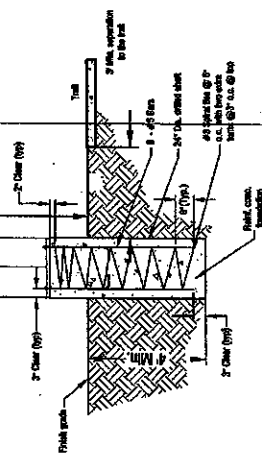
- NOTE**
1. All steel reinforcement bars, steel rods and the rebar shall be hot-rolled and galvanized.
 2. All steel reinforcement bars shall be lap spliced in accordance with AISC 308.
 3. All steel reinforcement bars shall be galvanized after forming.

ANCHOR BOLT
NTS

BASE GROUT INFORMATION
NTS



BASE PLAN VIEW
NTS



CONCRETE FOUNDATION DETAIL
NTS

	COMMUNITY BY DESIGN, LLC. 311 WEST SPRING STREET FAYETTEVILLE, AR 72701 PHONE: 479 444-0095 FAX: 479 444-0097	HOOPER MONUMENT SITE PLAN CENTER STREET TRAIL FAYETTEVILLE, WASHINGTON CO. ARKANSAS	CONSTRUCTION PLANS	ENGINEER JST DATE 2007-05-17	SHEET 1

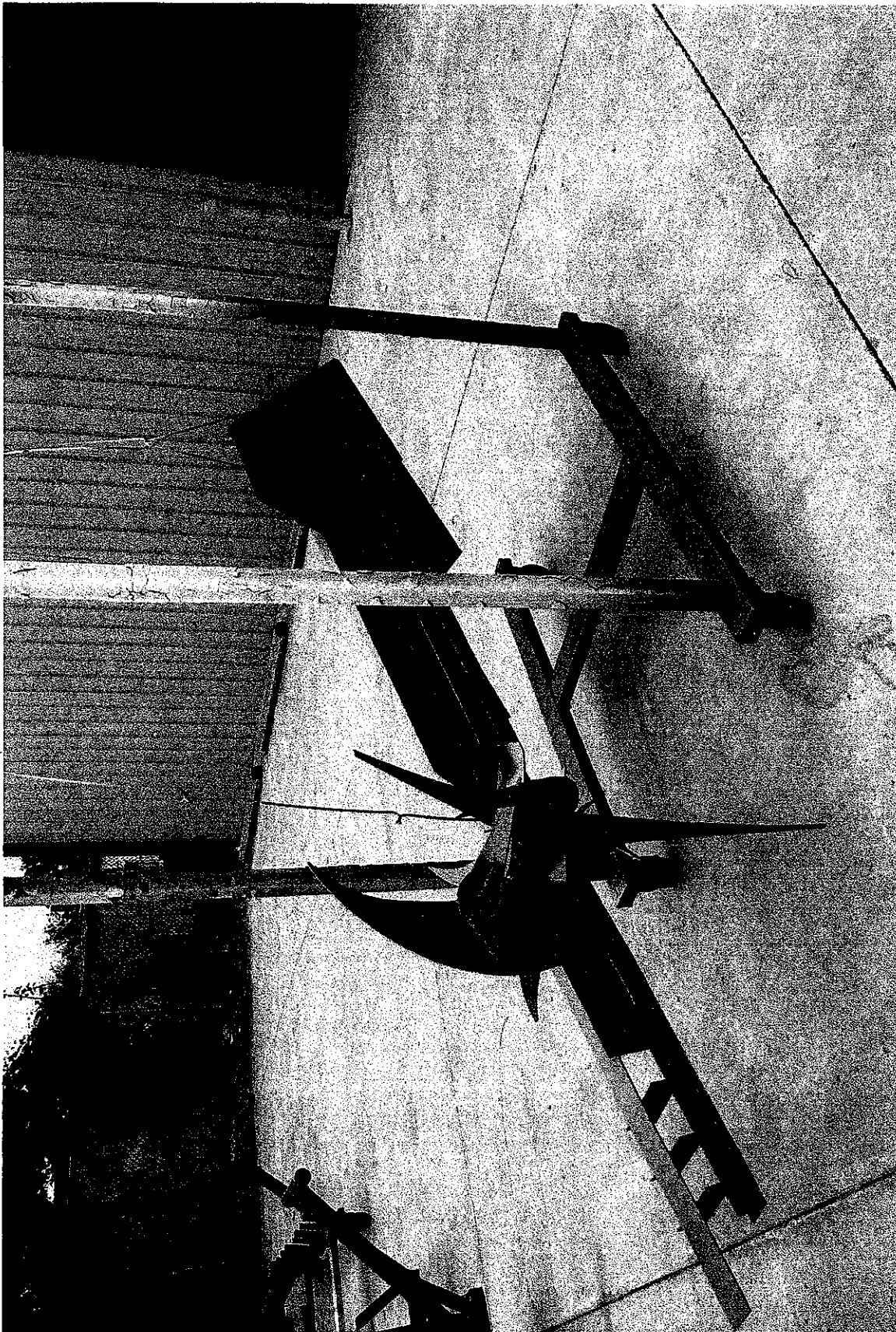
THE SCULPTURE



STEVE HOOVER SCULPTURE



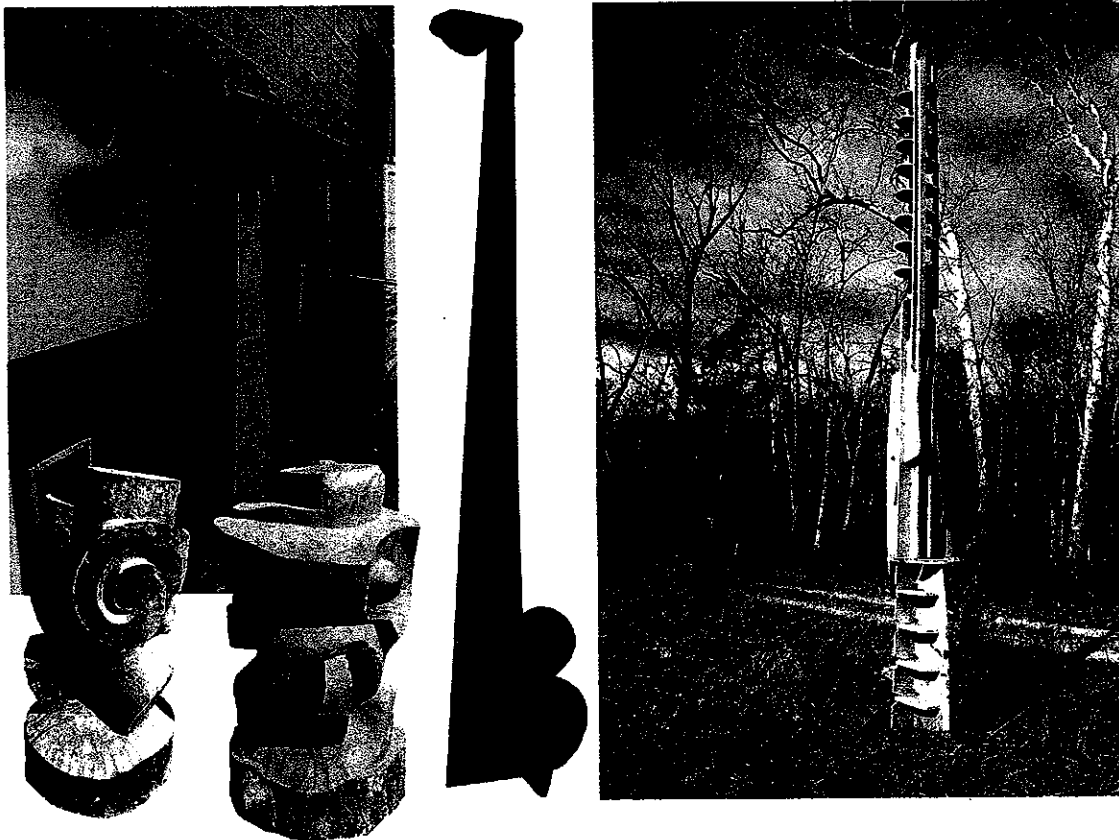


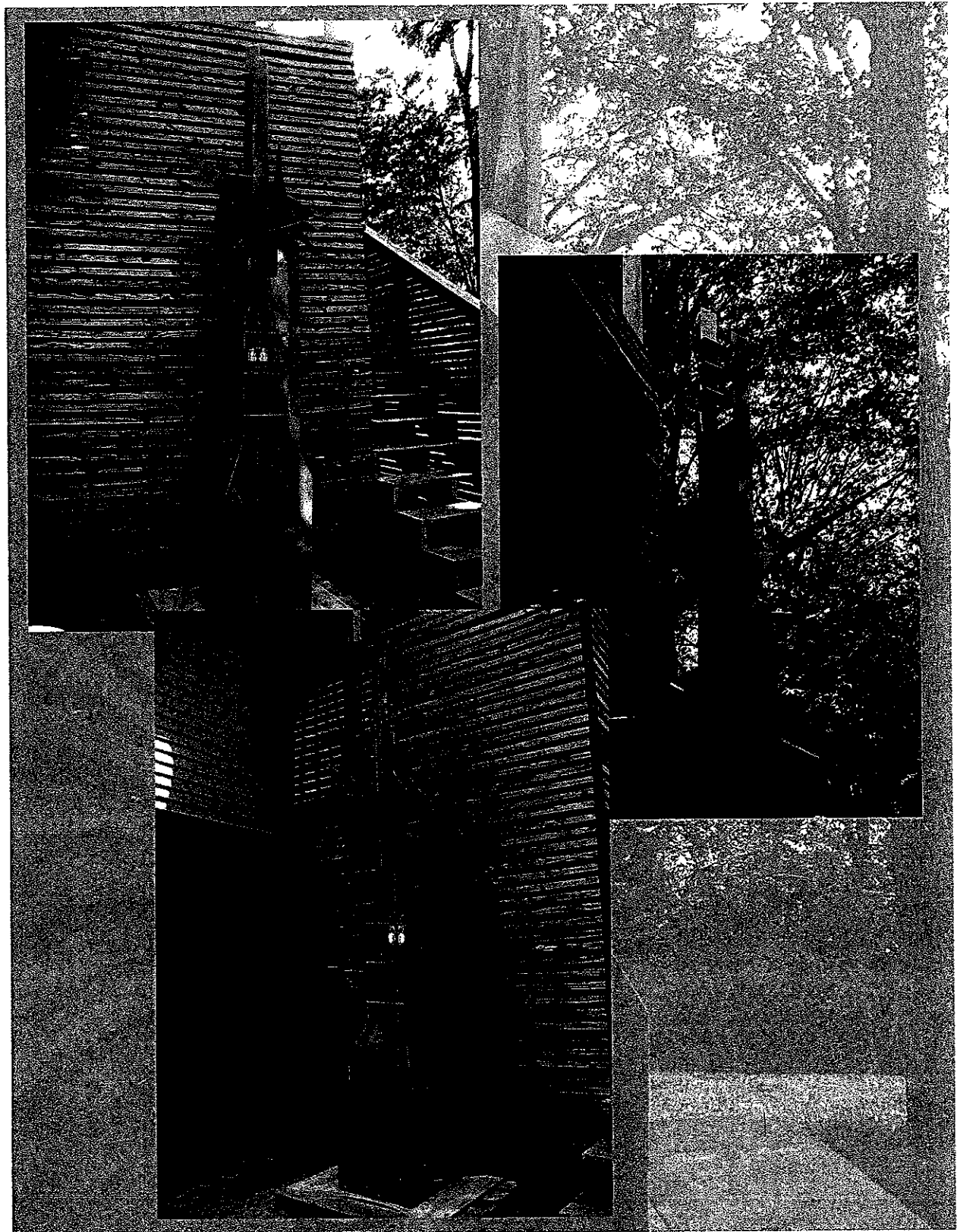


The Artist

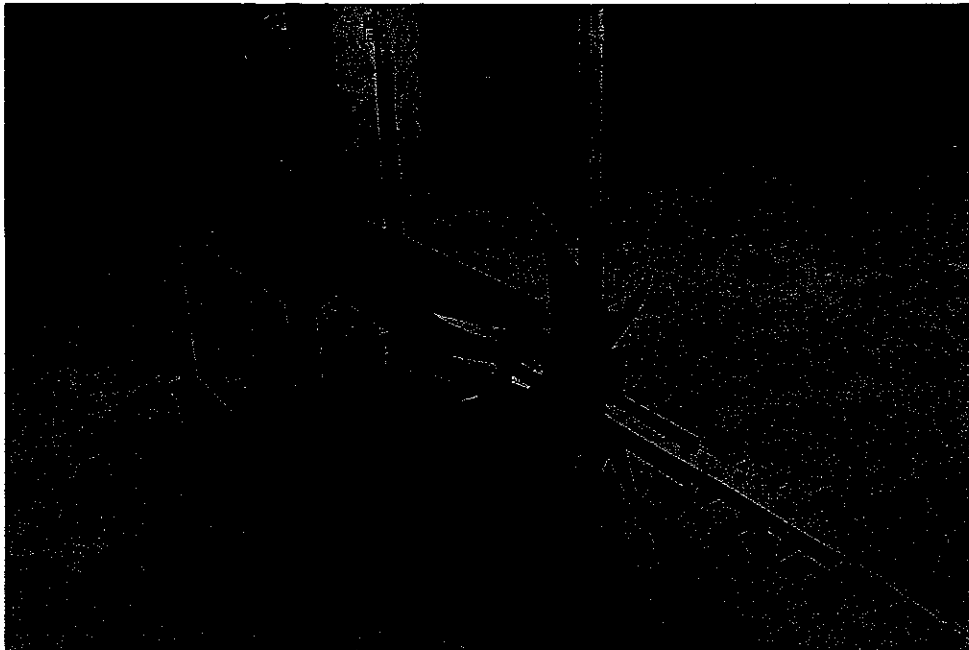
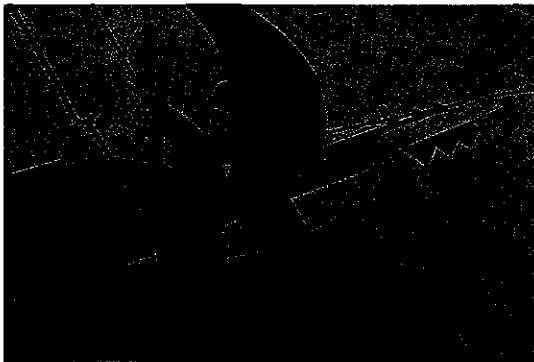
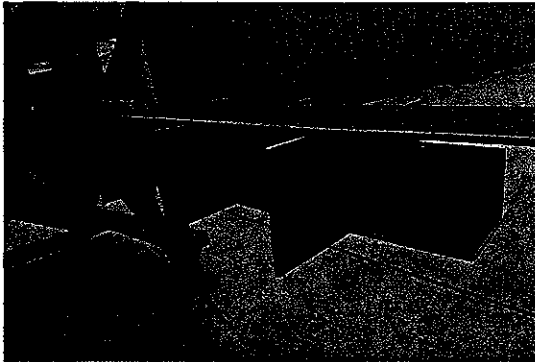
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Updated Photos (Powder Coated)







**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

A. 6
McClelland Consulting Engineers, Inc.
Amendment # 2
Page 1 of 8

7/1/2008

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Action Required: Approve Amendment 2 to the Basic Agreement with McClelland Consulting Engineers, Inc., PO Box 1229, Fayetteville, AR, 72702-1229, Wayne Jones P.E., Vice President, 479-443-2377 office, 479-443-9241 fax, wjones@mccllelland-engrs.com.

\$ -
Cost of this request

\$ 214,026.00

Serv / Chrgs

Program Category / Project Name

5550.3960.5314.00

Account Number

\$ 188,226.00

Funds Used to Date

Airport Capital Expense

Program / Project Category Name

NA

Project Number

\$ 25,800.00

Remaining Balance

Airport

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

[Signature]
Department Director

6/9/08
Date

Previous Ordinance or Resolution #

97-06

100-07

Original Contract Date:

06/06/06

Original Contract Number:

917

[Signature]
City Attorney

6/13/08
Date

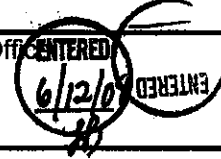
Received in City Clerk's Office



Paul A. Buehn
Finance and Internal Service Director

6-13-08
Date

Received in Mayor's Office



[Signature]
Mayor

6/18/08
Date

Comments: Amendment 2 extends the contract one year as provided for in the original Agreement. This is the final contract extension.

Staff Review Memorandum

TO: Dan Coody, Mayor
Fayetteville City Council
THRU: Staff Review Committee
FROM: Ray M. Boudreaux, Director 
DATE: July 1st, 2008
SUBJECT: Amendment #2 to Basic Agreement w/ McClelland Consulting Engineers

Recommendation: Airport Staff recommends approval of Amendment #2 to the Basic Agreement with McClelland Consulting Engineers, Inc.

Background: An Agreement for Airport engineering services provided by McClelland Consulting Engineers Inc. was approved as Resolution No. 97-06, and Amendment #1 as Resolution #100-07, by the City Council June 6, 2006, and June 5th 2007, respectively. The original Agreement is for three one-year periods with each one-year period subject to approval by the City of Fayetteville. This Amendment #2 is the final extension of the Agreement before a new Request for Qualifications is solicited.

Discussion: McClelland Consulting Engineers Inc. has been providing Engineering services to the Airport through various contracts and task orders for several decades. While other engineering companies have been employed from time to time over the years, McClelland has easily provided the bulk of the design and engineering work for the Airport. Thus, the company has access to an abundant store of records, knowledge, and experience which serves to enhance their performance on current and future projects.

The Airport Administration has found the company to be professional, diligent, and responsive to the Airport's needs. Our association with the firm continues to be an asset to the Airport and the Citizens of Fayetteville.

Budget Considerations: None at this time. Specific work items are composed as Task Orders and submitted to the City Council individually for approval.

RB/jn

Attachments: Amendment #2 [3 originals]
Resolution 97-06
Resolution 100-07 [Amendment #1]

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AMENDMENT #2 TO AN AGREEMENT WITH McCLELLAND CONSULTING ENGINEERS, INC. FOR ENGINEERING SERVICES FOR AN ADDITIONAL YEAR

WHEREAS, McClelland Consulting Engineers, Inc. was selected by a city professional selection committee through the RFQ process to provide engineering services for the Fayetteville Municipal Airport for three years; and

WHEREAS, the City Council approved the initial one year period contract on June 6, 2006, and approved the the second year (as First Amendment to the contract) on June 5, 2007.

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 final year long contract with McClelland Consulting Engineers, Inc. as Amendment #2 to its initial contract and authorizes the Mayor to sign Amendment #2 attached as Exhibition A.

PASSED and APPROVED this 1st day of July, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

**AMENDMENT NO. 2
TO
AGREEMENT FOR ENGINEERING SERVICES
FAYETTEVILLE MUNICIPAL AIRPORT**

STATE OF ARKANSAS
COUNTY OF WASHINGTON

RECEIVED
JUN 04 2008
AIRPORT

The basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, is hereby amended. The referenced basic agreement pertains to proposed improvements to Fayetteville Municipal Airport, Drake Field. This Amendment entered into and executed on the date indicated beneath the signature blocks, by and between the City of Fayetteville and McClelland Consulting Engineers (ENGINEER) extends the duration of the contract for the second of a possible three years, as allowed in the first paragraph on page 1 of the basic agreement. This action is taken to allow the ENGINEER to undertake design and construction administration services beyond contract expiration date of June 6, 2008. As a result, the amended contract expiration date becomes June 6, 2009.

SECTION I - PROJECT DESCRIPTION

The types of projects to be undertaken by the ENGINEER during this extended period include the type of projects listed in Section II of the Basic Agreement and any additional services related to the Fayetteville Municipal Airport as may be included by the City of Fayetteville.

SECTION II - BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT FOR ENGINEERING SERVICES shall remain in full force as originally approved and executed.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be duly executed as of the date and year first herein written.

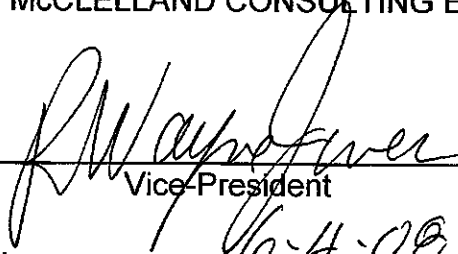
FOR THE CITY OF FAYETTEVILLE:

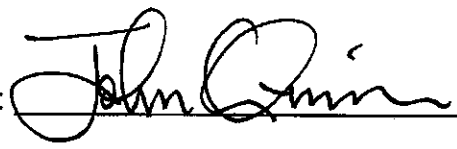
By: _____
Mayor

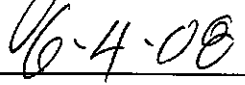
Attest: _____

Date: _____

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By:  _____
Vice-President

Attest:  _____

Date:  _____

file copy

RESOLUTION NO. 97-06

**A RESOLUTION APPROVING A THREE-YEAR CONTRACT WITH
McCLELLAND CONSULTING ENGINEERS, INC. FOR AIRPORT
ENGINEERING SERVICES.**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a three-year contract with McClelland Consulting Engineers, Inc. for airport engineering services. A copy of the contract, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 6th day of June 2006.

APPROVED:

ATTEST:

By: *Dan Coody*

DAN COODY, Mayor

By: *Sandra Smith*

SONDRA SMITH, City Clerk



RESOLUTION NO. 100-07

A RESOLUTION APPROVING AMENDMENT No. 1 TO THE BASIC AGREEMENT WITH McCLELLAND CONSULTING ENGINEERS, INC. APPROVING A ONE-YEAR EXTENSION TO PROVIDE AIRPORT ENGINEERING SERVICES.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 1 to the Basic Agreement with McClelland Consulting Engineers, Inc. approving a one-year extension to provide airport engineering services. A copy of Amendment No. 1, marked Exhibit "A" is attached hereto, and made a part hereof.

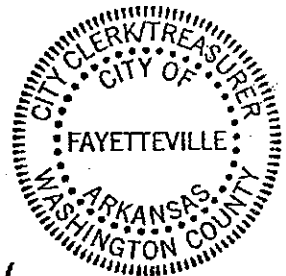
PASSED and APPROVED this 5th day of June, 2007.

APPROVED:

By: *Dan Coody*
DAN COODY, Mayor

ATTEST:

By: *Sondra E. Smith*
SONDRA E. SMITH, City Clerk/Treasurer



**City of Fayetteville
Staff Review Form**

Contracts

1-Jul-08

City Council Meeting Date

Karen Minkel

Submitted By

Long Range Planning

Division

Operations

Department

Action Required:

Approval of a budget adjustment and contract with the Arkansas Historic Preservation Program to receive a Certified Local Government grant in the amount of \$7,500 to provide travel and training funds for the Historic District Commission and staff.

\$0.00

Cost of this request

n/a

Category/Project Budget

n/a

Program Category / Project Name

1010.6310.5304.00

Account Number

n/a

Funds Used to Date

n/a

Program / Project Category Name

06024.1

Project Number

n/a

Remaining Balance

n/a

Fund Name

Budgeted Item

Budget Adjustment Attached

X

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Department Director

Date

City Attorney

Date

Mayor

Date

Received in City Clerk's Office

Received in Mayor's Office

Comments:

City Council Meeting of July 1, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Karen Minkel, Interim Director of Long Range Planning

Date: June 12, 2008

Subject: Approval of a budget adjustment and contract with the Arkansas Historic Preservation Program to receive a Certified Local Government grant in the amount of \$7,500 to provide travel and training funds for the Historic District Commission and staff.

RECOMMENDATION

Planning Staff recommends approval of a budget adjustment and contract with the Arkansas Historic Preservation Program to receive a Certified Local Government grant in the amount of \$7,500 to provide travel and training funds for the Historic District Commission and staff.

BACKGROUND

The City Council reinstated the Historic District Commission on May 6, 2006 by Res. No. 78-06. Planning staff has applied for and received a Certified Local Government (CLG) grant for the past two years to pay for the Historic District Commission's and Staff's travel and training related to historic preservation. The 2007-2008 grant was \$3,000, and enabled a staff member to attend a quarterly CLG meeting in El Dorado and two staff members and three commissioners to attend a training and meeting in North Little Rock. These conferences have increased Staff's and the Commission's knowledge and skills, contributing to their work on the formation of a local historic district for White Hangar.

BUDGET IMPACT

The City will provide in-kind services for approximately \$4,577 in the form of staff time. Karen Minkel, Interim Director of Long Range Planning, and Kristina Jones, Long Range Planning Technician, will spend 5% of their time administering the grant.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT AND
A CONTRACT WITH THE ARKANSAS HISTORIC
PRESERVATION PROGRAM TO RECEIVE A CERTIFIED
LOCAL GOVERNMENT GRANT IN THE AMOUNT OF \$7,500
TO PROVIDE TRAVEL AND TRAINING FUNDS FOR THE
HISTORIC DISTRICT COMMISSION AND STAFF

WHEREAS, the City Council reinstated the Historic District Commission on May 6, 2006; and

WHEREAS, the City Council established White Hangar as a local ordinance district on February 5, 2008; and

WHEREAS, the Historic District Commission will gain needed skills and knowledge related to historic preservation from conferences and meetings hosted by national and state organizations.

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 a resolution to approve a budget adjustment and contract with the Arkansas Historic Preservation Program to receive a Certified Local Government grant in the amount of \$7,500 to provide travel and training funds for the Historic District Commission and staff, conditional upon the applicant or any successor in interest fully complying with and completing all offered conditions as shown in the Whereas clauses of this Resolution.

PASSED and APPROVED this 1st day of July, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

CERTIFIED LOCAL GOVERNMENT PROGRAM GRANT AGREEMENT
Grant Number 08-CLG-13

This agreement is entered into between the **City of Fayetteville**, Arkansas, herein referred to as the City, and the Arkansas Historic Preservation Program, hereinafter referred to as AHPP. AHPP agrees to provide a grant in the amount of **\$7,500** to the for the purpose of:

Providing training for the Fayetteville Historic District Commission and staff.

THIS GRANT IS FOR THE ACCOMPLISHMENT OF THE PURPOSE, OBJECTIVE AND SCOPE OF WORK HEREIN DEFINED.

I. SCOPE OF WORK

The City will send one or more representatives of its Historic District Commission to the 2008 National Commission Forum, the 2008 National Preservation Conference, the 2009 Arkansas Preservation Conference, and to quarterly training meetings to be announced by AHPP.

II. TIME FRAME of AGREEMENT

This agreement will begin on July 1, 2008, and shall extend until May 31, 2009.

III. SCHEDULE OF PAYMENTS

Payment of the full grant amount, shall be paid to the City upon a request for payment to AHPP.

IV. AHPP RESPONSIBILITIES

AHPP staff agrees to make periodic reviews of the project to review practices and products. AHPP reserves the right to enforce the procedures as outlined in this contract. AHPP agrees to make available advice and counsel necessary to accomplish the objectives and to render compensation upon invoice within a reasonable time frame.

V. REPORTING REQUIREMENTS

- A. The City will submit quarterly reports detailing progress of work.
- B. The City will submit a final project report detailing all completed projects and including 10 copies each of all publications.
- C. If grant crosses Federal fiscal years, the City is required to submit progress reports (both programmatic and fiscal) including a grantee expenditure and progress report by September 30 of the year the grant is allocated.

- D. If changes in agreement - e.g.: scope of work, products, budgets, etc. - are required, then the City must submit a written request detailing proposed changes and wait for written approval from the State.

VI. COMPLIANCE

- A. All policies and procedures of the Department of the Interior, the National Park Service as well as Federal regulations concerning expenditures of all Federal funds must be followed by the AHPP and all subgrant recipients. All grant projects will be administered by the AHPP in accordance with the Historic Preservation Fund Grants Manual, particularly "Chapter 9: Certified Local Governments". Separate financial records for each project will be maintained by the AHPP following Office of Management and Budget Guidelines. The City must maintain efficient and effective accountability and control of all funds received and expended under a subgrant from the AHPP.
- B. The City agrees to the right of the AHPP director to review and comment on art set-up, written narrative of any printed material, and audio visual material produced by the grant prior to final printing or production and distribution.
- C. The City must supply the State with evidence of compliance with Federal competitive procurement requirements for professional services and subcontractors prior to reimbursement.
- D. All products and projects must comply with the applicable Secretary of the Interior's Standards for Rehabilitation. The standards are:
1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
 2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
 3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- E. All surveys (either new or those in progress) of historic structures, sites, etc. will meet the following criteria:
1. Person(s) hired to conduct survey will train with the AHPP Survey Coordinator before starting project.
 2. All survey information will be recorded on survey forms supplied by AHPP and meeting all AHPP requirements.
 3. A minimum of four (4) black and white photos and four (4) color slides (one of each elevation of a structure or one from each direction-- N, S, E, or W--of a site) will be taken using 35mm film for inclusion with the survey form.
 4. Monthly reviews of work in progress by AHPP Survey Coordinator.
- F. The City will donate to AHPP a conservation easement on the property of any historic structure(s) being restored, rehabilitated, or repaired as a part of any project(s) utilizing ten thousand dollars (\$10,000) or more of AHPP funds. On such projects involving private properties, it will be the City's responsibility to secure this easement for donation to AHPP before any grant funds are released.

VII. MANAGEMENT AND BUDGET GUIDELINES

The City must assure and certify that he will comply with the regulations, policies, guidelines and requirements as they relate to the application, acceptance and use of Federal funds for this federally-assisted project, as contained in attachment G of OMB circular A-102. Also the City assures and certifies that:

- A. The City will comply with and administer the project in conformance with the Civil Rights Act of 1964 (Public Law 88-352), as amended; as well as 43 CFR 17 and Part 506 of the Department Manual issued by the Department of the Interior; and Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against the handicapped. Title VI of the Civil Rights Act of 1964 stated that no person will, on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this agreement;

- B. In all hiring or employment made possible by or resulting from grant awards, the City (1) will not discriminate against any employee or applicant from employment because of race, color, religion, sex, age, or national origin, and (2) will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. This requirement applies to, but is not limited to, the following: employment promotion, demotion, or transfer; recruitment or other recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The City its subgrantees will comply with all applicable statutes and Executive orders on equal employment opportunity and grant awards will be governed by the provisions, as implemented by, but not limited to, Department of the Interior policies, published in 43 CFR 17;
- C. The City will give AHPP and the National Park Service or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant;
- D. The City must comply with Federal competitive procurement requirements for professional services and subcontractors and will provide documentation of such compliance upon request.
- E. The City will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of state and local governments.
- F. Upon completion of the project, the Secretary of the Interior, the Comptroller General of the United States, the AHPP, and/or any of their duly authorized representatives shall have access for the purpose of financial or programmatic audit and examination any books, documents, papers and records of the City that are pertinent to the grant at all reasonable times during the period of retention provided in OMB Circular A102, attachment C, for at least three (3) years or until all claims or audit findings have been resolved.
- G. Lobbying with appropriated funds. Historic Preservation Fund grants must conform to provisions of 18 USC 1913: "No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress be used directly or indirectly to pay for any personal services, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member or Congress, through the proper official channels, requests for legislation OPR appropriation which they deem necessary for the efficient conduct of the public business." Thus, costs associated with activities to influence legislation pending before the Congress, commonly referred to as "lobbying," are unallowable as charges to NPS assisted grants.
- H. The City must submit acceptable Federal and non-Federal share supporting documentation prior to reimbursement.
- I. In addition to the terms detailed in this grant agreement, all Federal requirements governing grants (Office of Management and Budget Circulars A-87 or A-122, A-102 or A-110, and A-128) are applicable.

VIII. PUBLICATIONS AND PUBLIC INFORMATION

An acknowledgment of National Park Service and Arkansas Historic Preservation Program support must be made in connection with the publication of any material based on, or developed under, any activity supported by Historic Preservation Fund grant funds. This acknowledgment shall be in the form of a statement as follows: *The activity which is the subject of this (type of publication) has been financed (in part/entirely) with Federal funds from the National Park Service, Department of the Interior, administered through the Arkansas Historic Preservation Program, an agency of the Department of Arkansas Heritage. However, the contents and opinions do not necessarily reflect the views or policies of the Department of the Interior, nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior or the Arkansas Historic Preservation Program.*

Press releases, publications, and other public dissemination of information by the City made possible by a grant shall acknowledge National Park Service, Department of the Interior and Arkansas Historic Preservation Program, Department of Arkansas Heritage grant support. A minimum of eight copies of any publication will be furnished by the Preservation Program will transmit three copies to the Department of the Interior Library, one copy to the National Park Service, Divisions of Personnel and Management, and one copy to the Office of Communications. The remainder will be placed in the Arkansas Historic Preservation Program files.

All printed material (publications, brochures, etc.) will be printed on recycled paper using soybean ink in accordance with Executive Proclamation Order #90-1.

IX. LIMITATION OF LIABILITY

The AHPP assumes no responsibility with respect to accidents, illness or claims arising out of any work performed under a subgrant supported project. The City is expected to take necessary steps to insure itself and its personnel and students and to comply with the applicable local, State, or Federal safety standards, including those issued pursuant to the National Occupational Safety and Health Act of 1970 (see 20 SFR 1910).

X. PROJECT CANCELLATION

Approved projects may be canceled for one or more of the following reasons:

- A. The City requests project cancellation.
- B. The City fails to initiate project work.
- C. The City initiates work prior to receipt of written notification of project approval.
- D. Project work is found not to be in conformance with conditions as stated in the grant agreement.

XI. AMENDMENTS

This agreement may be amended upon written request and approval by both parties

XII. APPROVAL OF AHPP

The City of **Fayetteville** is aware that this grant is contingent upon approval of the AHPP and the availability of funds; and agrees that no work will begin on the project until written approval from the AHPP is received.

SIGNATURES

Frances McSwain
Director, Arkansas Historic Preservation Program
Deputy State Historic Preservation Officer

Date

City of **Fayetteville** Signature

Name (printed)

Title

Date

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

A. 7
Arkansas Historic Preservation Program Grant
Page 10 of 10

Budget Year	Department: Operations	Date Requested	Adjustment Number
2008	Division: Planning & Development Management	6/12/2008	
	Program: Long Range Planning		

Project or Item Added/Increased: Historic Preservation Travel and Training 1010.6310.5304.00 06024.01	Project or Item Deleted/Reduced: None. \$7,500 in State Grants
--	--

Justification of this Increase: The funding is approved with the Historic Preservation Grant #08-CLG-13 approved by City Council on the July 1, 2008 meeting as part of a Resolution.	Justification of this Decrease:
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Travel & training	1010 6310 5304 00	7,500	06024 08 01

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
State Grants-Operational	1010 0001 4302 01	7,500	06024 08 01

Approval Signatures <i>Karen Minkal</i> Requested By 6/11/08 Date <i>[Signature]</i> Budget Manager 6-10-08 Date <i>[Signature]</i> Department Director 6-16-08 Date <i>Paul A. Babin</i> Finance & Internal Services Director 6-16-08 Date <i>[Signature]</i> Mayor 6/16/08 Date	Budget Office Use Only Type: A B C <u>D</u> E Posted to General Ledger Initial Date Posted to Project Accounting Initial Date Entered in Category Log Initial Date
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**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

July 1, 2008
City Council Meeting Date

Ron Petrie Engineering Operations
Submitted By Division Department

Action Required:

A resolution to apply for a grant through the Arkansas Natural Resources Commission in a proposed partnership agreement with a subcontractor for a grant for water quality sampling, analysis and annual load determinations for TSS, nitrogen, and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River and utilizing in-kind match through staff time and current projects.

\$ <u>-</u> Cost of this request	\$ <u>708,731.00</u> Category / Project Budget	<u>Drainage/Phase 2 Stormwater Mgmt</u> Program Category / Project Name
<u>4470-9470-5817</u> Account Number	\$ <u>268,082.60</u> Funds Used to Date	<u>Bridge and Drainage Improvements</u> Program / Project Category Name
<u>08059.1</u> Project Number	\$ <u>440,648.40</u> Remaining Balance	<u>Capital Improvement Const</u> Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

[Signature] 6-18-08
Department Director Date

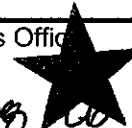
Previous Ordinance or Resolution # _____

[Signature] 6/18/08
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Barker 6-19-08
Finance and Internal Service Director Date

Received in City Clerk's Office
6-18-08 

[Signature] 6/19/08
Mayor Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, City Engineer *RP*

From: Sarah Wrede, Staff Engineer

Date: June 13, 2008

Subject: A resolution to apply for a grant through the Arkansas Natural Resources Commission in a proposed partnership agreement with a subcontractor for a grant for water quality sampling, analysis and annual load determinations for TSS, nitrogen, and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River and utilizing in-kind match through staff time and current projects.

RECOMMENDATION

Staff recommends approval of a partnership agreement with a subcontractor for a grant for water quality sampling, analysis and annual load determinations for TSS, nitrogen, and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River.

BACKGROUND

Marc Nelson, working with the Arkansas Water Resources Center, installed a water quality sampling station at the Mally Wagon Road Bridge on the West Fork of the White River just above the confluence of the three main forks of the Upper White River in 2002. This station is coordinated with a USGS gauging station at the same location, and is instrumented to collect samples at sufficient intervals across the hydrograph to accurately estimate the flux of total suspended solids, nitrogen and phosphorus into the upper end of Beaver Lake from the West Fork of the White River. The West Fork is listed on Arkansas' 1998 303d list as impaired from sediment. The Upper White was designated as the states highest priority watershed in the 1999 Unified Watershed Assessment. Accurate determination of stream nutrients and sediment is critical for future determinations of Total Maximum Daily Loads (TMDLs), effectiveness of best management practices and trends in water quality. The Arkansas Water Resources Center chose to stop funding this project. Mark Nelson, through Nelson Engineering, wrote the proposal in order to continue the record of water quality monitoring. This proposal is for continuation of sampling and load determination for the period from July 1, 2008 to June 30, 2009 and includes the purchase of new sampling equipment.

DISCUSSION:

This proposal is for water quality sampling, water sample analysis and annual pollutant load calculations at the Washington County Road 195 Bridge (Mally Wagon Road Bridge) on the West Fork of the White River. The parameters measured from collected samples will be nitrate-nitrogen, ammonia-nitrogen, total nitrogen, total phosphorus, dissolved reactive phosphorus, turbidity, conductivity, sulfate chloride and total suspended solids. In addition turbidity, conductivity and pH will be measured in-situ and recorded in thirty-minute intervals.

The City of Fayetteville will be the contractor with Arkansas Natural Resources Commission (ANRC) for the 319 grant. The City will be responsible for contractual relationships and payment to the sub-contractor, purchasing sampling equipment, which is reimbursable through the grant, and providing the match for the project. The sub-contractor will be responsible for all remaining tasks of the project including: writing the Quality Assurance Project Plan (QAPP), collecting samples and analyzing the data from the water quality sampling station, computing the annual load for all parameters and reporting quarterly and annually to the City of Fayetteville and ANRC.

The proposed project costs are \$45,765 federal and \$34,524 of in kind match from the City of Fayetteville for a total of \$80,289. The grant was originally planned to use the Nutrient Reduction Plan as the total match. However ANRC decided that the only allowable portion of the Nutrient Reduction Plan to use as match would be the stakeholder meetings and staff time spent on Nutrient Reduction Plan related work. The match for the stakeholder meetings and staff time will make up \$9155.00. Project administration will make up \$5000 of the match. The additional match to make up the difference will be provided by the West Fork EPA through their Annual Watershed Outreach and Clean-up of the West Fork of the White River. These forms of in-kind match have been approved by ANRC.

BUDGET IMPACT

Currently, there is \$440,648.40 remaining in the Drainage Study/Phase II Stormwater Management account that has been designated for use to fund projects that improve stormwater quality in the City of Fayetteville. The grant includes the purchase of sample collection and analysis equipment in the amount of \$14,000. This equipment must be purchased at the beginning of the project and is reimbursable once the grant is awarded.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ENGINEERING DIVISION TO APPLY FOR A GRANT FROM THE ARKANSAS NATURAL RESOURCES COMMISSION FOR WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR TSS, NITROGEN AND PHOSPHORUS AT THE MALLY WAGNON ROAD BRIDGE ON THE WEST FORK OF THE WHITE RIVER.

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 Engineering Division to apply for a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagnon Road Bridge on the West Fork of the White River.

PASSED and APPROVED this 1st day of July, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR NUTRIENTS AND SOLIDS AT THE WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE RIVER.

INTRODUCTION

A water quality sampling station was installed at the Washington County road 195 bridge on the West Fork of the White River just above the confluence of the three main forks of the Upper White River in 2002. This station is coordinated with a USGS gauging station at the same location. This station is instrumented to collect samples at sufficient intervals across the hydrograph to accurately estimate the flux of total suspended solids, nitrogen and phosphorus into the upper end of Beaver Lake from the West Fork of the White River. The West Fork is listed on Arkansas' 1998 303d list as impaired from sediment. The Upper White was designated as the states highest priority watershed in the 1999 Unified Watershed Assessment. Accurate determination of stream nutrients and sediment is critical for future determinations of TMDLs, effectiveness of best management practices and trends in water quality. This proposal is for continuation of sampling and load determination for the period from July 1, 2008 to June 30, 2009.

SCOPE

This proposal is for sampling station installation, water quality sampling, water sample analysis and annual pollutant load calculations at the Washington County Road 195 Bridge on the West Fork of the White River. The parameters measured from collected samples will be nitrate-nitrogen, ammonia-nitrogen, total nitrogen, total phosphorus, dissolved reactive phosphorus, turbidity, conductivity, sulfate chloride and total suspended solids. In addition turbidity, conductivity and pH will be measured in-situ and recorded in thirty-minute intervals. The City of Fayetteville will be the contractor with Arkansas Natural Resources Commission (ANRC) for the 319 grant. They will be responsible for contractual relationships and payment to the sub-contractor. The City of Fayetteville will also be responsible for providing the entire match for the project. Nelson Engineering will be the sub-contractor. The sub-contractor will be responsible for all remaining tasks of the project including: writing the QAPP, collecting samples and analyzing the data from the water quality sampling station, computing the annual load for all parameters and reporting quarterly and annually to the City of Fayetteville and ANRC.

METHODS

There are twelve significant storms during a year on average. Each storm will require an average of three composite samples. The budget is based on composite sampling, collection and analysis for twelve storms and twenty-six grab samples. This is the estimated analytical cost. Actual costs will be born by the sub-contractor regardless of the number of samples collected. (All significant storm events will be sampled) All samples will be analyzed for Nitrate Nitrogen (NO₃-N), Ammonia Nitrogen (NH₄-N), Total Nitrogen (TN), Total Phosphorus (TP), Soluble Reactive Phosphate (SRP) and Total Suspended Solids (TSS), turbidity, conductivity, sulfate and chloride. Nelson Engineering will collect all samples and all samples will be analyzed by the AWRC Water Quality Lab or another ADEQ certified lab using standard field and laboratory QA/QC procedures.

The sampler will be configured to take flow-weighted composite samples. The sampler will begin sampling after the stage has risen above a set trigger level. It will take a discrete sample after a fixed volume of water has passed. The discrete samples will be composited by combining equal volumes of each into a single composite sample for analysis. The discrete samples will be collected for compositing before all twenty-four bottles are filled or within forty-eight hours after the first sample. Storms will be sampled in this manner as long as the stage is above the trigger level. The trigger level will be four feet. Grab samples will be taken every two weeks. The data collected at this site will be used to calculate total pollutant loads and mean concentrations for the year. All data will be reported with field and laboratory QA/ QC data.

A YSI sonde will be used to collect data on turbidity and conductivity. The sonde is SDI-12 compatible and works in conjunction with the USGS DCP located on site. The data is measured and logged every 30 minutes and transferred to the USGS office every 4 hours along with other USGS stage and flow data.

The responsibilities of the sub-contractor include project management and coordination, QAPP plan writing, sample collection, field maintenance, sample analyses, quality control, data compilation, data interpretation and report writing.

Quarterly progress and quality assurance reports and a yearly written report will be prepared for this project. The report will detail the sampling results for the year as well as total calculated loads for the water quality parameters measured. Trends in water quality will be investigated and reported as soon as sufficient data becomes available. The report will be presented annually to the City of Fayetteville and ANRC. Payment of the sub-contract will be a lump sum, 25% of the total each quarter after submission of the quarter reports and a payment invoice from the sub-contractor to the City.

Budget totals:

Requested federal funds:	\$45,765
Sub-contract total:	\$45,765

Required matching funds (or in-kind match): \$34,524

West Fork Budget									
BUDGET sub-contract									
Proposed to (Sponsor):		ANRC							
UA Lead Investigator:		Marc Nelson							
Proposed Project Period:		7/1/08-6/30/09							
10/12/2007 12:31									
		YEAR 1							
				Grant		UA		Non UA	
				Request		Cost Share		Cost Share	
I. PERSONNEL COSTS		#		PERSON-MONTHS					
A. SALARIES & WAGES		CAL		AY		SMR			
PI acad or cal year salary						10,000			
PI summer salary									
Co-PI:									
Co-PI:									
Co-PI:									
Nclassified: Trost 3000, Cash 2000						5,000			
Classified: 3039 Speak, 2018 Parker									
GRA(s) cost basis:				mo. @		0			
Hourly non-student(s) cost basis:				hrs @		0			
Undergraduate(s) cost basis:				hrs @		0			
Sub-total S&W						15,000			
B. FRINGE BENEFITS				UA RATE					
PI, academic year				24.536%		2,454		0	
PI, summer				17.434%		0		0	
Co-PI 1				27.134%		0		0	
Co-PI 2						0		0	
Co-PI 3						0		0	
non-classified personnel				24.536%		1,227		0	
Classified				29.410%		0		0	
GRA				3.594%		0		0	
Hourly non-student				8.399%		0		0	
Hourly undergraduate				0.393%		0		0	
Sub-total FB						3,681		0	
Total Salaries and Benefits						18,681		0	
II. TRAVEL									
A. Domestic Travel						500			
B. Foreign Travel									
III. EQUIPMENT (capitalized at \$2500 threshold)									
IV. GRA TUITION (Per University Policy)									
V. SUBCONTRACT(S)									
VI. OTHER DIRECT COSTS									
A. Materials and Supplies: batteries, tubing, dist.						500			
B. Publication of Research									
C. Communication Costs									
D. Other: Sample collection and analyses						14,000			
Total Other Direct Costs						14,500		0	
VIII. TOTAL DIRECT COSTS						33,681		0	
Modified Total Direct Costs (MTDC)						33,681		0	
F & A COST (MTDC x Rate)		Rate:		35.00%		11,788			
sub-contract AWRC						45,469		0	
Project administration City of Fayetteville								29,301	
total project costs						45,469		total match 34,301	
								additional match needed by City of Fayetteville	

Match for WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS for the West Fork of the White River

Watershed Outreach and Clean-up sponsored by West Fork Scheduled for May 2009				
Work Description	Description of person(s) involved	Value per hour	Number of Hours	Estimated Value
Develop advertisement, which includes original art work and content	Frances Hime, WFEPA Secretary	\$50	120	\$6,000
Paper and Ink for printing	Donated by Frances Hyme			\$1,000
Volunteers participating in Event: average length of time is 4 hrs per person	volunteers - 100	\$19.51	398	\$7,765
Planning an Organization of Event	Henry Griffith, WFEPA Coordinator	\$50	40	\$2,000
Planning an Organization of Event	Frances Hime, WFEPA Chair, Administrative Director	\$50	40	\$2,000
Printing Maps for Event - 20 maps at \$20 per map	WCRC			\$400
Development of Maps for Event/ contact landowners	Matt Van Eps, WCRC, P.E.	\$100	10	\$1,000
Estimate of Total Match for Annual Event - May 2009				\$20,165

City of Fayetteville Nutrient Reduction Plan					
Scheduled for July 2008 through June 2009					
Work Description	Description of person(s) involved	Value per hour	Number of Hours	Estimated Value	Total Value
Stakeholder Review Group	12 Professionals & 1 Citizen	\$1,220	4		\$4,878
City Staff Review Meeting	10 City Staff from Departments effected by NRP	\$1,000	2		\$2,000
City Staff Time for implementing and assisting NRP	Engineering Staff	\$42.96	53		\$2,277
Estimate of Total Match for NRP					\$9,155

Grant Administration \$ 5,000

Total Match \$34,320

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

B. 2
Boardwalk Property Owners Association
Page 1 of 10

7-Aug-07

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

Approval of a cost-share and bid waiver in the amount of \$69,674.00 with the Boardwalk Subdivision Property Owners Association for the dredging of the Boardwalk POA Pond.

\$69,674.00

Cost of this request

4470.9470.5817.00

02108

Project Number

\$

579,566.00

Category/Project Budget

\$

-

Funds Used to Date

\$

579,566.00

Remaining Balance

Other Drainage Improvements

Program Category / Project Name

Bridge and Drainage

Improvements

Program / Project Category Name

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Finance and Internal Service Director

Date

Mayor

Date

Comments:

Received in City Clerk's Office

ENTERED

7/23/07

Received in Mayor's Office

ENTERED

7/23/07

Tabled Indefinitely 7/23/07
Tabled to October 2, 2007 mtg 8/1/07
Left on the second reading 8/23/07
Left on the first reading 8/7/07

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, P.E., City Engineer

Date: July 18, 2007

Subject: Proposed Cost Share and bid waiver in the amount of \$69,674.00 with the Boardwalk Subdivision Property Owners Association for the dredging of the Boardwalk POA Pond.

RECOMMENDATION

Staff recommends approval of the proposed cost-share with the Boardwalk Subdivision POA for the dredging of the pond that is contained on the common property of the Boardwalk Property Owners Association.

BACKGROUND

The Boardwalk Subdivision was developed in 1992 around an existing 5 acre pond that is estimated to have built in the early 1980's. This 83 home subdivision is located to the west of Crossover Road approximately one-half mile south of Mission Boulevard. The pond and the property surrounding the pond were platted as common property that is owned & maintained by the POA. The pond has a drainage basin of approximately 190 acres that drain to the pond through three different drainage systems that are owned and maintained by the City. Since the creation of this pond there have been numerous developments & projects that have occurred within the watershed including the Summersby Subdivision, the Highway 265 Widening, and the actual construction of the Boardwalk Subdivision. All of the developments have over time deposited silt and debris into the pond that has led to numerous complaints from the property owner's within the Boardwalk Subdivision. According to the residents, the depth of the upper end of the pond has decreased from 5-6' to 1-2'.

DISCUSSION

Due to the number of concerns raised by the residents, elected officials and city staff began meeting with the POA approximately 2 years ago to discuss possible solutions to the problem. The Engineering Division originally designed a structure at the main inflow channel to catch the sediment and debris. This design would require on-going maintenance and require a capital investment of approximately \$50,000 if done by the Transportation Division. After studying this option and determining that the bulk of the

watershed is now developed, it was decided that we should explore other options. After meeting with numerous contactors onsite, it was determined that it is feasible to lower the pond elevation at a sufficient depth to remove the majority of the sediment that has been deposited in the upper portion of the 5 acre pond. This sediment would need to be placed in dump trucks and removed from the site. On behalf of the Boardwalk POA, the Engineering Division began soliciting proposals to perform the work and we have received a proposal from Wilson Excavating, LLC in the amount of \$77,274.00 with the condition that the City lower & maintain the water level within the pond. The Boardwalk POA met on June 12, 2007 and agreed to pay for \$7,600.00 of the proposed work.

Below is a summary of the costs as provided by Wilson Excavation, LLC:

Boardwalk POA Offered Share	\$ 7,600.00
Proposed City's Share	\$ <u>69,674.00</u>
Total	\$ <u>77,274.00</u>

BUDGET IMPACT

The funds for this drainage cost-share project are proposed to come from "Other Drainage Improvements" project in the Bridge and Drainage Improvements fund. There is currently \$579,566 remaining in this project fund.

The final costs to the City will be based upon actual costs as documented by the Boardwalk Subdivision POA subject to review by the City and may, or may not exceed the submitted estimate. However, the City's share will not exceed the estimate without additional authorization.

ORDINANCE NO. ____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE WITH THE BOARDWALK PROPERTY OWNERS ASSOCIATION (POA) IN AN AMOUNT NOT TO EXCEED \$69,674.00 TO DREDGE THE BOARDWALK POA POND.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that this constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding to approve a cost-share with the Boardwalk Property Owners Association (POA) in an amount not to exceed \$69,674.00 to dredge the Boardwalk POA pond.

PASSED and APPROVED this 7th day of August, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

Wilson Excavating, LLC.

703 N. Thompson Suite 105

Office: (479) 927-2797 Fax: (479) 927-2438

PROPOSAL

Date: July 18, 2007

Company:

Project: Pond Restoration

Attention: Mat Casey

Location: Fayetteville Ark.

Phone/Fax: 575-8202

We propose to furnish all material, equipment, and labor necessary to perform and complete the following:

DESCRIPTION:	QUANTITY:	Unit:	Unit Cost:	COST:
Export Material	400.00	lds	\$ 85.00	\$ 34,000.00
Remove and load material from pond	4720.00	Cu. Yds	\$ 7.95	37,524.00
Repair temp road and Seed	1.00	Lump Sum	\$ 5,750.00	5,750.00
				0.00
9400 SF @ 4' = 1392 cu yd				0.00
22320SF @ 3' = 2480 Cu Yd				0.00
10000SF @ 2' = 740 Cu Yd				0.00
2920 SF @ 1' = 108 Cu Yd				0.00
Total 4720 Cu. YD.				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
ANY Additional WORK TO BE PAID ON Quantity prices				0.00
NOT Included: Lowering Water Level, Maintaining water level				0.00
				0.00

We propose to furnish all material, equipment, and labor, complete in accordance with the above specifications, for the sum of:

Dollars \$77,274.00 Page 1 Total

\$77,274.00 Proposal Total

Payments to be made as follows:

Monthly Progress Payments for Percentage of Work Complete.

Contractors Signature:

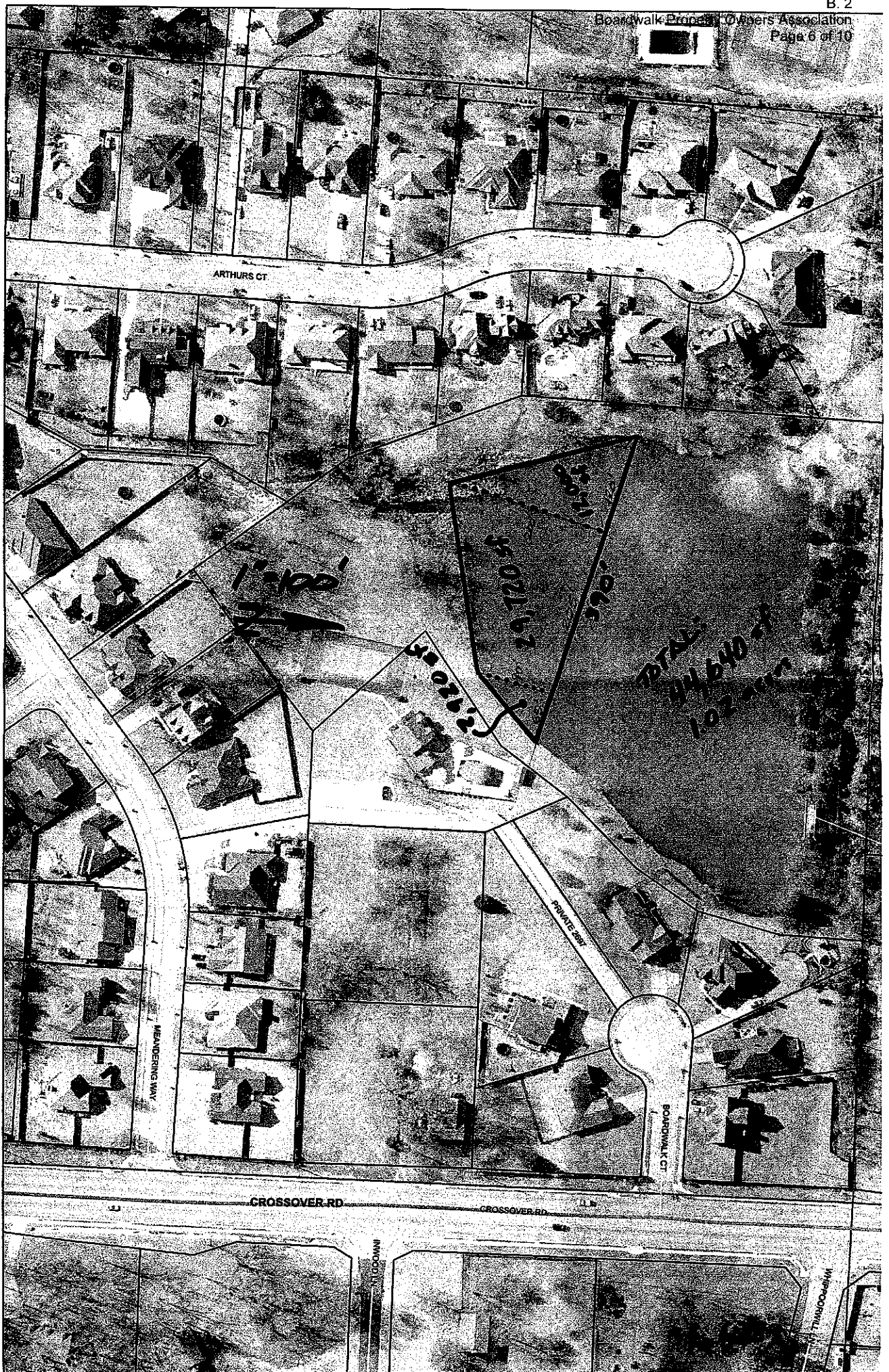
H. Mat Casey 7-18-07

Acceptance of proposal - The above pricing, specifications, and conditions are satisfactory and are hereby accepted. Wilson Paving & Excavation, Inc. is authorized to perform the work as specified. Payments to be made as outlined above.

* Above Pricing is guaranteed for 30 Days from date of this document. If Proposal remains unsigned after 30 calendar days from date specified, pricing is subject to change.

Owner / Agent Signature: _____

Date Approved: _____



CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____, by and between the City of Fayetteville, Arkansas and the Boardwalk Subdivision POA Witnesseth:

WHEREAS, Boardwalk Subdivision POA has in their development a 5 acre pond that the development was constructed around; and

WHEREAS, this pond has been affected by the development and highway construction in the area over the past several years; and

WHEREAS, these construction activities have caused silt and debris to be deposited in this pond and reducing the depth and volume of the pond considerably; and

WHEREAS, it would benefit the residents in this development to have this pond dredged to remove the accumulated silt; and

NOW, THEREFORE, the City of Fayetteville and Boardwalk Subdivision POA agree as follows:

1. Upon the City Council and/or the Mayor approving the Cost-Share, the City of Fayetteville agrees to:
 - A. Pay a maximum-not-to-exceed cost of \$69,674.00 of the \$77,274.00 for the afore mentioned pond dredging as was provided by Wilson Excavating, LLC, the contractor, and made a part of this agreement.
 - B. Reconsider the costs if the future and actual construction prices exceed the maximum-not-to-exceed amount that was furnished by the contractor. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.
 - C. Make all efforts to provide payment to Wilson Excavating, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. Boardwalk Subdivision POA agrees to:
 - A. Pay a maximum-not-to-exceed cost of \$7,600.00 of the \$77,274.00 for the afore mentioned pond dredging as was provided by Wilson Excavating, LLC, the contractor, and made a part of this agreement.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

Boardwalk Subdivision POA

By: _____
DAN COODY, Mayor

By: _____

RESOLUTION NO. 14-08

**A RESOLUTION TO DENY SEVERAL ITEMS Tabled
INDEFINITELY AND RESCHEDULE FOR HEARING THREE
ITEMS THAT MAY NEED FURTHER CITY COUNCIL
ACTION**

WHEREAS, items tabled indefinitely usually expire at the end of any legislative session;
and

WHEREAS, the City Council of Fayetteville has not established any set legislative session so that at least eleven items remain tabled indefinitely from 2007.

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

Section 1: The City Council of the City of Fayetteville, Arkansas hereby places on the City Council agenda for February 5, 2008 the appeal of the Planning Commission's denial of RZN 07-2667 (Hobson, Inc.; ~~For February 19, 2008, approval of R-PZD 07-2680 (Arcadian Court);~~ and for July 1, 2008 (unless information is received earlier) for dredging cost share agreement with Boardwalk POA.

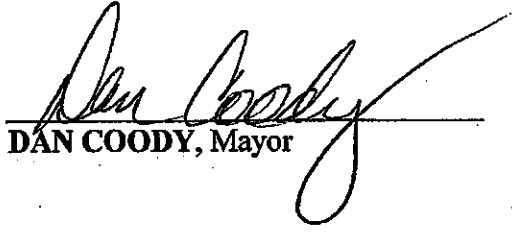
Section 2: The City Council of the City of Fayetteville, Arkansas hereby denies all other items that have been tabled indefinitely by the City Council including the list on Exhibit A attached and any other items ever tabled indefinitely by the Fayetteville City Council.

PASSED and APPROVED this 15th day of January, 2008.

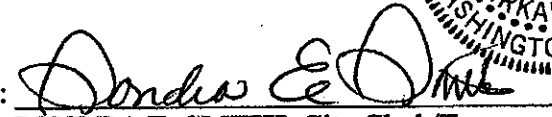
APPROVED:

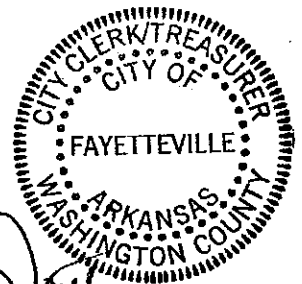
ATTEST:

By:


DAN COODY, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer



Added at Agenda Session 6-10-08

AGENDA REQUEST

B. 3
Northwest Arkansas Regional Mobility Authority
Page 1 of 22



6/9/08

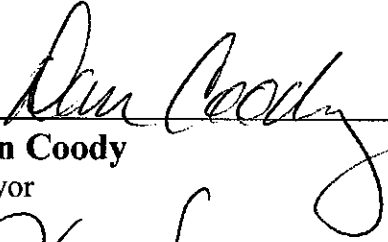
FOR: COUNCIL MEETING OF JUNE 17, 2008

FROM:
MAYOR DAN COODY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance Providing For Fayetteville's Participation In The Northwest Arkansas Regional Mobility Authority And Approving An Agreement With Participating Members Of The Northwest Arkansas Regional Mobility Authority

APPROVED FOR AGENDA:



Dan Coody
Mayor

6/9/08
Date



Kit Williams
City Attorney (as to form)

6-6-08
Date

Left on the second reading 6/17/08

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

Northwest Arkansas Regional Mobility Authority
Page 2 of 22



LEGAL DEPARTMENT

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

FROM: **Kit Williams, City Attorney**

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

DATE: **June 9, 2008**

RE: **Northwest Arkansas Regional Mobility Authority**

The City of Fayetteville has been invited to join the Northwest Arkansas Regional Mobility Authority that has been created by Washington and Benton County. Rogers has already joined. This authority will be governed by a board of directors which shall be the respective county judges and mayors of first class cities (which choose to join). A.C.A. §27-76-303. Since the authority has already been created and covers all our citizens (through Washington County), there is little reason for the City of Fayetteville not to become a member with input on the decisions.

To join we must pass an ordinance which is presented to the City Council for its consideration. The City also needs to pass the agreement. I would like to have slightly modified the agreement already passed by Washington and Benton County, but I guess we must pass the identical agreement. Thus, that is also attached for your consideration.

I started to include the statute authorizing these authorities, but it runs over 20 pages so I will simply answer any questions you might have about it.

ORDINANCE NO. _____

**AN ORDINANCE PROVIDING FOR FAYETTEVILLE'S PARTICIPATION
IN THE NORTHWEST ARKANSAS REGIONAL MOBILITY AUTHORITY
AND APPROVING AN AGREEMENT WITH PARTICIPATING MEMBERS
OF THE NORTHWEST ARKANSAS REGIONAL MOBILITY AUTHORITY**

WHEREAS, there are major transportation issues in Northwest Arkansas that cannot or will not be solved by the Arkansas Highway and Transportation Department (AHTD) alone; and

WHEREAS, in recognition of financial limitations, as well as the lack of suitable statutory authority for cities and counties to collectively fund and implement transportation projects on a regional basis, with or without AHTD participation, the Legislature approved Act 389 of 2007 to revise the Regional Mobility Authority Act of 2005; and

WHEREAS, the stated intent of Act 389 made clear that the funding of regional mobility authorities is intended as a supplement to, and not a substitute for, state and federal transportation aid to counties and municipalities; and

WHEREAS, with said changes, revisions, and clarifications, the establishment of a multi-county regional mobility authority is now deemed practicable and advisable, and it is the desire of the City Council to move forthwith in such establishment with participating members of the Northwest Arkansas Regional Mobility Authority.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes and approves Fayetteville's participation in the Northwest Arkansas Regional Mobility Authority.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the "Northwest Arkansas Regional Mobility Authority Agreement," which is attached hereto as Exhibit "A".

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby authorizes and directs the Mayor to execute the document on behalf of the City of Fayetteville, and transmit it to participating members of the Northwest Arkansas Regional Mobility Authority for consideration.

PASSED and **APPROVED** this 17th day of June, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

NORTHWEST ARKANSAS REGIONAL MOBILITY AUTHORITY AGREEMENT

As authorized by Act 389 of 2007 of the Arkansas General Assembly, codified as A.C.A. 27-76-101, *et seq.*, Washington County and Benton County herewith form the Northwest Arkansas Regional Mobility Authority (the "Authority").

ARTICLE I – AUTHORIZATION

The parties to this Agreement are Washington County and Benton County, Arkansas and municipalities within the jurisdictional boundaries of the Authority. Municipalities within the jurisdictional boundaries may become a member of the Authority subject to meeting the requirements of A.C.A. 27-76-203. The counties and the subsequent signatory cities agree to join cooperatively in establishing and providing for the operation of the Northwest Arkansas Regional Mobility Authority.

ARTICLE II – DURATION

The Authority shall have a perpetual existence.

ARTICLE III – ORGANIZATION

- A. CONSTITUTION. The Authority shall be governed by a Board of Directors. The Board of Directors shall include the County Judge, or a representative designated by the County Judge, of each county that is a member of the Authority; and the Mayor, or a representative designated by the Mayor, of each city of the first class that is a member of the Authority. The designated representative of a County Judge or a Mayor shall be a qualified elector of the jurisdiction that the designated representative is appointed to represent.
- B. TERMS. A Director who is a public official may serve on the Board of Directors during his term of office as the County Judge or Mayor of a member of the Authority. A Director who is the designated representative of the Mayor or County Judge serves at the pleasure of the Mayor of the municipality or the County Judge of the county that is a member of the Authority. The term of such a Director shall not extend beyond the term of the appointing public official. A new Mayor or County Judge may designate the same person who served as the designated representative of a previous Mayor or County Judge, as their designated representative to serve as a Director.
- C. PAY AND EXPENSES. The members of the Board of Directors of the Authority shall receive no salary or per diem, but shall be entitled to reimbursement of actual travel and out-of-pocket expense incurred on behalf of the Authority as authorized by the Board.

ARTICLE IV – JURISDICTIONAL BOUNDARIES

The jurisdictional boundaries of the Authority shall be co-extensive with the legal boundaries of Washington County and Benton County, Arkansas.

ARTICLE V – GOVERNANCE

The Authority shall be operated and controlled by its Board of Directors in accordance with A.C.A. 27-76-301, *et seq.*

ARTICLE VI – POWERS AND DUTIES

The Board of Directors shall have those powers and duties set forth in A.C.A. 27-76-401-410. All plans developed by the Authority shall be consistent with state implementation plans, statewide transportation improvements programs if federal aid funds are involved, statewide long-range transportation plans, city and county master street plans, and metropolitan transportation plans in metropolitan areas as required under 23 U.S.C. Section 134 as it existed on January 1, 2007.

ARTICLE VII – EMINENT DOMAIN

The Authority shall have the power of eminent domain and such powers shall be exercised for public purposes only, as set forth in A.C.A. 27-76-501 – 504.

ARTICLE VIII – FINANCING AND BONDS

The Authority may be financed or supported as determined by the Board of Directors in accordance with A.C.A. 27-76-601 – 611. However, in no event may any member be financially obligated without the consent of its governing body.

ARTICLE IX – TOLLING FEES, FARE AND OTHER CHARGES OF A TOLL FACILITY PROJECT

As determined by its Board of Directors, the Authority shall have those tolling powers and rights as set forth in A.C.A. 27-76-701 – 713.

ARTICLE X – OFFICERS, MEETINGS, AND RULES

- A. **OFFICERS.** At its organizational meeting and at the first regular meeting of each fiscal year, the Board of Directors shall elect one of its members as Chairman, one as Vice-Chairman, one as Secretary, and one as Treasurer. At the discretion of the Board, the offices of Secretary and Treasurer may be held by one person.
- B. **MEETINGS.** The Authority's Board of Directors shall meet not less than quarterly at dates, times, and places to be established by the Board. All meetings shall be open to the public as provided by Arkansas law, and shall be conducted pursuant to procedures established by the Board. A meeting may be called by the Secretary at the direction of the Chairman, or upon the direction of a majority of the members of the Board of the Authority.
- C. **RULES.** Fifty percent (50%) of the members of the Board plus one shall constitute a quorum and no vacancy in the membership of the Authority shall restrict the right of a quorum to exercise all the rights and privileges or the duties of the Authority. The Board

of Directors of the Authority may create such committees as it deems necessary for the proper exercise of its functions. The Board shall adopt rules for the transaction of business, and shall keep a complete record of its activities and business, which shall be a public record.

No member of the Board of Directors or any officer, employee, or agent of the Authority shall have a personal interest in any business of the Authority or in any contract with the Authority, or in any property or other assets in which the Authority is interested. No person shall be employed by the Authority who is related to a member or officer of the Authority by blood or by marriage within the fourth degree. For purposes of this provision, any corporation or other business in which any member of the Board of the Authority or any officer, employee or agent of the Authority has a substantial interest shall be prohibited from doing business with the Authority.

ARTICLE XI – AMENDMENT

This Agreement may be modified or amended in the same manner as this Agreement was adopted.

ARTICLE XII – TERMINATION

This Agreement shall continue in full force and effect subsequent to its adoption by all signatory parties. Whenever the members of the Authority shall by ordinance determine that the Authority shall be dissolved and that all bonds issued and all other obligations incurred by the Authority have been fully paid or satisfied, the members of the Authority may by ordinance declare the Authority dissolved.

In the event that the Authority shall be dissolved, title to all funds and other property owned by the Authority at the time of dissolution shall be liquidated and distributed to the members in direct proportion to the funds contributed to the Authority by the members, if any, and if no funds were contributed, to each member in the manner provided in the ordinance declaring the dissolution.

ARTICLE XIII – NEW MEMBERS; WITHDRAWALS

Any municipality within the jurisdictional boundaries of the Authority, without exception, may become a member of the Authority subject to meeting the requirements of A.C.A. 27-76-203.

Any member of the Authority may withdraw at any time without the consent of the other members prior to any bonded debt being issued by the Authority. The withdrawal shall become effective upon the adoption of an ordinance by the withdrawing member and the filing of the ordinance with the Authority. The withdrawal of a member shall not cause a dissolution or otherwise terminate this Agreement.

If there is bonded debt of the Authority outstanding, a member may withdraw from the Authority without the consent of the other members so long as there are sufficient members remaining to constitute the Authority and to provide for a Board of Directors of the Authority.

ARTICLE XIV – COOPERATIVE AGREEMENT

This Agreement incorporates by reference A.C.A. 25-20-104(c) to the extent that the same is consistent with the provision of the Regional Mobility Authority Act and with this Agreement.

ARTICLE XV – FULL AND COMPLETE POWERS AND DEFINITIONS

It is the intention of this Agreement and the signatories hereto that the Authority established hereunder have all of the powers, duties, and obligations conferred upon the Authority by the Regional Mobility Authority Act. The definitions and powers of the Act are incorporated by reference.

ARTICLE XVI – GENDER

Any references to gender made herein are intended to be neutral.

ARTICLE XVII – ENTIRE AGREEMENT

This writing constitutes the entire agreement between the parties. All amendments or modifications hereto must be in writing. Act 389 of 2007 is attached, designated Exhibit A, and incorporated by reference.

In WITNESS WHEREOF the City of Fayetteville, by its Mayor has executed this Agreement on the 17th day of June, 2008.

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra E. Smith, City Clerk/Treasurer



**Jerry Hunton
County Judge
Washington County**



**Gary Black
County Judge
Benton County**



April 30, 2008

**The Honorable Dan Coody
Mayor
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701**

Dear Mayor Coody,

We are writing to inform you of recent actions by the Benton County and Washington County Quorum Courts to establish a Northwest Arkansas Regional Mobility Authority (RMA). We also want to let you know that all municipalities within Washington and Benton Counties are eligible to join as members of the RMA.

Cities have taken great strides to address street infrastructure needs within city boundaries. But, because of the rapid growth, our regional highway needs have not kept up with the population explosion over the past decade. We have thousands of citizens who commute between our counties, and our north/south, as well as our east/west corridors are becoming increasingly congested. Growth is projected to continue, and if we don't take proactive steps to address the region's transportation needs, highway facilities will become inadequate, delays at interchanges will increase, and the quality of life we now enjoy will be compromised. The establishment of a Northwest Arkansas RMA gives us a tool for putting infrastructure in place in order to provide continued mobility for our residents.

The Quorum Courts of our respective counties approved the establishment of a Northwest Arkansas RMA to work toward implementation of specific, large-scale projects of regional significance that have been identified by the Northwest Arkansas Regional Planning Commission as priorities for Northwest Arkansas. The Northwest Arkansas RMA will be a single governmental entity focused on financing and implementation/construction plans for regional transportation projects. Under the statutes that authorize establishment of RMA's, voters must approve virtually all significant funding sources for RMA projects.

For a city within the two-county jurisdictional boundary to join the RMA, the city council must pass an ordinance providing for the city's participation, and enter into an

establishment agreement that was approved by the Washington and Benton County Quorum Courts.

As previously mentioned, all cities are entitled to become RMA members. However, the enabling statute limits city representation on the Board of Directors to cities of the first class that are members of the RMA. The mayor of such cities may serve on the Board personally, or the mayor may designate a representative. A designated representative must be a qualified elector of the city they are representing, and serve at the pleasure of the mayor.

Several items are attached for your information and review:

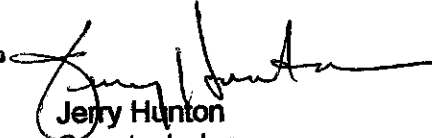
1. The ordinance providing for county participation in a Northwest Arkansas RMA;
2. The agreement between the counties effectuating creation of the RMA; and
3. The State of Arkansas' RMA authorizing legislation (Act 389 of 2007).

Your consideration of this important opportunity for Northwest Arkansas is appreciated. Should there be any questions, or should additional information be required, please advise.

Sincerely,



Gary Black
County Judge
Benton County



Jerry Hunton
County Judge
Washington County

ADOPTED

JAN 24 2008

2008 JAN 25 PM 3 02

Benton County Clerk
Benton County, Arkansas

ORDINANCE NO. O-2008-01

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE PROVIDING FOR BENTON COUNTY'S PARTICIPATION IN A MULTI-COUNTY REGIONAL MOBILITY AUTHORITY; AND APPROVING AN AGREEMENT WITH WASHINGTON COUNTY EFFECTUATING THE CREATION OF THE NORTHWEST ARKANSAS REGIONAL MOBILITY AUTHORITY

WHEREAS, there are major transportation issues in Northwest Arkansas that cannot or will not be solved by the Arkansas State Highway and Transportation Department (ASHTD) alone; and

WHEREAS, in recognition of financial limitations, as well as the lack of suitable statutory authority for cities and counties to collectively fund and implement transportation projects on a regional basis, with or without ASHTD participation, the Legislature approved Act 389 of 2007 to revise the (2005) Regional Mobility Authority Act; and

WHEREAS, the stated intent of Act 389 made clear that the funding of regional mobility authorities is intended as a supplement to, and not substitute for, state and federal transportation aid to counties and municipalities; and

WHEREAS, with said changes, revisions, and clarifications, the establishment of a multi-county regional mobility authority is now deemed practicable and advisable, and it is the desire of the quorum court to move forthwith in such establishment with Washington County.

NOW, THEREFORE, BE IT ENACTED BY THE QUORUM COURT OF BENTON COUNTY, ARKANSAS:

ARTICLE 1. Benton County's participation in the Northwest Arkansas Regional Mobility Authority, the creation of which shall be effective upon Washington County's approval and execution of the attached "Northwest Arkansas Regional Mobility Authority Agreement," is hereby authorized and approved.

ARTICLE 2. The "Northwest Arkansas Regional Mobility Authority Agreement," which is attached hereto, is hereby approved.

ARTICLE 3. The County Judge is hereby authorized and directed to execute the document on behalf of Benton County, and transmit it to Washington County for consideration.

APPROVED:

Gary D. Black

GARY D. BLACK, COUNTY JUDGE

DATE SIGNED: 1-25-08

ATTEST:

Mary L. Slinkard

MARY L. SLINKARD, COUNTY CLERK

DATE ADOPTED: January 24, 2008

SPONSOR: JP Marge Wolf

Votes For: 9 Votes Against: 2

Abstain: Present: Absent: 2

NORTHWEST ARKANSAS REGIONAL MOBILITY AUTHORITY AGREEMENT

As authorized by Act 389 of 2007 of the Arkansas General Assembly, codified as A.C.A. 27-76-101, *et seq.*, Washington County and Benton County herewith form the Northwest Arkansas Regional Mobility Authority (the "Authority").

ARTICLE I - AUTHORIZATION

The parties to this Agreement are Washington County and Benton County, Arkansas. Following creation of the Authority by the counties, any municipality within the jurisdictional boundaries of the Authority may become a member of the Authority subject to meeting the requirements of A.C.A. 27-76-203. The counties and the subsequent signatory cities agree to join cooperatively in establishing and providing for the operation of the Northwest Arkansas Regional Mobility Authority.

ARTICLE II - DURATION

The Authority shall have a perpetual existence.

ARTICLE III - ORGANIZATION

- A. CONSTITUTION. The Authority shall be governed by a Board of Directors. The Board of Directors shall include the County Judge, or a representative designated by the County Judge, of each county that is a member of the Authority; and the Mayor, or a representative designated by the Mayor, of each city of the first class that is a member of the Authority. The designated representative of a County Judge or a Mayor shall be a qualified elector of the jurisdiction that the designated representative is appointed to represent.
- B. TERMS. A Director who is a public official may serve on the Board of Directors during his term of office as the County Judge or Mayor of a member of the Authority. A Director who is the designated representative of the Mayor or County Judge serves at the pleasure of the Mayor of the municipality or the County Judge of the county that is a member of the Authority. The term of such a Director shall not extend beyond the term of the appointing public official. A new Mayor or County Judge may designate the same person who served as the designated representative of a previous Mayor or County Judge, as their designated representative to serve as a Director.
- C. PAY AND EXPENSES. The members of the Board of Directors of the Authority shall receive no salary or per diem, but shall be entitled to reimbursement of actual travel and out-of-pocket expense incurred on behalf of the Authority as authorized by the Board.

ARTICLE IV – JURISDICTIONAL BOUNDARIES

The jurisdictional boundaries of the Authority shall be co-extensive with the legal boundaries of Washington County and Benton County, Arkansas.

ARTICLE V – GOVERNANCE

The Authority shall be operated and controlled by its Board of Directors in accordance with A.C.A. 27-76-301, *et seq.*

ARTICLE VI – POWERS AND DUTIES

The Board of Directors shall have those powers and duties set forth in A.C.A. 27-76-401-410. All plans developed by the Authority shall be consistent with state implementation plans, statewide transportation improvements programs if federal aid funds are involved, statewide long-range transportation plans, city and county master street plans, and metropolitan transportation plans in metropolitan areas as required under 23 U.S.C. Section 134 as it existed on January 1, 2007.

ARTICLE VII – EMINENT DOMAIN

The Authority shall have the power of eminent domain and such powers shall be exercised for public purposes only, as set forth in A.C.A. 27-76-501 – 504.

ARTICLE VIII – FINANCING AND BONDS

The Authority may be financed or supported as determined by the Board of Directors in accordance with A.C.A. 27-76-601 – 611. However, in no event may any member be financially obligated without the consent of its governing body.

ARTICLE IX – TOLLING FEES, FARE AND OTHER CHARGES OF A TOLL FACILITY PROJECT

As determined by its Board of Directors, the Authority shall have those tolling powers and rights as set forth in A.C.A. 27-76-701 – 713.

ARTICLE X – OFFICERS, MEETINGS, AND RULES

- A. OFFICERS. At its organizational meeting and at the first regular meeting of each fiscal year, the Board of Directors shall elect one of its members as Chairman, one as Vice-Chairman, one as Secretary, and one as Treasurer. At the discretion of the Board, the offices of Secretary and Treasurer may be held by one person.
- B. MEETINGS. The Authority's Board of Directors shall meet not less than quarterly at dates, times, and places to be established by the Board. All meetings shall be open to the public as provided by Arkansas law, and shall be conducted pursuant to procedures established by the Board. A meeting may be called by the

Secretary at the direction of the Chairman, or upon the direction of a majority of the members of the Board of the Authority.

- C. RULES. Fifty percent (50%) of the members of the Board plus one shall constitute a quorum and no vacancy in the membership of the Authority shall restrict the right of a quorum to exercise all the rights and privileges or the duties of the Authority. The Board of Directors of the Authority may create such committees as it deems necessary for the proper exercise of its functions. The Board shall adopt rules for the transaction of business, and shall keep a complete record of its activities and business, which shall be a public record.

No member of the Board of Directors or any officer, employee, or agent of the Authority shall have a personal interest in any business of the Authority or in any contract with the Authority, or in any property or other assets in which the Authority is interested. No person shall be employed by the Authority who is related to a member or officer of the Authority by blood or by marriage within the fourth degree. For purposes of this provision, any corporation or other business in which any member of the Board of the Authority or any officer, employee, or agent of the Authority has a substantial interest shall be prohibited from doing business with the Authority.

ARTICLE XI - AMENDMENT

This Agreement may be modified or amended in the same manner as this Agreement was adopted.

ARTICLE XII - TERMINATION

This Agreement shall continue in full force and effect subsequent to its adoption by all signatory parties. Whenever the members of the Authority shall by ordinance determine that the Authority shall be dissolved and that all bonds issued and all other obligations incurred by the Authority have been fully paid or satisfied, the members of the Authority may by ordinance declare the Authority dissolved.

In the event that the Authority shall be dissolved, title to all funds and other property owned by the Authority at the time of dissolution shall be liquidated and distributed to the members in direct proportion to the funds contributed to the Authority by the members, if any, and if no funds were contributed, to each member in the manner provided in the ordinance declaring the dissolution.

ARTICLE XIII - NEW MEMBERS; WITHDRAWALS

Any municipality within the jurisdictional boundaries of the Authority, without exception, may become a member of the Authority subject to meeting the requirements of A.C.A. 27-76-203.

Any member of the Authority may withdraw at any time without the consent of the other members prior to any bonded debt being issued by the Authority. The withdrawal shall become effective upon the adoption of an ordinance by the withdrawing member and the filing of the ordinance with the Authority. The withdrawal of a member shall not cause a dissolution or otherwise terminate this Agreement.

If there is bonded debt of the Authority outstanding, a member may withdraw from the Authority without the consent of the other members so long as there are sufficient members remaining to constitute the Authority and to provide for a Board of Directors of the Authority.

ARTICLE XIV – COOPERATIVE AGREEMENT

This Agreement incorporates by reference A.C.A. 25-20-104(c) to the extent that the same is consistent with the provision of the Regional Mobility Authority Act and with this Agreement.

ARTICLE XV – FULL AND COMPLETE POWERS AND DEFINITIONS

It is the intention of this Agreement and the signatories hereto that the Authority established hereunder have all of the powers, duties, and obligations conferred upon the Authority by the Regional Mobility Authority Act. The definitions and powers of the Act are incorporated by reference.

ARTICLE XVI – GENDER

Any references to gender made herein are intended to be neutral.

ARTICLE XVII – ENTIRE AGREEMENT

This writing constitutes the entire agreement between the parties. All amendments or modifications hereto must be in writing. Act 389 of 2007 is attached, designated Exhibit A, and incorporated by reference.

In WITNESS WHEREOF the parties hereto have caused this Agreement to be executed in their respective behalves on the signature dates set forth below.

WASHINGTON COUNTY, ARKANSAS, BY: _____

DATE: _____

BENTON COUNTY, ARKANSAS, BY: _____

DATE: _____

Harry O. Black

1-25-08

ORDINANCE NO. 2008-13

**BE IT ENACTED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, AN ORDINANCE
TO BE ENTITLED:**

2008 MAR 21 PM 12:57
CLERK OF THE COURT
WASHINGTON CO. ARK.

**AN ORDINANCE PROVIDING FOR WASHINGTON
COUNTY'S PARTICIPATION IN A MULTI-COUNTY
REGIONAL MOBILITY AUTHORITY; AND
APPROVING AN AGREEMENT WITH BENTON
COUNTY EFFECTUATING THE CREATION OF THE
NORTHWEST ARKANSAS REGIONAL MOBILITY
AUTHORITY.**

WHEREAS, there are major transportation issues in Northwest Arkansas that cannot or will not be solved by the Arkansas State Highway and Transportation Department (ASHTD) alone; and,

WHEREAS, in recognition of financial limitations, as well as the lack of suitable statutory authority for cities and counties to collectively fund and implement transportation projects on a regional basis, with or without ASHTD participation, the Legislature approved Act 389 of 2007 to revise the (2005) Regional Mobility Authority Act; and,

WHEREAS, the stated intent of Act 389 made clear that the funding of regional mobility authorities is intended as a supplement to, and not substitute for, state and federal transportation aid to counties and municipalities; and,

WHEREAS, with said changes, revisions, and clarifications, the establishment of a multi-county regional mobility authority is now deemed practicable and advisable, and it is the desire of the Quorum Court to move forthwith in such establishment with Benton County.

**NOW, THEREFORE, BE IT ENACTED BY THE QUORUM
COURT OF WASHINGTON COUNTY, ARKANSAS:**

ARTICLE 1. Washington County's participation in the Northwest Arkansas Regional Mobility Authority, the creation of which shall be effective upon Benton County's approval and execution of the attached "Northwest Arkansas Regional Mobility Authority Agreement," is hereby authorized and approved.

ARTICLE 2. The "Northwest Arkansas Regional Mobility Authority Agreement," which is attached hereto, is hereby approved.

ORDINANCE NO. 2008-13
PAGE 2

ARTICLE 3. The County Judge is hereby authorized and directed to execute the document on behalf of Washington County, and transmit it to Benton County for consideration.


JERRY HUNTON, County Judge

3.21.08
DATE


KAREN COMBS PRITCHARD, County Clerk

Sponsor:	Ken Kleklak
Date of Passage:	March 20, 2008
Votes For:	10
Votes Against:	2
Abstention:	0
Absent:	1

NORTHWEST ARKANSAS REGIONAL MOBILITY AUTHORITY AGREEMENT

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ARTICLE II – DURATION

The Authority shall have a perpetual existence.

ARTICLE III – ORGANIZATION

- A. **CONSTITUTION.** The Authority shall be governed by a Board of Directors. The Board of Directors shall include the County Judge, or a representative designated by the County Judge, of each county that is a member of the Authority; and the Mayor, or a representative designated by the Mayor, of each city of the first class that is a member of the Authority. The designated representative of a County Judge or a Mayor shall be a qualified elector of the jurisdiction that the designated representative is appointed to represent.
- B. **TERMS.** A Director who is a public official may serve on the Board of Directors during his term of office as the County Judge or Mayor of a member of the Authority. A Director who is the designated representative of the Mayor or County Judge serves at the pleasure of the Mayor of the municipality or the County Judge of the county that is a member of the Authority. The term of such a Director shall not extend beyond the term of the appointing public official. A new Mayor or County Judge may designate the same person who served as the designated representative of a previous Mayor or County Judge, as their designated representative to serve as a Director.
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In WITNESS WHEREOF the parties hereto have caused this Agreement to be executed in their respective behalves on the signature dates set forth below.

WASHINGTON COUNTY, ARKANSAS

BY: _____

DATE: _____

BENTON COUNTY, ARKANSAS

BY: _____

DATE: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

1-Jul-08

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 08-2916: (Hill Place, 561): Submitted by Appian Center for Design for property located at the southwest corner of 6th Street and Hill Avenue intersection. The request is to vacate a portions of utility easements and rights-of-way on the subject property.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached


Department Director

6-10-08
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

6-11-08
Date

Received in City Clerk's Office

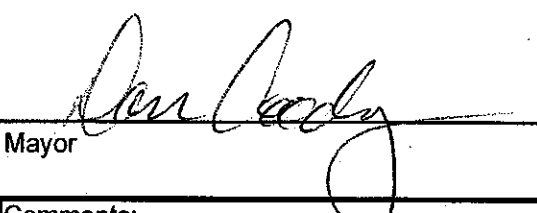
ENTERED
6/10/08
aw

Paul A. Behn
Finance and Internal Service Director

6-11-08
Date

Received in Mayor's Office

ENTERED
6/11/08
JH


Mayor

6/11/08
Date

Comments:

City Council Meeting of July 1, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning 

Date: June 10, 2008

Subject: Easement and Right-of-Way Vacation for Hill Place (VAC 08-2916)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance vacating a portion of a right-of-way and utility easements on the subject property.

BACKGROUND

The 27.10-acre property is located on the south side of 6th Street, west of Hill Avenue, east of the Arkansas-Missouri railroad. This site was most recently designed and approved under the name Aspen Ridge. The Aspen Ridge Residential Planned Zoning District was approved for this site in January 2005, for 220 attached residential units. Much of the street and utility infrastructure for Aspen Ridge has been installed and approved by the City, however, for various reasons, building permits were never obtained for the project and the approval expired. The applicant has now obtained approval for the Hill Place R-PZD project for 288 multi-family residential units. This project will utilize much of the existing street and utility infrastructure, however, the applicant is requesting many of the existing easements and rights-of-way on the property be abandoned, and new easements and right-of-way dedicated with the Hill Place development. This is in large part due to the new site layout, while retaining as much existing infrastructure as possible.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City with no objections to the requested easement and right-of-way vacation. This item was heard at the regular Planning Commission meeting on April 14, 2008 and forwarded by vote of 7-0-0 to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 08-2916 SUBMITTED BY APPIAN CENTRE FOR DESIGN FOR PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 6TH STREET AND HILL AVENUE INTERSECTION, TO VACATE VARIOUS UTILITY EASEMENTS AND RIGHTS-OF-WAY, WITHIN THE SUBJECT PROPERTY.

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 portion of the platted utility easements and rights-of-way are not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easements and rights-of-way: See Exhibit "B" 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 "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met.

1. An easement plat depicting rights-of-way and easements needed to serve the Hill Place R-PZD 08-2915 project, as required by all utility representatives, shall be dedicated prior to issuance of a building permit. The formal vacation of all easements and right-of-way as proposed shall not be accepted until this requirement has been met.
2. Relocation or damage to any existing utilities shall be at the owner/developer's expense.
3. More detailed drawings/exhibits showing easements and existing utilities to be vacated shall be provided to the satisfaction of utility companies.

Page 2
Ord.

PASSED and **APPROVED** this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

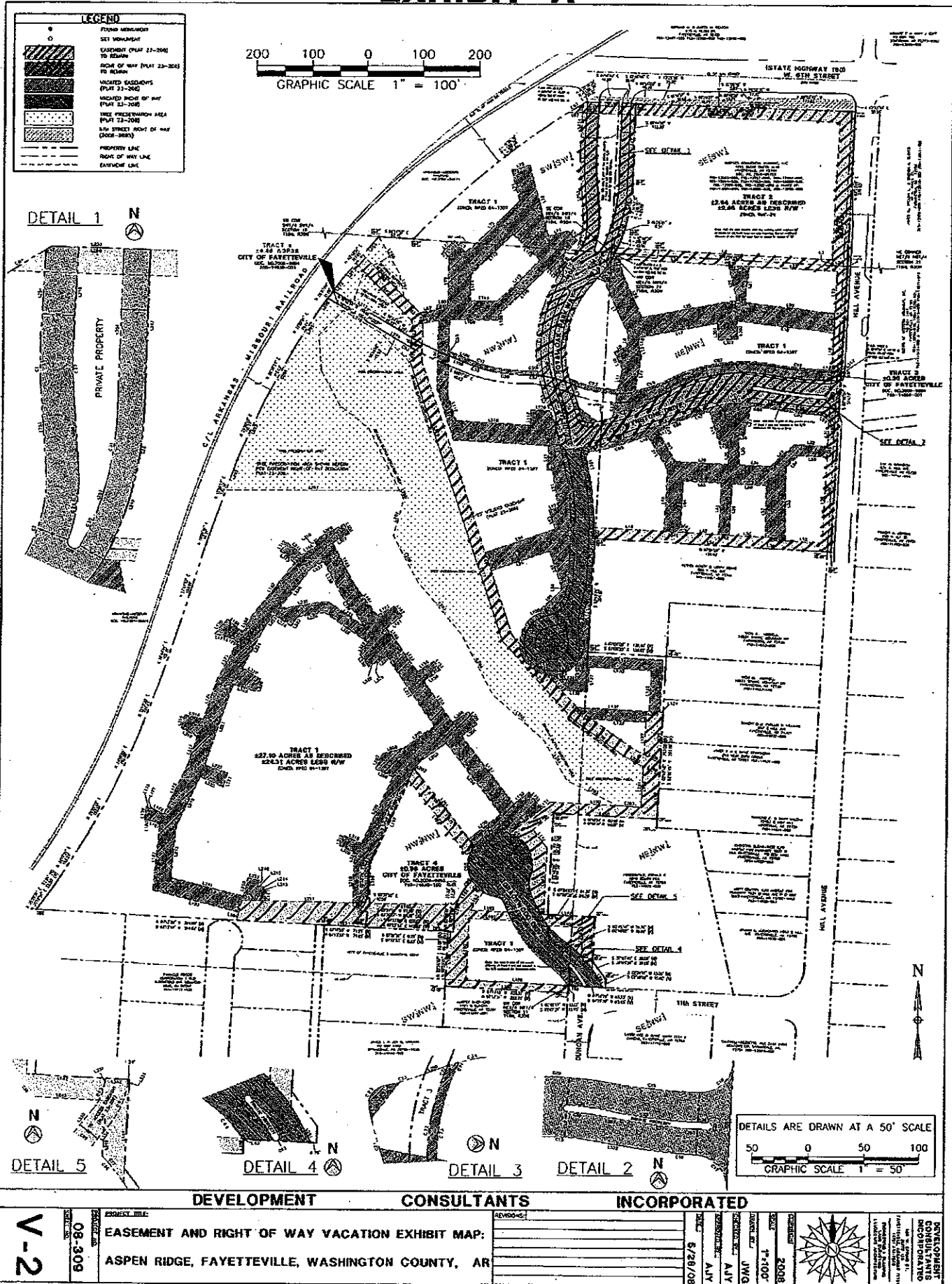


EXHIBIT "B"
VAC 08-2916

ALL EASEMENTS AND RIGHTS OF WAY DEDICATED ON THE EASEMENT/RIGHT-OF-WAY DEDICATION PLAT OF PART OF SECTIONS 16 & 21, T-16N, R-30-W PREPARED FOR ASPEN RIDGE PLANNED ZONING DISTRICT AS SHOWN ON PLAT FILED AT PLAT 23-308, LESS AND EXCEPT THE FOLLOWING:

- 1) EASEMENTS LYING WITHIN TRACT 2;
- 2) EASEMENTS LYING WITHIN TRACT 4;
- 3) THE TREE PRESERVATION EASEMENT;
- 4) RIGHT-OF-WAY DEDICATED ALONG THE WEST SIDE OF HILL AVENUE;
- 5) RIGHT-OF-WAY OF WYNSTONE DRIVE;
- 6) RIGHT-OF-WAY OF ROYAL OAK PARKWAY FROM 6TH STREET SOUTH TO THE SOUTHERLY LINE OF WYNSTONE DRIVE EXTENDED WESTERLY TO INTERSECT WITH THE WESTERLY LINE OF ROYAL OAK PARKWAY;
- 7) 20' UTILITY EASEMENT LYING ADJACENT TO AND NORTHEASTERLY OF THE TREE PRESERVATION EASEMENT;
- 8) 20' ACCESS EASEMENT AND UTILITY EASEMENTS LOCATED IN THE VICINITY OF GRACEWOOD DRIVE;
- 9) ALL EASEMENTS LYING ALONG THE EXTERNAL BOUNDARIES THAT ARE ADJACENT TO OTHER PRIVATE PROPERTIES.

WITH ALL VACATED EASEMENTS AND RIGHTS-OF-WAY BEING SHOWN ON PAGE V-2 AND WITH BEARINGS AND DISTANCES OF LINES AND CURVES SHOWN ON PAGE V-3 OF THE ATTACHED EXHIBIT MAP.

NOTE THAT ALL ADDRESSES ON THE ADDRESS TABLE AS SHOWN ON SHEET 2 OF THE EASEMENT/RIGHT-OF-WAY DEDICATION PLAT OF SECTIONS 16 & 21, T-16-N, R-30-W PREPARED FOR ASPEN RIDGE PLANNED ZONING DISTRICT AS SHOWN ON PLAT FILED FOR RECORD AT PLAT 23-308 AND AS SHOWN ON THE AMENDED EASEMENT DEDICATION AND AFFIDAVIT OF SCRIVENERS ERROR FILED FOR RECORD AT LAND DOCUMENT 2006-19048 ARE ALSO VACATED.



PC Meeting of April 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: April 8, 2008 *Updated April 15, 2008*

VAC 08-2916: (HILL PLACE, 561): Submitted by APPIAN CENTER FOR DESIGN for property located at THE SW CORNER OF THE 6TH STREET AND HILL AVENUE INTERSECTION. The property is zoned R-PZD, RESIDENT. PLANNED ZONING DIST. ASPEN RIDGE and contains approximately 27.10 acres. The request is to vacate various utility easements and right-of-ways within the subject property.

Planner: Andrew Garner

Findings:

Property Description and Background: The 27.10-acre property is located on the south side of 6th Street, west of Hill Avenue, east of the Arkansas-Missouri railroad. This site was most recently designed and approved under the name Aspen Ridge. The Aspen Ridge Residential Planned Zoning District was approved for this site in January 2005. This approval rezoned the property from RMF-24 to R-PZD 04-1307 (Aspen Ridge). The Aspen Ridge project was approved for 220 attached residential units with an overall density of 7.87 units/acre. Much of the street and utility infrastructure for Aspen Ridge has been installed and approved by the City, however, for various reasons, building permits were never obtained for the project and the approval expired. The applicant now proposes the Hill Place R-PZD project for 288 multi-family residential units. This project will utilize much of the existing street and utility infrastructure, however, the applicant is requesting many of the existing easements and rights-of-way on the property be abandoned, and new easements and right-of-way dedicated with the Hill Place development. This is in large part due to the new site layout, while retaining as much existing infrastructure as possible.

Request: The applicant is requesting to vacate a large portion of the right-of-way and easements dedicated as part of the Aspen Ridge development, in order to allow the development of the Hill Place R-PZD on the property. Some of the easements and right-of-way will be retained for use as part of the Hill Place project. An exhibit showing the proposed vacated areas has been provided by the applicant and is attached to this report.

The applicant has submitted the required notification forms to the utility companies and

to the City with the result summarized below.

UTILITIES

RESPONSE

Ozarks Electric

No Objections

Cox Communications

No objections; damage/relocation of existing facilities at owner/developer's expense.

Southwestern Electric Power Company

No objections; damage/relocation of existing facilities at owner/developer's expense, to be paid prior to relocation.

Arkansas Western Gas

No objections provided new easement plat is dedicated and relocation of existing facilities at owner/developer's expense.

AT&T Arkansas

No objections provided legal descriptions of easements to be vacated are provided and any damage/relocation of utilities at owner/developer's expense.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No objections provided that easements are retained for Main Collector along Town Branch Creek. Existing water and sewer in the development needs to be retained until new plans are approved. Need more detailed drawing showing areas/lines to be vacated.

Transportation

No Objections

Solid Waste

No Objections

Recommendation: Staff recommends forwarding VAC 08-2916 to the City Council with a recommendation of approval to vacate the right-of-way and easements as depicted herein with the following condition:

1. An easement plat depicting rights-of-way and easements needed to serve the Hill

Place R-PZD 08-2915 project, as required by all utility representatives, shall be dedicated prior to issuance of building permit. The vacation of all easements and right-of-way as proposed shall not be accepted until this requirement has been met.

2. Relocation or damage to any existing utilities shall be at the owner/developer's expense.
3. More detailed drawings/exhibits showing easements and existing utilities to be vacated shall be provided to the satisfaction of utility companies.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: X Forwarded ☐ Denied ☐ Tabled

Date: April 14, 2008

Motion: Lack

Second: Cabe

Vote: 7-0-0

Comments: _____

The "CONDITIONS OF APPROVAL", as stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By

Date

UTILITY EASEMENT AND RIGHT-OF-WAY
VACANT PETITION

A PETITION TO VACATE utility easements and two (2) street right-of-ways in the existing Aspen Ridge PZD Development, City of Fayetteville, Arkansas,

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of the real estate encompassing the utility easements and right-of-ways hereinafter sought to be abandoned and vacated, lying in Aspen Ridge PZD Development, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate utility easements and right-of-ways which are shown on the attached exhibit "A" sheet 1 & 2, which are part of the recorded Easement/Right-of-way Dedication Plat filed in Plat Page #522/561 in the Washington County Records office and attached hereto.

That, to the best of our knowledge, the abutting real estate affected by said abandonment of the utility easements and right-of-ways as shown on the attached Exhibit "B" – Property Ownership Map in the City of Fayetteville has not been used by the public for any length of time, and the public's interest and welfare would not be adversely affected by the abandonment of the portions of the above described utility easements and right-of-ways.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estates, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for use of said utility easement and right-of-ways.

Dated this 30 day of JANUARY, 2008.

HANK BROyles
Printed Names

Hank Broyles
Signatures

**UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 1/17/2008

Utility Company: Cox Communications

Applicant Name: Appian Center For Design Applicant Phone: 479-442-1444

REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of- way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

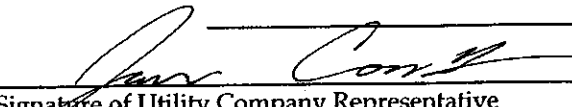
(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Developer must pay for relocation of existing facilities. With the requested
U.E. vacancy it will cost \$27,166.00 to relocate.


Signature of Utility Company Representative

Construction Surveyor

Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 01/23/08

Utility Company: ARKANSAS WEST. GAS

Applicant Name: PLATE PROPERTIES Applicant Phone: 972 8689193

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

SEE ATTACHED LETTER

No objections provided the following conditions are met:

Signature of Utility Company Representative

Title



**Arkansas Western Gas
Company**

A subsidiary of Southwestern Energy Company

1001 Sain Street
P.O. Box 13288
Fayetteville, Arkansas 72703-1002
(479) 521-5400 FAX: (479) 582-4747
www.awgonline.com

January 23, 2008

Appian Certre For Design
217 E. Dickson Suite #104
Fayetteville, AR 72701

Re: Aspen Ridge Subdivision
South Hill Street and West 6th Street

Dear Sirs:

Arkansas Western Gas Company has been informed of a request to redo the plat for the above referenced subdivision. Following the formal approval of the new plat and new utility easements, Arkansas Western Gas will relocate our facilities that are no longer located in a utility easement. The cost of the relocation will be the sole responsibility of the Developer over the project. Before work begins, Arkansas Western Gas will require a signed contract and a check in the amount of the relocation estimate. The contract and check will follow our Companies guidelines for a relocation or extension agreement.

Sincerely,

Steven R. Bandy
Fayetteville Assistant Operating Manager

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 1/28/08
Utility Company: AEP (ELECTRIC)
Applicant Name: PLACE PROPERTIES Applicant Phone: 972 868 9193

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

• SEE ATTACHED LETTER

No objections provided the following conditions are met:

Signature of Utility Company Representative

Title

January 28, 2008

James Gibson, RLA
Design Team Leader
Appian Center for Design
217 E. Dickson St., Ste 104
Fayetteville, AR 72701

Dear Mr. Gibson

You have requested that AEP vacate the existing utility easements in the Aspen Ridge development located off Hill Street in Fayetteville, AR.

In order for us to release these easements we will need to remove the existing facilities that are located in these easements at the cost of \$91,001.38 to be paid in full by the developer prior to us signing any vacation documents.

Please note that the developer will be required to pay the difference in cost between the overhead versus underground distribution difference for the new distribution system and any amount that does not revenue justify.

Please do not hesitate to contact me if you have any questions. I can be reached at (479) 973-2333. We appreciate your business and look forward to working with you.

Sincerely,

AEP-SOUTHWESTERN ELECTRIC POWER

A handwritten signature in cursive script that reads 'Ronald R. Bertram'.

Ronald R. Bertram
Distribution Design Engineer I

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 1-25-08

Utility Company: Solid Waste + Recycling

Applicant Name: PLATE PROPERTIES Applicant Phone: 972 868 9193

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Brian Peep
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

**UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 1-28-08
Utility Company: City of Eau Claire Transportation Division
Applicant Name: _____ Applicant Phone: _____

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Ty 2 Kelly
Signature of Utility Company Representative

Transportation Manager
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 1-31-08

Utility Company: OZARKS Electric

Applicant Name: Appian Applicant Phone: _____

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**) Hill Place

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

Lead Staking Tech
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 2-7-08

Utility Company: Fayetteville Water & Sewer

Applicant Name: Aprian Centre for Design Applicant Phone: 942.1446

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
☒ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

Retain easements for Main Collector along Creek
Existing W&S in development Needs to be retained along with
easement until plans are approved.

No objections provided the following conditions are met:

Need to review new Water & Sewer Plans, Need Set of
plans that show easements that are to be vacated. Plans
that were provided do not show areas/lines that are to be
vacated.

[Signature]
Signature of Utility Company Representative

Water & Sewer Operations Mgr.
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 3/25/08
Utility Company: SW BELL / AT&T
Applicant Name: APPLY CENTER for DESIGN Applicant Phone: 442 1446

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

SEE ATTACHED EMAIL

SUE CLOUSER

Signature of Utility Company Representative

MANAGER DESIGN ENG.

Title

James Gibson

From: CLOUSER, SUSAN K (ATTSWBT) [sc9783@att.com]
Sent: Monday, February 04, 2008 11:02 AM
To: James Gibson
Subject: RE: Aspen ridge utility easement and ROW vacation

James,

I have submitted your vacation request to our ROW department. We have no objection to and will grant the requested vacations on this project. As we discussed at&t requires a written legal description of all utility easements to be vacated. Once this is received our paperwork will be completed and forwarded to you. When you receive the completed paperwork from at&t it will be your responsibility to file documents at the Washington County courthouse. As always any existing facilities damaged or needing relocation will be at the owner developer's expense.

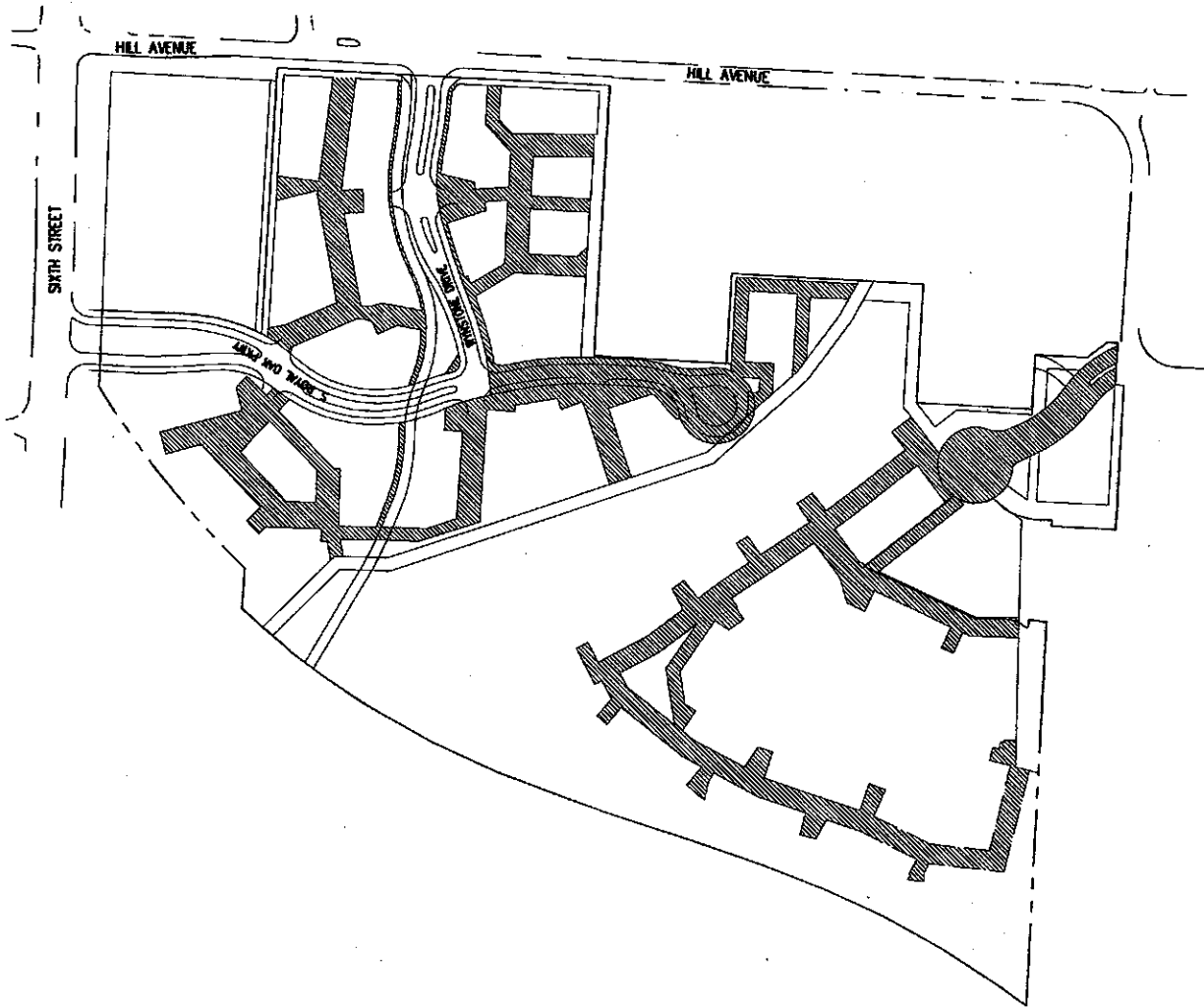
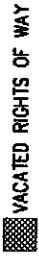
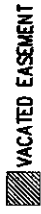
Best regards,

Sue Clouser

> Susan K. Clouser
> Manager Design Eng.
> 479.442.3107
>
>



LEGEND

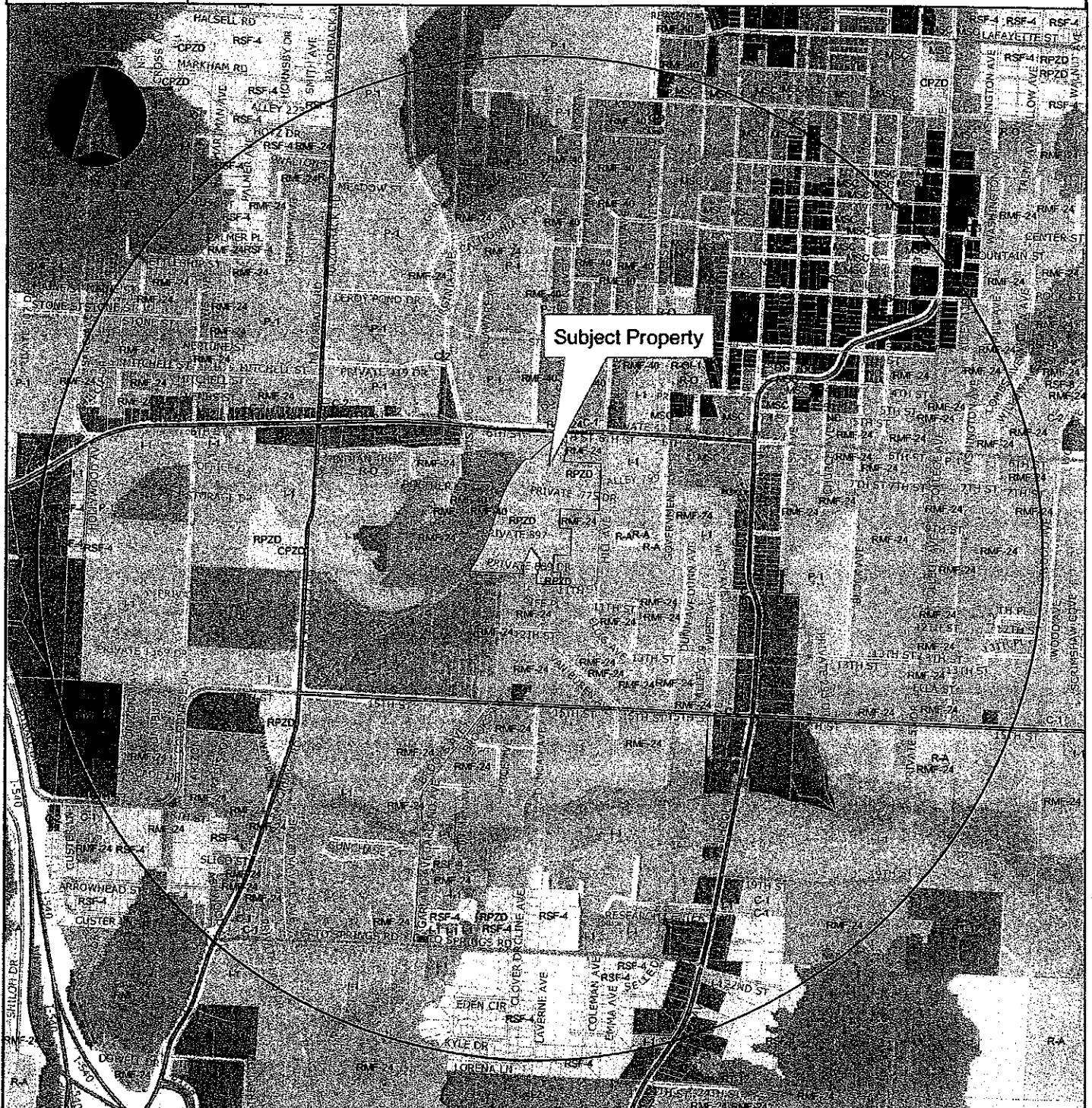


ACD	PLANNING		URBAN DESIGN		LANDSCAPE ARCHITECTURE		CIVIL ENGINEERING	
	APPIAN CENTRE FOR DESIGN							
217 E. DICKSON ST. SUITE 104 FAYETTEVILLE, ARKANSAS 72701								
PH# (479) 442-1442 FAX# (479) 442-1430								
DATE: 4/7/2008	TYPE OF SUBMITTAL	PROJ. NO.	PROJ. NO.	DESIGN BY	DATE	PAGE 22 OF 26		
		JWG	JWG	TMT				
EASEMENT VACATION				HILL PLACE				
SCALE: N.T.S.				SIXTH STREET & HILL AVENUE				
PAGE 1 OF 1				FAYETTEVILLE, AR				
REVISION 1								

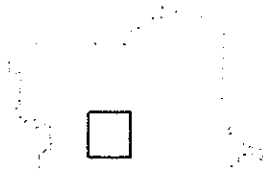
RPZD08-2915

One Mile View

HILL PLACE



Overview



Legend

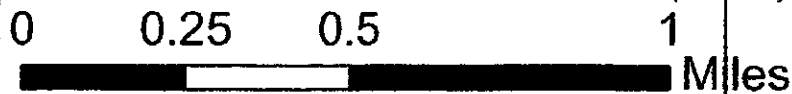
Subject Property
 RPZD08-2915

Boundary

Planning Area
 Overlay District
 Outside City

Legend

Hillside-Hilltop Overlay District



RPZD08-2915

Future Land Use

HILL PLACE

SUBJECT PROPERTY

Legend

Building (2004)

Future Land Use 2025

CLASS

Industrial

Non-Municipal Government

Complete Neighborhood

Natural Area

Rural Area

Residential Neighborhood Area

General Urban/City Neighborhood Area

Urban Center Area

Civic and Private Open Space/Parks

Civic Institutional

Unclassified

ROW

Overview

Legend

Subject Property

RPZD08-2915

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

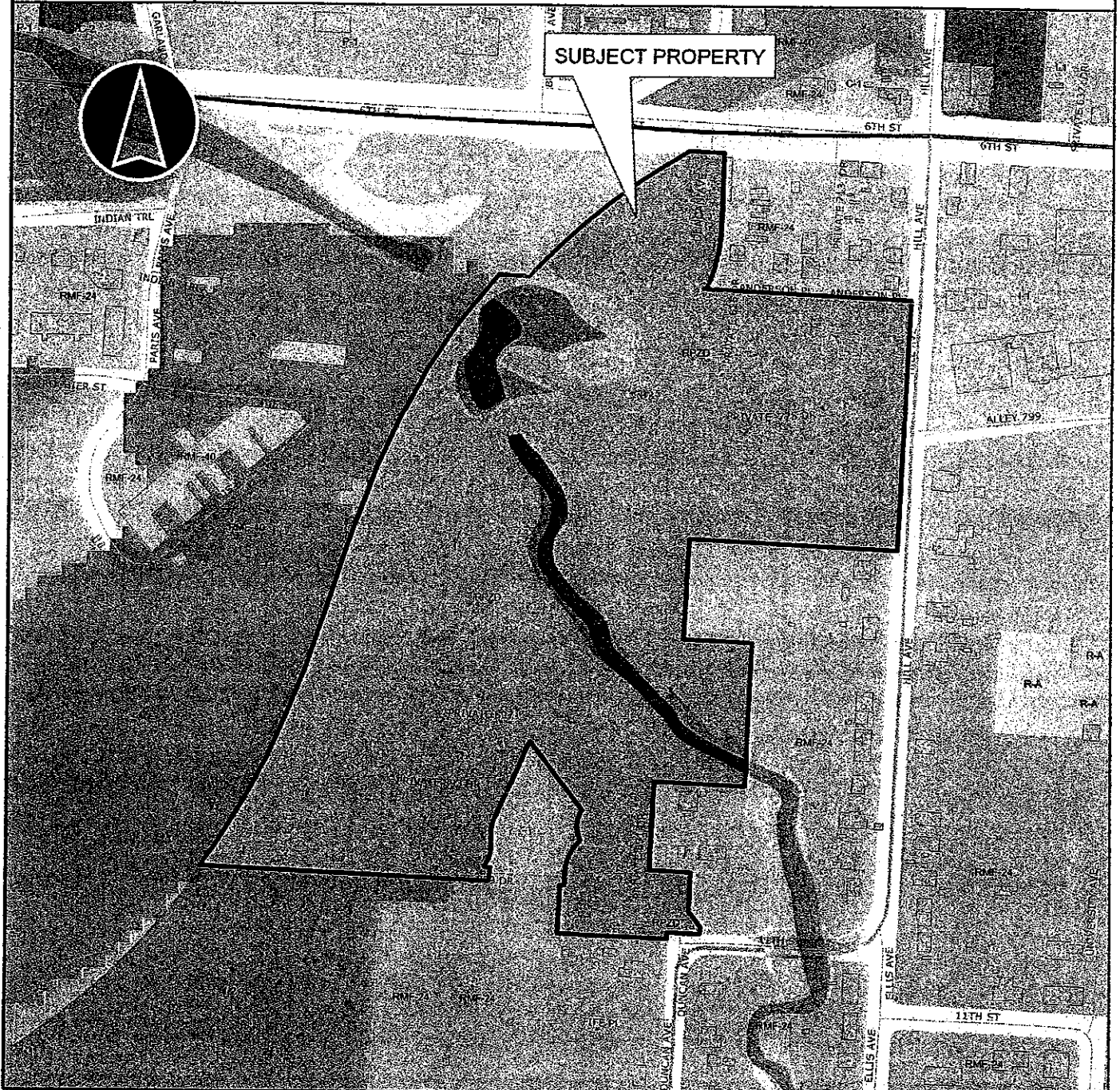
Legend

0 125 250 500 750 1,000

RPZD08-2915

Close Up View

HILL PLACE



Overview



0 125 250 500 750 1,000 Feet

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C. 2
RZN 08-2971 (Walker Park Neighborhood)
Page 1 of 32

1-Jul-08
City Council Meeting Date

Karen Minkel
Submitted By

Long Range Planning
Division

Operations
Department

Action Required:

RZN 08-2971: (Walker Park Neighborhood): Submitted by the City of Fayetteville. The subject properties are roughly bounded by Archibald Yell Blvd., Hunstville Rd., Morningside Dr., 15th Street and South School Avenue. The properties are zoned RMF-24, Multi-family - 24 units/acre, C-2, Thoroughfare Commercial and P-1, Institutional and contain approximately 304.3 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Conservation, DG, Downtown General, RMF-18, Multi-family - 18 units/acre and MSC, Main Street Center.

Action Required:	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

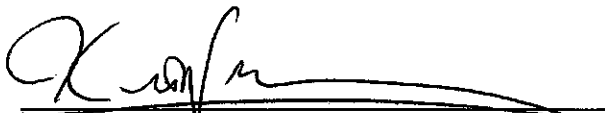
Budgeted Item ☐

Budget Adjustment Attached ☐

 6-13-08
Department Director Date

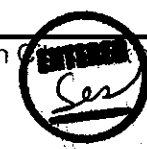
Previous Ordinance or Resolution # n/a

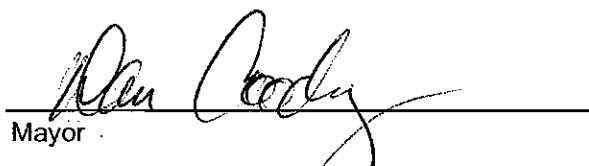
Original Contract Date: n/a

 6-13-08
City Attorney

Original Contract Number: n/a

 6-13-08
Finance and Internal Service Director Date

Received in  Office
6/13/08

 6/13/08
Mayor Date

Received in Mayor's Office 

Comments:

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 08-2971, FOR APPROXIMATELY 304.3 ACRES, BOUNDED BY ARCHIBALD YELL BOULEVARD, HUNTSVILLE ROAD, MORNINGSIDE DRIVE, 15TH STREET, AND SOUTH SCHOOL AVENUE FROM RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, C-2, THOROUGHFARE COMMERCIAL, AND P-1, INSTITUTIONAL TO NC, NEIGHBORHOOD CONSERVATION, DG, DOWNTOWN GENERAL, RMF-18, RESIDENTIAL MULTI-FAMILY, 18 UNITS PER ACRE, AND MSC, MAIN STREET CENTER.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RMF-24, Residential Multi-Family, 24 units per acre, C-2, Thoroughfare Commercial, and P-1, Institutional to NC, Neighborhood Conservation, DG, Downtown General, RMF-18, Residential Multi-Family, 18 units per acre, and MSC, Main Street Center, as shown on Exhibit "A" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

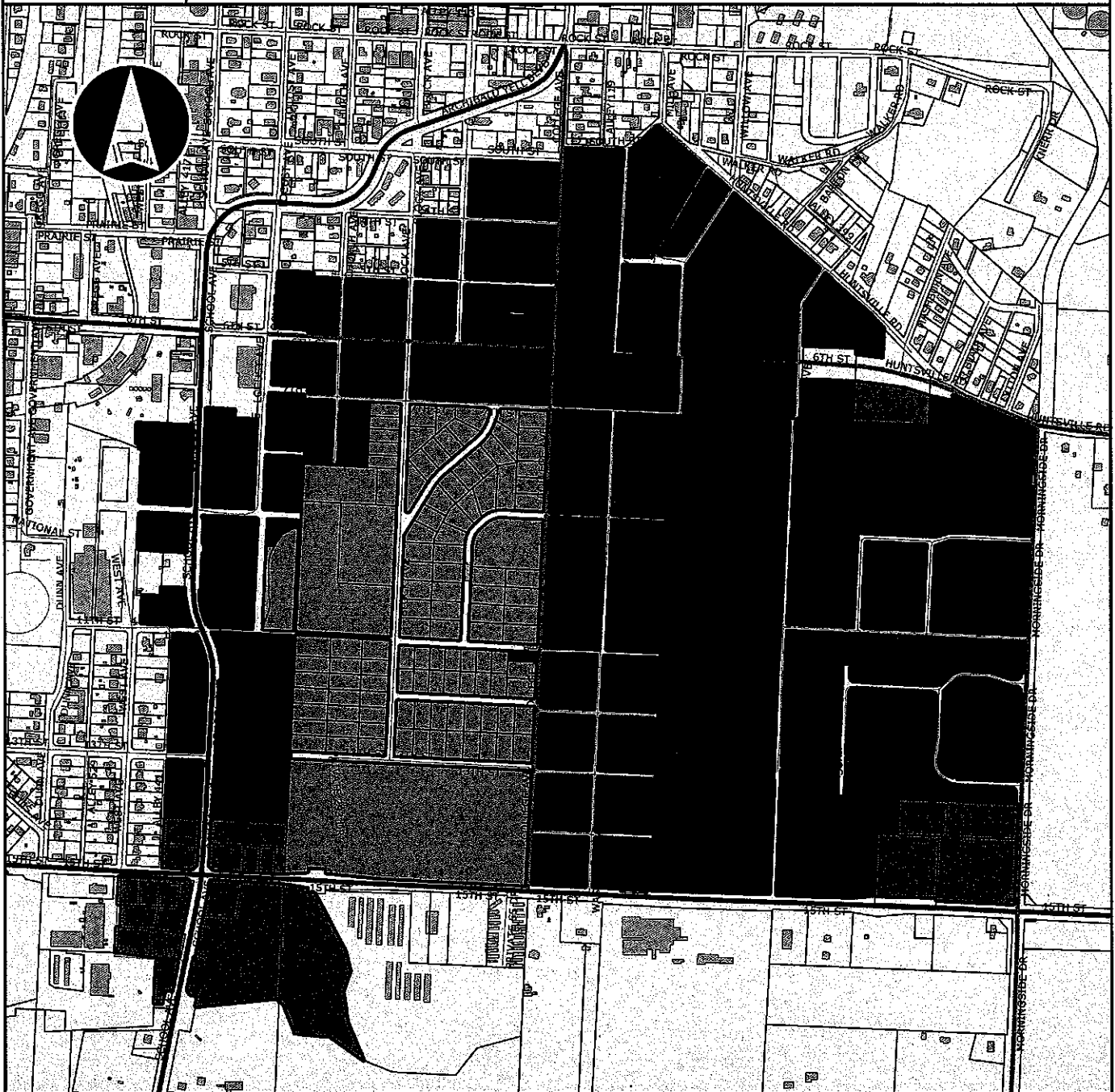
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN08-2971

Proposed Zoning

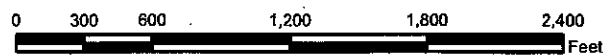
WALKER PARK NEIGHBORHOOD



Overview

Legend

-  RMF-18
-  NC
-  MSC
-  DG
-  P-1
-  R-PZD



City Council Meeting of July 1, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Karen Minkel, Interim Director of Long Range Planning

Date: June 11, 2008

Subject: Rezoning for the Walker Park Neighborhood (RZN 08-2971)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the Walker Park Neighborhood. The properties are zoned RMF-24, Multi-family - 24 units/acre, C-2, Thoroughfare Commercial and P-1, Institutional and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Conservation (123.71 acres), DG, Downtown General (101.98 acres), RMF-18, Multi-family - 18 units/acre (.48 acres) and MSC, Main Street Center (28.62 acres.)

BACKGROUND

The subject properties are roughly bounded by Archibald Yell Boulevard, Huntsville Road, Morningside Drive, 15th Street and South School Avenue. The surrounding area to the north includes a mix of single-family and multi-family dwelling units as well as commercial properties. An open pasture is east of the property, and the surrounding area to the south includes multi-family dwellings and industrial properties. Single-family dwellings and industrial properties are located to the east of the Master Plan area.

As discussed in the Walker Park Neighborhood Master Plan adopted by the City Council, the City of Fayetteville proposes to change the zoning of the property identified above in order to accurately reflect existing uses as well as maintain a sustainable balance of commercial, residential and institutional uses within the neighborhood. The proposed zoning draft was included in the Walker Park Neighborhood Plan adopted by the City Council on February 5, 2008 by Resolution No. 19-08. This draft has been modified slightly during the Planning Commission review of the rezoning.

Postcard notices about the proposed rezoning were mailed to property owners within the Walker Park Neighborhood before the Planning Commission meeting on April 28, 2008 and June 9, 2008. Long Range Planning staff also held an open house April 14 through April 22 at the Planning office so that property owners with questions could view the maps and proposed zoning districts and discuss concerns with staff.

DISCUSSION

This item was heard at the regular Planning Commission meeting on April 28, 2008, May 12, 2008 and June 9, 2008. The Planning Commission held a separate work session on May 6, 2008 to address concerns expressed by commissioners and members of the public. A table of the properties in question and the rationale for the work session recommendations, which were approved by the Planning Commission, is attached. The Planning Commission voted 8-0-0 to recommend forwarding this rezoning request to the City Council with a recommendation for approval. Commissioner Trumbo commented that a drawback to the Neighborhood Conservation zoning district was that it did not allow multi-family dwellings as a conditional use; the original Downtown Master Plan proposal from the Planning Commission allowed multi-family as a conditional use, and Commissioner Trumbo stated that the Neighborhood Conservation zoning district should be amended to include this additional conditional use.

BUDGET IMPACT

None.

Planning Commission Work Session Discussion May 6, 2008

NC=Neighborhood Conservation

DG=Downtown General

MSC=Main Street Center

Area of Concern	Question(s) Discussed	Proposal
Morningside Drive	Is the DG (blue) zoning too big or too small?	Commissioners proposed keeping the NC block because it reflects the existing uses as well as the Illustrative Plan. The NW corner of Morningside and 15 th Street was changed from DG to MSC (teal) in order to encourage a predominantly commercial node along a major corridor. The DG area extending south from Huntsville Road along Morningside Drive was left as originally proposed.
Huntsville Road and 6th Street	Would it be appropriate to change from NC (green) to DG in order to create another node?	This area was discussed as the gateway to the neighborhood from the east, and the Illustrative Plan showed greater density at this intersection. The NE and SE corners were changed from NC to DG. In order to emphasize the significance of Jefferson Square, the NW and SW corners were left as NC.
Willow Avenue between 6th Street and 7th Street	Should this block change from NC to DG to complete Jefferson Square?	Changing this block from NC to DG was determined to be appropriate in order to enhance the sense of enclosure on both sides of Willow Avenue and complete the Square.
4th Street and Washington Avenue	Should this area change from NC to DG in order to reflect the Illustrative Plan?	While this area may later be appropriate for more dense and intense development, NC was determined as being appropriate at this time; NC reflects the existing uses within this area.
11th Street and Willow Avenue	Is the mix of DG and NC appropriate at this intersection?	This area was left as proposed. The Illustrative Plan shows row houses as part of the large parcel north of the Housing Authority property. However, the zoning is tied to parcels and changing this large parcel to DG would be incompatible with the single-family dwellings across the street. Commissioners decided not change the DG to NC at the SE corner, since the DG reflects an existing use.

Block of Locust between 5th Street and 6th Street	Should the area change from DG to NC?	The proposed zoning was left as originally proposed because the DG serves as a transition area between the MSC (existing zoning) and NC zones.
South School Avenue	Should the proposal show a greater area of MSC?	The commissioners supported the original proposal, which concentrates more dense and intense development at the intersection of 15 th Street and South School Avenue rather than dispersing it over a larger area.
Trey Morrison: 2 parcels at the SE corner of Church Avenue and 6th Street	Should the property owner's parcels change from NC to DG?	The commissioners proposed changing these two parcels and the parcel at the NE corner of 7 th Street and Church Avenue from NC to DG because the Illustrative Plan showed the vacant parking lot developing with more density than what is allowed in NC and changing these parcels would provide for greater compatibility between both sides of Church Avenue.
Mark Sugg: 3 parcels on 7th Street between Wood Avenue and Willow Avenue	Should the property owner's parcels change from NC to DG?	In order to highlight Jefferson Square, the commissioners proposed to limit the DG area to the Square area and key intersections along 6 th Street.
Dorothy Ashworth: 1 parcel on the NE corner of 7th Street and Wood Avenue	Should the property owner's parcel change from NC to DG?	This parcel was included in the discussion about the intersection of 6 th Street and Wood Avenue. The commissioners decided to limit the DG are to the two parcels at the NE and SE corners of the intersection.
Marc Crandall: 1 parcel on Wood Avenue between 7th Street and 15th Street	Should the property owner's parcel change from NC to DG?	The property owner has an existing multi-family dwelling on the parcel with 7 units. Zoning the property DG would be a form of spot zoning, which is discouraged in the City's Unified Development Code. The commissioners decided to keep the parcel NC.

RZN 08-2971: (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGHLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE ROAD, MORNINGSIDE DRIVE, 15TH STREET AND S. SCHOOL AVENUE. The properties are zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE, C-2, THOROUGHFARE COMMERCIAL AND P-1, INSTITUTIONAL and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Commercial (128.19 acres), DG, Downtown General (107.41 acres), and MSC, Main Street Center (19.94 acres.)

Karen Minkel, Senior Long Range Planner, gave the staff report, recommending forwarding the rezoning to City Council. Minkel reviewed the comments received by staff from property owners in the area, some of which would like to see changes to the map.

Public comment:

Dorothy Ashworth, citizen, owns property at 636 S. Wood Ave. and stated that she had never received information about this. She opposes the rezoning for her property, which is a house on one acre currently zoned RMF-24. Her family purchased the house as an investment, and the proposed zoning would not allow her to develop.

Alan Ostner, citizen, and president of Jennings Plus Neighborhood Association, stated that he represents a great number of neighbors and that this proposal is progressive and more accurately represents the way the area has developed. The neighborhood is primarily single-family residential on small lots, 2 ½ times the density of conventional subdivisions. As neighborhood president, this map was reviewed by the Jennings Plus association, with 35-40 members present. Certain parts got unanimous approval, while others did not. Residents were in favor of almost all green (Neighborhood Conservation) areas. Blue (Downtown General) was supported around Jefferson almost unanimously. The response to blue along Hwy 71 was mixed. Some thought it was appropriate, while some thought it should be more dense. The intersection at 15th and 71B received nearly unanimous approval. People who lived in Bayat were not happy at all. They felt that the blue between Wood & Willow was too dense. The blue at Huntsville & Morningside was perceived as too large. The Blue area behind Walgreens received nearly unanimous disapproval. Nearby neighbors thought that Walgreens being commercial and the Sycamore Lofts were sufficient and zoned appropriately, but to domino across Locust on this east side was inappropriate. This area is mostly low-slung apartments or single-family homes that have been there a long time. The group thought it would be more fair to make the area dark green down to 6th. It seemed more appropriate to keep the area south of 6th green. Other things the neighborhood talked about included: 1) When asked if they only had a yes or no vote, most people said it was not perfect, but yes, the proposed rezoning was better than the current situation. If they had a chance to alter it, they said they would, in different ways. 2) Residents also commented on being perplexed by the recent addition and subsequent removal of crosswalk on Archibald Yell and South St. 3) They asked if the street designations were changing with this rezoning or if that was later? They thought several streets really had a problem with dangerous cut-through traffic.

Aubrey Sheperd, citizen, stated he owns a tiny house on a tiny lot on E. South St. He agreed that the small single-family lots downtown are a wonderful thing. He discussed neighborhood involvement, flooding, drainage, disturbance, and what this involves with future connections between human uses and vegetation. He liked the Master Plan effort and is glad it was done locally. There is a reason where in every case you should try to minimize the amount of ground disturbed, in order for it to control stormwater naturally. He was not sure people around Jefferson were aware of the rezoning and counseled the City to proceed with caution.

Trey Morrison, citizen, owns lots 107 or 109 on 6th Street, and stated that he had been working on a project for 8 months with staff. He added that changing the zoning would make him start over. He requested that the property be rezoned to Downtown General instead of Neighborhood Conservation to salvage some of the work he has done.

Mark Sugg, citizen, owns property in planned area. He first had questions for staff regarding new roads and lots in the Walker Park area. He stated that he participated in the City Plan 2025 charette, with which city staff did an outstanding job. He owns some property east of Jefferson Square, between 6th & 7th. He stated that the east side of Willow should be Downtown General to complete the square block. He questioned the Neighborhood Conservation zoning on the east side of Morningside. With a high school potentially locating east, he thought that Downtown General might be more appropriate. He saw no reason for the block at Huntsville and Morningside to be zoned Downtown General. The southeast corner, a large Downtown General area, is already developed with senior housing. He stated that along 15th and Morningside, Downtown General is appropriate, but not as deep into the neighborhood as it will be at Huntsville and Morningside. He did not see a need to have Downtown General that deep into the neighborhood. He did hope that the rezoning would go forward.

Pat Antell, citizen, lives in the area, on College Ave. She stated that the area is single-family homes and asked how close her property would be to development zones. She stated that the area is a neighborhood, which is why she had lived there so long. She could stand on her porch and talk to neighbors on both sides and wanted to know more about how neighborhood could develop, what's appropriate, and what is not. Her home is paid for, and she would like to see value added. Her main concern is proliferation of inexpensive rental units, which will increase the traffic. She stated that these streets are not made for that type of traffic. She also valued the trees in the neighborhood. She would like to be involved and kept aware of events in the future.

Lib Horn, citizen, stated that she was one of 200 that participated in the charette. She commended staff for the job they did. She lives on 6th Street in the Walker Park neighborhood and takes pride in the neighborhood. She stated that they have front porches and they visit. She stated that they need affordable and mixed housing due to a problem of providing housing to people who need help.

No additional public comment was received.

Commissioner Trumbo asked about nonconforming uses.

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Jeremy Pate, Director of Current Planning, described the ordinance. The Plan tries to make most uses conforming, but some will be nonconforming. A provision exists where if a non-conforming use is destroyed, it cannot come back forward. The goal is to make more uses and structures that are conforming.

Commissioner Trumbo asked about Mr. Morrison's concerns.

Pate stated it was something for the Planning Commission to consider in their decision.

Commissioner Trumbo asked about the area on Morningside, and the areas that are RMF-24 that will become Neighborhood Conservation.

Minkel stated that 10 units per acre was the maximum density allowed in Neighborhood Conservation for only single and two-family units by right.

Commissioner Trumbo asked about Downtown General zoning on Huntsville Road, in regards to why it is so deep at Huntsville and Morningside, and why it is necessary.

Minkel stated that the Downtown General at Huntsville and Morningside, and the Downtown General that extends north from 15th, were to reflect existing uses within those areas.

Commissioner Trumbo asked about street designations.

Minkel said they would be changing after the rezoning has gone through. At that point, staff would go back and look at the streets.

Commissioner Anthes brought up confusion about the zoning designations and what they mean. Several comments about Downtown Commercial indicated a perception of Downtown General as a commercial zone, which it is not. Its purpose is a flexible zone and has a mix of uses that are not allowed in straight residential zoning. It is meant to be more intense than Neighborhood Conservation but still primarily residential. She wondered if staff could comment on the zoning districts and clarify them for the audience. There were also comments made about this being a development plan and not wanting apartment buildings next to a single-family property. This is actually a downzoning in most areas, which also broadens uses allowed, so it is not a single-use zoning district anymore. Also, staff has done an incredible job of getting the word out about the planning process and the rezoning.

Minkel described the existing zoning, and the proposed zoning districts.

Commissioner Anthes stated she would like to hear comments about nonconforming uses and existing structures.

Pate discussed how property owners could always request a conditional use permit, variance, or

rezone on a case by case basis.

Commissioner Anthes stated she thinks staff has done an excellent job and has formalized the intentions of the Illustrative plan. She hoped residents would read the zoning descriptions and asked to discuss some of the discrepancies between the map and the zoning proposed.

Minkel stated the illustrative plan was conceptual only, and there were a few instances where, if Neighborhood Conservation allowed rowhouses it would certainly be appropriate. The concern was that there were some areas that are shown as having rowhouses – there were some key areas in the Illustrative Plan that had rowhouses – but staff didn't feel it would necessarily be appropriate to have a restaurant in the middle of that neighborhood. That is why blue does not extend father up into those key areas that did show greater density or different uses than you see in Neighborhood Conservation. There was a decision that had to be made as to whether you extend Downtown General zoning into those neighborhoods and then see whether a professional office or restaurant came in place of the rowhouses, which served as a border between the single-family homes and more dense uses conceptually in the Illustrative master plan.

Commissioner Anthes stated that on 6th St, coming from Huntsville heading west, as you cross Wood and head towards Jefferson Square, is an area with a higher density pattern shown on the Illustrative plan. In her mind, that area is one of those areas that could handle perhaps a higher density than Neighborhood Conservation. It is what's happening there and that will be a major intersection. She would like to see staff look at something more intense. She also discussed the Morningside Drive property, which will likely be more dense. It is the site recommended for a high school, but it is only a matter of time before that property develops and will likely have a higher density level. Blue along its length is a valid consideration. At the intersection of 11th and Washington Avenue, there are areas that link blue with the park and she wondered if there was any way to look at that as an intersection. She stated that she understood the comments about Walgreens, but in looking at Downtown General, she didn't see that the zoning would be too high. Staff could also focus in on the area east of Jefferson Square and perhaps make nodes that would make sense with the illustrative plan.

Commissioner Trumbo agreed with Commissioner Anthes regarding Morningside, saying we need to look at the future use there, especially if it's a high school coming in, and concurs that 6th & Wood seemed like a place for a commercial node, or a more intense use than Downtown General. He stated that he appreciates staff looking at this. If the area continued to be built around the existing RMF-24 density it would not be the type of neighborhood desired by the community.

Commissioner Anthes stated that she liked the fact that 15th & S. School is called out as having higher traffic, as the Main Street Center zoning reflected a commercial node there. The Downtown General was good as a transition zone along S. School. She asked a question regarding specific areas that the Planning Commission would like looked at further and whether staff would prefer for the Planning Commission to look at these are more closely or allow the City Council to do that.

Minkel stated that ideally the more concerns addressed now meant less later on.

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Motion:

Commissioner Anthes made a motion to table the rezoning until the May 12th, 2008 Planning Commission meeting. **Commissioner Trumbo** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

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New Business:

RZN 08-2971: (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGHLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE ROAD, MORNINGSIDE DRIVE, 15TH STREET AND S. SCHOOL AVENUE. The properties are zoned RMF-24, MULTI FAMILY – 24 UNITS/ACRE, C-2, THOROUGHFARE COMMERCIAL AND P-1, INSTITUTIONAL and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Conservation (128.19 acres), DG, Downtown General (107.41 acres), and MSC, Main Street Center (19.94 acres). Planner: Karen Minkel

Karen Minkel, Senior Long Range Planner, gave the staff report, stating that the Planning Commission conducted a work session on May 6, 2008 to discuss issues from the last Planning Commission meeting. The following areas were included in the discussion: 1) Morningside Drive (Downtown General too large or too small); 2) 6th Street and Wood Avenue (Downtown General appropriate to create a node); 3) Willow Avenue and 6th Street (Downtown General appropriate to complete Jefferson Square); 4) 4th Street and Washington Avenue (Downtown General appropriate to match Illustrative Plan); 5) 11th Street and Willow [not an existing street] (Downtown General appropriate to match illustrative plan, too much Downtown General); 6) Parcels behind Walgreens (Downtown General or Neighborhood Conservation); and 7) South School Avenue (Main Street Center area made larger). Individual parcels that were brought to staff's attention by property owners were also discussed: 1) Trey Morrison – 2 parcels SE corner of Church Avenue and 6th Street; 2) Mark Sugg – 3 parcels on 7th Street b/w Wood and Willow; 3) Dorothy Ashworth – 1 parcel NE corner of 7th Street and Wood Avenue; and 4) Marc Crandall – 1 parcel on Wood Avenue between 7th Street and 15th Street. Staff is recommending that if the zoning map is changed, staff would like to re-mail the neighbors to give ample notification.

Randy Nix, citizen, stated he lives at 1372 S. College Ave, and wished to speak in favor of the rezoning. He said that the concept of neighborhood is very important in this city. He and his wife looked for 2 years for a permanent and last home, and found exactly what he wanted in the Walker Park Neighborhood. It is a multi-generational, multi-ethnic neighborhood, and suits their style. The affordability of the neighborhood was very attractive to them. They were able to buy a home, bring it up to City standards, while keeping it small, which is often hard to find in this city. A smaller home and smaller yard means a large discretionary income for us at the end of a month. It is close to the town center and close to the University. The rezoning will continue to enhance the sustainability of a true neighborhood.

Rob Lewis, citizen, stated he was the owner of the City Lumber Company on S. School Ave. He wanted to make sure his business is still in compliance with the rezoning. It's been on S. School since 1959 and has been in Fayetteville for 82 years. He said his understanding is that Downtown General is primarily residential, with some businesses allowed. This may be the case with the Jefferson School area but it is not the same for S. School, which is all businesses. According to the Downtown Master Plan, Main Street Center was to be a core area that had a 1/2-mile radius; if 15th & School, and 6th & School are to be Main Street Center, then a half-mile radius would overlap. This

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would place City Lumber in a Main Street Center zone.

Rick Woods, representative for Marc Crandall, who owns 900-914 S. Wood Avenue stated that he was not here to challenge the rezoning in its broad scheme, but was here to discuss the spot zoning comment. He asked that Mr. Crandall's property be zoned Downtown General to reflect the existing use, which is multi-family. The proposed rezoning would affect the ability to finance, sell, and will alter the property value. He cited a zoning case in Little Rock where the zoning ordinance was challenged and considered a taking. He wanted these properties to be Downtown General to save trouble and further legal costs.

Commissioner Graves asked if staff could address the City Lumber question regarding the use.

Minkel stated that staff is researching the use currently to determine if the use is industrial or commercial, the latter of which would be allowed by a Conditional Use Permit.

Commissioner Graves asked if the City Attorney could speak to the rezoning of a property that creates a nonconforming use, when it is conforming now.

Kit Williams, City Attorney, discussed compatibility and spot zoning. The Planning Commission needs to look carefully at each property owner's situation and how fair or unfair it is to change the rules for a property owner. Normally a down-zoning is not considered a taking on undeveloped land. As long as substantial value remains in the property, the Supreme Court has found typically that it is not a constitutional violation. The Planning Commission needs to look very carefully at each case and try to work with property owners that have existing property that is developed.

Commissioner Anthes asked Mr. Woods if some of the units are separate lots and have been sold.

Woods stated that they were sold as condominiums, not separate lots.

Commissioner Winston asked if it is possible to split the units into separate lots.

Marc Crandall, owner, stated it was not possible, that he has attempted that option.

Commissioner Anthes stated that in the downtown rezoning there was more up-zoning than down-zoning. She asked if the City has allowed multiple property owners to come together and rezone with one application and fee.

Williams stated that yes, the City has allowed this in the past, but this is a neighborhood rezoning and so now is the time to review these cases, instead of placing the burden on the property owner later. The Planning Commission did not want property owners to come back again. No ordinance says you can't spot zone. You can take that into consideration, but it is not the only thing. You can take the development into account also. You must ask if the existing use is compatible with what is around it.

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Jeremy Pate, Director of Current Planning, discussed incompatibility of uses within various zoning districts and stated that these decisions are policy decisions. The challenge with a Downtown General zoning district in this particular area is not that multi-family is incompatible but other uses that are allowed may be. For example, would a City Lumber be appropriate in this location, surrounded by single family residential uses? This is staff's concern, for the compatibility not of what is there currently, but what is allowed with a new zoning district.

Williams stated that one suggestion would be to use an existing multi-family district, with a lower density. Condos would be as-of-right but you would know you wouldn't see a service station sometime in the future.

Crandall stated the zoning was currently RMF-24 and he had 7 units on one-half acre. He would be amenable to a multi-family zoning that accommodates that.

Commissioner Trumbo stated he would like the multi-family in Neighborhood Conservation in some cases, and perhaps it could be revisited as a conditional use permit.

Commissioner Myres stated that she understood staff's concerns but was open to looking at anything that works and is most efficient for achieving the goals of the Plan, whether it's allowing multi-family as a conditional use or using some sort of multi-family zoning district.

Motion:

Commissioner Lack made a motion to modify the map for the Crandall parcel to be rezoned to the lowest density of multi-family zoning available. **Commissioner Anthes** seconded the motion.

Commissioner Graves stated he would like to be more specific, and would recommend RMF-12. This zoning district would be slightly lower than the 7 units on one-half acre, but would likely not constitute a taking.

Commissioner Anthes confirmed that this would come back to Planning Commission after the notification, so that this is not necessarily the final recommendation.

Commissioner Cabe stated he was okay with Downtown General at that location and living with an eclectic neighborhood.

Commissioner Anthes stated she also likes the downtown zones, but because this is so embedded in that neighborhood conservation area and the neighbors expressed strong feelings about the established neighborhood, she is thrilled that the multi-family zoning district is an option.

Upon roll call the motion to modify the Crandall property to multi-family zoning of lower density passed with a vote of 9-0-0.

Commissioner Trumbo stated that on the City Lumber property, we are waiting on a determination

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May 12, 2008
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of whether it is industrial or commercial.

Minkel stated that this was correct.

Motion:

Commissioner Anthes made a motion to accept the changes as noted on the May 12 draft rezoning map, with the addition of the previous motion, just approved. **Commissioner Myres** seconded the motion. **Upon roll call the motion passed with a vote of 9-0-0.**

Commissioner Myres stated she was in favor of accepting the working group's recommendations on parcels B & C.

Commissioner Graves asked about the Sugg and Ashworth properties.

Minkel stated that the Ashworth parcel has a single-family residence. The Sugg property includes a parcel that is vacant and two parcels that possibly have small multi-family structures or a duplex.

Trumbo asked what Commissioner Anthes' thoughts are on adding multi-family back into Neighborhood Conservation. This might create an option for looking at properties individually.

Commissioner Anthes stated that if you look at the Illustrative Plan that has been adopted, there are some areas of high density next to areas of single family detached. Obviously staff had to make a choice on what to recommend to zone these properties, and some of those don't necessarily fit exactly with the Illustrative Plan. A Conditional Use Permit for multifamily in Neighborhood Conservation would add a tool to allow the predictability, but still the mixture of housing choices.

Kennedy asked if staff is going to evaluate all of the uses up and down S. School to determine if the uses there are allowed, like with City Lumber.

Minkel stated that staff has notified everyone, and assumes that if no one is contacting us, that they are OK with the rezoning.

Pate stated that it is very likely many of the businesses up and down S. School do not have Certificates of Zoning Compliance. While researching each and every one may provide more information, it may also bring up large issues of code compliance. Staff is not prepared to conduct that investigation at this time, and our enforcement policy is typically complaint-driven.

Commissioner Anthes asked if there are ways to waive fees or provide relief for a time associated with this rezoning.

Williams stated that yes, City Council could do that if they wanted to so.

Planning Commission
May 12, 2008
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Motion:

Commissioner Cabe made a motion to table the rezoning indefinitely. **Commissioner Myres** seconded the motion. **Upon roll call the motion was approved by a vote of 9-0-0.**

All business being concluded, the meeting was adjourned at 6:33 PM.

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June 9, 2008
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New Business:

RZN 08-2971: (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE RD., MORNINGSIDE DR., 15TH STREET AND S. SCHOOL AVENUE. The properties are zoned RMF-24, MULTI FAMILY – 24 UNITS/ACRE, C-2, THOROUGHFARE COMMERCIAL AND P-1, INSTITUTIONAL and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Conservation (124.34 acres), DG, Downtown General (101.35 acres), RMF-18, Multi-Family – 18 units/acre (0.48 acres) and MSC, Main Street Center (28.62 acres).

Karen Minkel, Interim Director of Long Range Planning, gave the staff report, and background. She discussed questions raised by PC members in a previous meeting regarding specific properties, including correspondence received from individual neighbors.

Dorothy Ashworth, citizen, owns property at 636 Wood Ave. She stated that the property is a little over an acre and was purchased in 2005 with the intention of someday possibly developing it. The property adjoining to the north is proposed to be zoned as Downtown General, and the property adjoining to the east is zoned as a PZD; townhomes are going in there and it's somewhat commercial. She would like to have the option to develop rather than the Neighborhood Conservation where you are more limited as to what you can do with the property.

Steve Winkler, stated he has four parcels involved on the south side of South St from College to Washington, surrounded entirely by Downtown General. The nature of the property is going to be consistent with what is across the street. He purchased the land in 1995 with the RMF-24 zoning. His intent is to pursue development. The homes on the property are livable but have no future. The value of the property is in the land, not the existing single-family homes.

No more public comment was received.

Commissioner Anthes asked for the staff recommendation on additional requests.

Minkel stated she thinks that in terms of Mr. Little's property, which is in the middle of the NC, staff would recommend leaving it Neighborhood Conservation; it is in the middle of established single-family homes. The other two cases, the Ashworth and Winkler properties, have a case to be made for either side. They are compatible with the zoning districts around them, and at the Planning Commission work session, the Ashworth property was discussed and the Planning commissioners went back and forth on it because the existing uses around it would make it compatible if it were Downtown General. In the case of the Winkler property, it was surrounded by other zoning districts where Downtown General would make it compatible, and that block has not seen the restoration work that has happened on the single family homes on the South St. block just west of it. Downtown General might allow for redevelopment in the future of that block, which might be a benefit to the neighborhood. So these are both cases where you could make a case either way and staff could be

Planning Commission

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comfortable with the Downtown General or Neighborhood Conservation zoning districts for those two instances.

Motion:

Commissioner Anthes made a motion to forward the request to City Council with a recommendation for approval, based on the map with changes, with the south side of South Street between College and Washington (the Winkler property) designated as Downtown General. **Commissioner Lack** seconded the motion.

Jeremy Pate, Director of Current Planning, stated that the Planning Commission should be aware that the map in front of them was the one they were voting on, which included the changes that were made over the last few meetings.

Commissioner Lack stated that although he wasn't at the work session where the property south of Wood and 6th was discussed, when he looked at the property there, the topography was a determining factor for him in terms of why he wouldn't necessarily recommend that it is the appropriate planning move to deepen the Downtown General. The slope there suggests that the part best suited for the Downtown General zoning would be the parcels closer to 6th St., which are already in this map depicted that way. He had some reservation about what we call the Winkler Property on South St. in that there seems to be an edge there now; the properties to the north side of South Street seem to be of a different character and not of that same residential character that the South side depicts in lot and usage. So I have some reservations about that but also go back to honoring an ideal of transect zoning and why not necessarily zoning by street, but allowing street to be compatible and usable on both sides. That's where I can find resolution with that one.

Commissioner Trumbo stated that when the Downtown Master Plan was approved, the City Council took out multi-family as a conditional use, and that was a mistake. He would vote for this motion, but thought the City Council should re-look at allowing multi-family in Neighborhood Conservation. They will have a lot of people questioning the rezoning of multi-family to neighborhood conservation, so the City Council should look at that.

Upon roll call, the motion passed with a vote of 8-0-0.



PC Meeting of June 9, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Karen Minkel, Interim Director of Long Range Planning
THRU: Jeremy Pate, Director of Current Planning
DATE: May 30, 2008 (Update)

RZN 08-2971: (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGHLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE RD., MORNINGSIDE DR., 15TH STREET AND S. SCHOOL AVENUE. The properties are zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE, C-2, THOROUGHFARE COMMERCIAL AND P-1, INSTITUTIONAL and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Conservation (124.34 acres), DG, Downtown General (101.35 acres), RMF-18, Multi-family – 18 units/acre (.48 acres) and MSC, Main Street Center (28.62 acres.)

Planner: Karen Minkel

BACKGROUND:

Staff first presented the proposed rezoning of the Walker Park Neighborhood to the Planning Commission on April 28, 2008. The Commission tabled the rezoning and scheduled a work session to address areas of concern expressed by commissioners and members of the public. The work session was held on May 6, 2008, with Commissioners Trumbo, Anthes and Kennedy attended. The work session's recommendations were presented to the Planning Commission on May 12, 2008.

The Planning Commission voted 9-0 to adopt the work session's recommendations with the exception of Marc Crandall's property on Wood Avenue, which has existing condominiums. The Planning Commission directed Planning staff to assign the lowest density multi-family zoning district possible. Staff recommends rezoning the property to RMF-18, Residential Multi-family—18 units per acre. This zoning district would lower the allowable density but still make the existing use and density conforming.

The Planning Commission also asked about the existing structures on Mark Sugg's property on 7th Avenue between Wood Avenue and Willow Avenue and whether City Lumber's current use would be allowed as a conditional use in Downtown General. Mr. Sugg currently has a multi-family development on two of his three parcels. The third parcel is vacant. A previous building permit issued to City Lumber determined that it was Use Unit 16 Shopping Goods, which is allowed as a conditional use in the Downtown General zoning district.

Planning staff received additional public comment from two property owners. The first

correspondence was received from Dorothy Ashworth on May 21, 2008, requesting that her property at 636 Wood Avenue be rezoned as Downtown General rather than Neighborhood Conservation. The Planning Commission discussed this property during its working session and recommended leaving the property as Neighborhood Conservation. Steve and Michele Winkler also communicated by email, requesting that their properties at 157 South Street, 173 South Street and 189 South Street be rezoned Downtown General rather than Neighborhood Conservation. These properties are across the street from Downtown General and Residential Office zoning districts. Both emails are attached.

RECOMMENDATION:

Staff recommends approval of the rezoning based on findings stated herein and forwarding the proposed zoning map to the City Council for adoption.

PLANNING COMMISSION ACTION:			Required	<u>YES</u>	
			☐ Approved	☐ Forwarded	☐ Denied
Motion:	_____	Second:	_____	Vote:	_____
Date:	<u>June 9, 2008</u>				
CITY COUNCIL ACTION:			Required	<u>YES</u>	
			☐ Approved	☐ Denied	
Date:	_____				



PC Meeting of May 12, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Karen Minkel, Senior Long Range Planner
THRU: Jeremy Pate, Director of Current Planning
Tim Conklin, Planning and Development Management Director
DATE: May 7, 2008 (Update)

RZN 08-2971: (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGHLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE RD., MORNINGSIDE DR., 15TH STREET AND S. SCHOOL AVENUE. The properties are zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE, C-2, THOROUGHFARE COMMERCIAL AND P-1, INSTITUTIONAL and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Commercial (128.19 acres), DG, Downtown General (107.41 acres), and MSC, Main Street Center (19.94 acres.)

Planner: Karen Minkel

BACKGROUND:

Staff first presented the proposed rezoning of the Walker Park Neighborhood to the Planning Commission on April 28, 2008. The Commission tabled the rezoning and scheduled a work session to address areas of concern expressed by commissioners and members of the public. The work session was held on May 6, 2008, and Commissioners Trumbo, Anthes and Kennedy attended.

Several broad concepts were discussed during the work session. Jefferson Square was one of the ideas that stakeholders expressed the most excitement about during the charrette. Limiting Downtown General zoning districts to nodes on 6th Street rather than extending the zoning along the entire length of 6th Street is one way to encourage the development of the Square concept. This priority served as a key criterion when discussing specific areas identified in the table below. Commissioners also discussed how the Illustrative Plan is used when determining appropriate zoning. Staff conveyed that the Illustrative Plan is a loose guide that is conceptual only. The Illustrative Plan is not tied to specific parcels, so some infill development shown on the Plan was not appropriate or feasible to reflect in the zoning.

Specific areas and questions were also discussed as follows:

NC=Neighborhood Center
DG=Downtown General
MSC=Main Street Center

Area of Concern	Question(s) Discussed	Proposal
Morningside Drive	Is the DG (blue) zoning too big or too small?	Commissioners proposed keeping the NC block because it reflects the existing uses as well as the Illustrative Plan. The NW corner of Morningside and 15 th Street was changed from DG to MSC (teal) in order to encourage a predominantly commercial node along a major corridor. The DG area extending south from Huntsville Road along Morningside Drive was left as originally proposed.
Huntsville Road and 6th Street	Would it be appropriate to change from NC (green) to DG in order to create another node?	This area was discussed as the gateway to the neighborhood from the east, and the Illustrative Plan showed greater density at this intersection. The NE and SE corners were changed from NC to DG. In order to emphasize the significance of Jefferson Square, the NW and SW corners were left as NC.
Willow Avenue between 6th Street and 7th Street	Should this block change from NC to DG to complete Jefferson Square?	Changing this block from NC to DG was determined to be appropriate in order to enhance the sense of enclosure on both sides of Willow Avenue and complete the Square.
4th Street and Washington Avenue	Should this area change from NC to DG in order to reflect the Illustrative Plan?	While this area may later be appropriate for more dense and intense development, NC was determined as being appropriate at this time; NC reflects the existing uses within this area.
11th Street and Willow Avenue	Is the mix of DG and NC appropriate at this intersection?	This area was left as proposed. The Illustrative Plan shows row houses as part of the large parcel north of the Housing Authority property. However, the zoning is tied to parcels and changing this large parcel to DG would be incompatible with the single-family dwellings across the street. Commissioners decided not change the DG to NC at the SE corner, since the DG reflects an existing use.
Block of Locust between 5th Street and 6th Street	Should the area change from DG to NC?	The proposed zoning was left as originally proposed because the DG serves as a transition area between the MSC (existing zoning) and NC zones.

South School Avenue	Should the proposal show a greater area of MSC?	The commissioners supported the original proposal, which concentrates more dense and intense development at the intersection of 15 th Street and South School Avenue rather than dispersing it over a larger area.
Trey Morrison: 2 parcels at the SE corner of Church Avenue and 6th Street	Should the property owner's parcels change from NC to DG?	The commissioners proposed changing these two parcels and the parcel at the NE corner of 7 th Street and Church Avenue from NC to DG because the Illustrative Plan showed the vacant parking lot developing with more density than what is allowed in NC and changing these parcels would provide for greater compatibility between both sides of Church Avenue.
Mark Sugg: 3 parcels on 7th Street between Wood Avenue and Willow Avenue	Should the property owner's parcels change from NC to DG?	In order to highlight Jefferson Square, the commissioners proposed to limit the DG area to the Square area and key intersections along 6 th Street.
Dorothy Ashworth: 1 parcel on the NE corner of 7th Street and Wood Avenue	Should the property owner's parcel change from NC to DG?	This parcel was included in the discussion about the intersection of 6 th Street and Wood Avenue. The commissioners decided to limit the DG are to the two parcels at the NE and SE corners of the intersection.
Marc Crandall: 1 parcel on Wood Avenue between 7th Street and 15th Street	Should the property owner's parcel change from NC to DG?	The property owner has an existing multi-family dwelling on the parcel with 7 units. Zoning the property DG would be a form of spot zoning, which is discouraged in the City's Unified Development Code. The commissioners decided to keep the parcel NC.



PC Meeting of April 28, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Karen Minkel, Senior Long Range Planner
THRU: Jeremy Pate, Director of Current Planning
Tim Conklin, Planning and Development Management Director
DATE: April 18, 2008

RZN 08-2971: (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGHLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE RD., MORNINGSIDE DR., 15TH STREET AND S. SCHOOL AVENUE. The properties are zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE, C-2, THOROUGHFARE COMMERCIAL AND P-1, INSTITUTIONAL and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Commercial (128.19 acres), DG, Downtown General (107.41 acres), and MSC, Main Street Center (19.94 acres.)

Planner: Karen Minkel

BACKGROUND:

Property Description: The subject property is roughly bounded by the southern boundary of the Downtown Master Plan area, Huntsville Road, Morningside Drive, 15th Street and South School Avenue (See attached maps.). The property consists of multiple zoning districts. Surrounding land use and zoning for each section is depicted in the following table.

TABLE 1: SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single-family dwellings, Commercial, Multi-family dwellings	MSC, NC, DG, R-O, RMF-24, RSF-8
South	Industrial, Multi-family dwellings	I-1, RMF-24, R-A
East	Open pasture/agricultural	RSF-4
West	Single-family dwellings, Industrial	I-1, RMF-24

Proposal: As discussed within the adoption of the Walker Park Neighborhood Master Plan by the City Council, the City of Fayetteville proposes to change the zoning of the property identified above in order to accurately reflect existing uses as well as maintain a sustainable balance of commercial, residential and institutional uses within the neighborhood. The proposed zoning draft was included in the Walker Park Neighborhood Plan adopted by the City Council on February 5, 2008.

Public Comment and Participation: The Walker Park Neighborhood charrette was held September
K:\Reports\2008\PC Reports\11-June 9\RZN 08-2971 (Walker Park Neighborhood).doc

21 to 27 in the fall of 2007. Close to 200 stakeholders participated during the process and 97 percent of the surveyed participants at the Work-in-Progress session, where the proposed zoning was first viewed, said they believed the Plan was on the right track. Of those respondents, 9 percent believed that encouraging higher density was a top priority and another 7 percent believed that mixed income housing was a top priority. Some of the comments in response to what was valued in the Plan included, "Creation of high-density mixed-use and townhouses" and "Encouraging higher density (as we are so near to the heart of town) and the mixed uses and amenities that go along with density."

The survey also asked if there were elements missing from the Plan. Six comments addressed zoning specifically:

- We need to know specifically what is allowed/encouraged in the proposed zoning and what incentives will catalyze development. I am concerned that single-family homes, which are not a sustainable development pattern, are being promoted proximate to downtown.
- It is important to remember the neighborhood's proximity to downtown and the need for density, commercial and mixed used.
- I don't support the creation of and preservation of single-family homes. They are inefficient and unaffordable.
- The neighborhood preservation concept seems to inhibit positive development of my neighborhood.
- Allowing zoning to allow lots to be divided for roads and alleys where there is none isn't good for the existing neighborhoods. Sticking with no dividing existing lots or land holdings keeps integrity of community and keeps out developers.
- Too much greenspace being changed into homes.

Planning Staff mailed postcard notices about the rezoning to all property owners within the Walker Park Neighborhood as well as to adjacent property owners. In addition, Planning Staff held an open house with the proposed zoning from April 14 through April 22. During that period, several residents dropped by to ask questions. Staff also received several phone calls and one written comment from Mark Sugg and one in-person visit from Trey Morrison, both property owners in the area. Mr. Sugg would like to see several of the lots east of Willow Avenue between 6th and 7th Streets zoned to Downtown General rather than Neighborhood Conservation. Mr. Morrison would like two parcels east of Church Avenue between 6th and 7th Streets also zoned Downtown General.

INFRASTRUCTURE:

Streets: Street improvements will be evaluated as developments are proposed.

Water and Sewer: The Engineering Division evaluated the neighborhood in preparation for the charrette. The neighborhood has a good backbone of large diameter lines (12" or greater) for both the water and sewer system which provides sufficient sewer capacity and water pressure for the area. The one weak area in respect to water is the southwest corner of the boundary. This area, which is near the intersection of S. School Avenue and 15th Street, will need to have additional lines placed to create loops across S. School to compensate for the lack of large diameter mains.

While there is a good backbone of large diameter pipe in the area, there are also many lines that do not meet the current minimum sizes. There are numerous 1.5" to 4" diameter water lines that are serving the existing structures as well as 6" diameter sewer mains. There are also fire hydrants that are connected to 4" mains which do not provide adequate fire flow. With redevelopment of the neighborhood, each of these water and sewer lines will need to be replaced with a minimum of 8" diameter mains and water loops will need to be created where possible to provide adequate flow to each lot.

Each individual development in this area will have to be evaluated on a case by case basis to determine the extent of improvements necessary.

Drainage: Standard improvements and requirements for drainage will be required as development is proposed.

Fire: The fire department does not anticipate any additional calls for service or reduced response times based on the proposed rezoning.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density, create an undesirable increase in load on police services, or create an undesirable increase in traffic danger and congestion.

CITY PLAN 2025 FUTURE LAND USE PLAN: City Plan 2025 Future Land Use Plan designates this site as a **City Neighborhood Area**. Rezoning this property as proposed would allow for a more traditional form of residential development with narrower lots and buildings closer to the street, consistent with the City Plan 2025 Goal 1 for infill development.

RECOMMENDATION:

Staff recommends approval of the rezoning based on findings stated herein. The new zoning brings most of the nonconforming structures into compliance and reflects the traditional layout and mix of uses within the neighborhood. Further, the zoning creates a natural extension of the Downtown zoning and promotes a City Neighborhood area, which is what is shown on the Future Land Use map. The rezoning will become the first step in realizing the vision generated by the stakeholders within the neighborhood during the charrette process.

PLANNING COMMISSION ACTION:			
Required		<u>YES</u>	
☐ Approved	☐ Forwarded	☐ Denied	
Motion: _____	Second: _____	Vote: _____	
Date: <u>April 28, 2008</u>			
CITY COUNCIL ACTION:			
Required		<u>YES</u>	
☐ Approved	☐ Denied		
Date: _____			

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 Future Land Use Map shows most of the proposed rezonings as City Neighborhood Areas or areas that are “primarily residential in nature”...and where...”mixed and low-intensity nonresidential uses are usually confined to corner locations.” Property owned by the Fayetteville School District is shown as Civic Institutional and Civic Open Space. The proposed zoning is consistent with a City Neighborhood land use, providing a moderately dense residential area with mixed use and commercial areas proposed at key intersections.

The proposed rezoning is also part of the adopted Walker Park Neighborhood Plan, which is the first complete neighborhood plan to be created as outlined in City Plan 2025.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Approximately 30 percent of the existing buildings do not conform to the current zoning. The proposed zoning brings most of these buildings into compliance. The comprehensive rezoning also addresses neighborhood concerns about the current prevalence of multi-family zoning, which has spurred several neighborhood residents to attempt a scattershot rezoning of their properties during the past five years. The Walker Park Neighborhood will also face significant development pressure over the next several years because of its relatively affordable land values and proximity to the Downtown. The rezoning will help ensure that the area redevelops as its residents and property owners envision.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The zoning primarily reflects residential development that already exists, while planning for and encouraging redevelopment in the future. There is the potential for traffic to increase along South School Avenue and 15th Street as the area redevelops. However, the increased traffic on South School under a Downtown General and Main Street Center zoning would not be significantly different from the traffic expected to occur with redevelopment under the current C-2 zoning. Increased traffic along 15th Street will easily be accommodated by the scheduled widening of 15th Street in the Transportation

Bond program.

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 could increase the population as the area redeveloped, but the existing infrastructure should be able to accommodate the growth and would be assessed on a case-by-case basis for improvements to meet the incremental increase in demand.**

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;

Finding: **It is feasible to allow the property to remain under its current zoning classification. However, the current zoning would create a neighborhood of mostly multi-family residential structures and has not encouraged redevelopment of key corridors. Retaining all the multi-family zoning would damage the urban fabric of the downtown and would not contribute to the realization of a mixed-use neighborhood.**

- 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: **Not applicable. Staff recommends in favor of the proposed rezoning.**

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.21 Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the *Main Street / Center*. The *Center* is more spatially compact and is more likely to have some attached buildings than *Downtown General* or *Neighborhood Conservation*. Multi-story buildings in the *Center* are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the *Main Street/Center*. The *Center* is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street Center district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
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 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline services stations and drive in restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes

(C) *Density.* None.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
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(2) *Lot area minimum.* None.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, internal	None
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

(F) *Minimum buildable street frontage.* 75% of lot width.

(G) *Height Regulations.* A building or a portion of

a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 4 stories or 56 feet, whichever is less. A building or a portion of a building that is located 15 feet or greater from the front property line or any master street plan right-of-way line shall have a maximum height of 6 stories or 84 feet, which ever is less.

- (H) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right of way.

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07; Ord. 5042, 8-07-07)

161.22 Downtown General.

- (A) *Purpose.* *Downtown General* is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. *Downtown General* includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone.

- (B) *Uses.*

- (1) *Permitted uses.*

Unit 1	City-wide uses by right
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 goods
Unit 24	Home occupations
Unit 25	Professional offices

Unit 26	Multi-family dwellings
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Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

- (2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes

- (C) *Density.* None

- (D) *Bulk and area regulations.*

- (1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
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- (2) *Lot area minimum.* None.

- (E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, internal	None
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

(F) *Minimum buildable street frontage.* 50% of lot width.

(G) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

161.23 Neighborhood Conservation

(A) *Purpose.* The *Neighborhood Conservation* zone has the least activity and a lower density than the other zones. Although *Neighborhood Conservation* is the most purely residential zone, it can have some mix of uses, such as civic buildings. *Neighborhood Conservation* serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the *Neighborhood Conservation* district is a residential zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 24	Home occupations
Unit 25	Professional services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities

(C) *Density.* 10 Units Per Acre.

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single Family	40 ft.
Two Family	50 ft.
Three Family	60 ft.

(2) *Lot area minimum.* 4,000 Sq. Ft.

(H) *Parking regulations.* No parking lots are allowed to be located in the front or side build-to-zone facing a public right of way.

(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07)

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, facing street	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side, internal, if adjoining a similar use unit.	5 ft.
Side, internal, if adjoining a different use unit	5 ft.
Rear, without easement or alley	5 ft.
Rear, from center line of an easement or alley	12 ft.

(F) *Minimum buildable street frontage.* 40% of lot width.

(G) *Height regulations.* Maximum height is 3 stories or 45 feet which ever is less.

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

C. 3
Arkansas Department of Aeronautics Grant
Page 1 of 14

7/1/2008
City Council Meeting Date

Ray M. Boudreaux
Submitted By

Aviation & Economic Development
Division

General Government
Department

Action Required:

Action Required: Approve a grant application to the Arkansas Department of Aeronautics; Contact: John Knight, Director; One Airport Drive, Third Floor, Little Rock, AR 72202, 501-376-6781.

<u>Revenue</u> \$ <u>68,325.00</u> Cost of this request <u>5550.0955.6805.00</u> Account Number <u>NEW</u> Project Number	<u>\$ 2,250.00</u> <u>\$ -</u> Funds Used to Date <u>\$ 2,250.00</u> Remaining Balance	<u>Contrib</u> Program Category / Project Name <u>Airport Revenue</u> Program / Project Category Name <u>Airport</u> Fund Name
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Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 6/13/08
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

[Signature] 6/17/08
City Attorney Date

Original Contract Number: _____

Paul A. Bachman 6-19-08
Finance and Internal Service Director Date

Received in City Clerk's Office
[Stamp] 6/13/08

[Signature] 6/19/08
Mayor Date

Received in Mayor's Office
[Stamp] 6/17/08

Comments:

City Council Meeting of: July 1, 2008
Agenda Item Number:

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and Members of the City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: June 12, 2008

SUBJECT: Approval of Airport Security Project at Fayetteville Executive Airport, Drake Field and Grant application to the State of Arkansas Aeronautics Commission and acceptance of grant proceeds when approved by the State of Arkansas. Signature of the Mayor

RECOMMENDATION: Approve Airport Security Project at Drake Field and application and acceptance of a State Aeronautics Commission 50/50 Grant for the project. Signature of the Mayor

BACKGROUND: The FAA continues to encourage airports, especially those that are certified for passenger carrying aircraft, to improve airfield security. Fayetteville Executive Airport, Drake Field is fenced and access is controlled by the people that work at the airport. There was a system when the airlines were located at the airport but as the system failed it was not repaired or replaced as the threat did not warrant the expense.

The more activity we generate and the more people that work on the field, the more essential is the need for a security system that protects the City of Fayetteville airport assets and access to the National Air Transportation System. One example is the cost of fuel and the bulk storage tanks that are located at the airport. They are secure and we keep a close eye on them, but we had rather be proactive than to try and catch up. The total value of the aircraft and the facilities on the field are well in excess of \$100,000,000.00.

The FAA provides a measurement tool for General Aviation Airports to self-evaluate their level of security. Fayetteville Drake Field rates in the 25-44 range with 34 points. This project provides for the enhancements required to upgrade our airport security to an acceptable level. The Airport Board recommended that we proceed with this project at their June 11 meeting.

BUDGET IMPACT: Due to limited available funding, the state has indicated that a 50/50 grant may be considered for this type of project. The match will be taken from the airport use of fund balance.

Attachments: Staff Review Form
State Aeronautics Commission Grant Application
Project overview
Airport Characteristics Measurement Tool

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE EXECUTIVE AIRPORT STAFF TO APPLY FOR A GRANT IN THE AMOUNT OF \$68,235.00 FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS TO FUND AN AIRFIELD SECURITY PROJECT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville Executive Airport staff to apply for a grant in the amount of \$68,235.00 from the Arkansas Department of Aeronautics to fund an Airfield Security Project.

PASSED and APPROVED this 1st day of July, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



AVIATION & ECONOMIC DEVELOPMENT
FAYETTEVILLE MUNICIPAL AIRPORT • DRAKE FIELD

June 13, 2008

Mr. John Knight, Director
Arkansas Department of Aeronautics
One Airport Drive, 3rd Floor
Little Rock, Arkansas 72202

RE: GRANT APPLICATION, Airfield Security project

Dear Mr. Knight;

Enclosed please find two (2) copies of a grant application to Arkansas Department of Aeronautics for 50/50% match funding on a project to undertake an Airfield Security project at Drake Field.

Fayetteville Municipal Airport requests funding of the maximum amount of \$68,325 in Arkansas Department of Aeronautics funding. The City of Fayetteville will match the balance of the project cost. The total project cost is estimated at \$136,650.

Fayetteville Municipal Airport respectfully requests your consideration of this grant application, and to be included on the agenda of the Aeronautics Commission board meeting in July, 2008. Your assistance in this matter is greatly appreciated. Please contact me if you would like further information, or have any question concerning this application.

Sincerely,

Ray M. Boudreaux, Director
Aviation & Economic Development

RB:jn

Enclosures:\2\

Grant Application, 2 copies
Security project description and estimate of cost

State Airport Aid Application – Page 1

The City/County of Fayetteville, herein called "Sponsor", hereby makes application to the Arkansas Department of Aeronautics for State funds pursuant to Act 733 of 1977, for the purpose of aiding in financing a project for the development of a municipal airport located in the city of Arkansas, Washington county.

Date of Request: June 11, 2008

Name of Airport: Fayetteville Executive Airport / Drake Field (FYV)

Name and address of City/County Commission
sponsoring request:

City of Fayetteville
113 W Mountain
Fayetteville AR 72701

Phone Number: _____

Fax Number: _____

Person to Contact about project:

Ray M. Boudreaux
4500 S School Ave. Ste F
Fayetteville AR 72701

Phone Number: 479-718-7642

Cell Number: 479-601-3520

Fax Number: 479-718-7646

Name and address of Engineering Firm
(if applicable):

Contact Person: _____

Phone/Fax Number: _____

Describe the work to be accomplished: Comprehensive Airfield security improvements to include cameras & video record, RF proximity readers and ID cards, gate operators, wireless network and software.

State and Local Project Costs:
Please indicate:

50-50% Match
80-20% Match
90-10% Match
100%

Total Cost of Project 136,650
Local Share/Funds 68,325
Local Share/In-Kind _____
State Share 68,325

Federal AIP Projects:

AIP Number: _____

95-5% Match

90-10% Match

Cost of Project: _____
Federal Share: _____
State Share: _____
State Share: _____

State Airport Aid Application – Page 2

Provide the information listed below as it applies to your project:

Funding:

Source of Funds:

State Funding: Arkansas Department of Aeronautics

Local Funding: City of Fayetteville – Airport fund

Source of In-Kind Services: N/A

Estimated starting date of project: July 2008

Estimated completion date of project: December 2008

Project will be for: New Airport ☒ Existing Airport

Is land to be leased or purchased? No

Description of land and cost per acre: N/A

Provide the Federal AIP Grant Number (if applicable): _____

State Legislators for your area:

State Senator: Sue Madison

State Representative: Marilyn Edwards & Lindsley Smith

State Airport Aid Application – Page 3

The sponsor agrees to furnish the Arkansas Department of Aeronautics a copy of the legal instrument affecting use of the property for an airport. In application for a new landing site or expansion of existing facility, the FAA Form 7480-1, *Notice of Landing Area Proposal*, must be approved by the FAA before review for grant can be made by the State. Applications for hangar construction or renovation funds must include a signed lease agreement. This agreement must be in compliance with all FAA grant assurances. The application must be based on bids and include a calculated return on investment.

No land, hangars, or buildings purchased with State Grant funds may be sold or disposed of without State Aeronautics Commission prior approval. All requests for sale or disposal of property will be considered on an individual case basis. No hangar (funded by a grant from the Department of Aeronautics) shall be used for non-aviation purposes without State Aeronautics Commission prior approval. All requests for non-aviation use will be considered on a case-by-case basis. Failure to receive prior approval from A.D.A. concerning land and/or building use could result in the commission requesting grant refund from the Sponsor.

No airport accepting State Grant funding may issue an Exclusive Rights lease.

All applications for navigational aids (such as NDB or ILS) must have FAA site approval before a state grant can be approved.

All Grant applications involving Federal Airport Improvement Program (AIP) funding must be accompanied by the approved FAA grant agreement with grant number assigned.

If this project is approved by the Arkansas Department of Aeronautics, and is accepted by the sponsor, it is agreed that all developments and construction shall meet standard FAA construction practices as outlined in the specifications of this agreement. Runways, Taxiways, Parking Ramps, etc. shall have a base and a thickness that will accommodate the weight of aircraft expected to operate at this airport.

All grant applicants (City and/or County) are totally responsible for compliance with all Federal, State, County, and City laws, Statutes, Ordinances, Rules, Regulations, and Executive Orders concerning contracts and purchases for which this grant is approved and issued.

It is understood and agreed that should the sponsor fail to start this project within three (3) months of the Arkansas Department of Aeronautics' date of acceptance, that this grant is null and void. It is also agreed that this project shall be completed within one year from the date of acceptance of this grant by the Arkansas Department of Aeronautics. Applications for extension will be entertained if circumstances beyond the sponsor's control occur.

Funds will be disbursed according to Department procedures and final inspection of completed project (See payment instruction page). Funds are contingent upon the Department's biennium appropriation.

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this _____ day of _____, 2008 .

City of Fayetteville

Name of Sponsor

Authorized Signature

Ray M. Boudreaux, Director

Title

APPLYING FOR PAYMENT OF APPROVED GRANT FUNDS

After your grant has been approved and your are ready for a partial or final payment, please provide the following documents to our office:

FOR 50-50%, 80-20%, 90-10% AND 100% STATE AIRPORT AID GRANTS, YOU MUST PROVIDE:

Letter requesting Payment (partial/final) stating completion of the project with the total amount of the project and the state share of the grant. Must be signed by City/County official or Airport Commissioner.

Invoices for all cash expenses (copies). Engineering estimates/payment requests or contracts are not acceptable to auditors and cannot be accepted by our agency.

Canceled checks to match all invoices – front and back of checks.

Copy of Deed, Title Insurance, Legal Fees (Land Purchases Only).

Daily time sheets for ALL in-kind work used as match for grant. The auditors will accept only ONE day of in-kind services on ONE Daily Report Form. The form must be filled out completely and signed by Supervisor and City/County Official. – No Exceptions!

An expense sheet outlining expenses/or a tape showing how the amount requested for payment was totaled.

FOR GRANTS MATCHING FEDERAL FUNDS, YOU MUST PROVIDE:

Letter requesting payment (final only) stating completion of the project. Must be signed by City/County Official or Airport Commissioner.

Copy of final Federal Aviation Administration Reimbursement Form (FAA form 271 or computer generated form accepted by the FAA).

NOTE: All City/County Airports participating in **Block grants** with the ADA must submit all payment requests to our office. The FAA will not process your payment of these grants.

WHAT YOU NEED TO RETAIN FOR YOUR FILES FOR AUDIT PURPOSES:

Original signed application requesting funds.

Letter of approval from State Office.

All amendment request/letter granting approval or denial of amendments.

Letter requesting payment (partial/final) or extension of time request for project.

All documents (originals) submitted to State office for final payment of grants.

Copy of State Warrant – Warrant is presented on final inspection and payment of grant.

A copy of plans, deeds or any documents submitted to State Office used for approval of grant.

If you have any questions concerning the process of submitting documentation for payment of your grant, please call our office at 1-800-376-6781. Ask for John Knight.

Fayetteville Municipal Airport, Drake Field Airport Security Project Overview

The City of Fayetteville is interested in receiving proposals to improve the security of its airport, Fayetteville Municipal Airport, Drake Field (FYV). The airport operates under FAR Part 139 regulations as a class IV airport. There are no scheduled airline flights into or out of the airport but commercial air carrier aircraft with more than 30 passenger seats may operate into and out of the airport with prior permission of Airport Administration. Prior notice is required in order to allow sufficient time to arrange for fire protection.

Drake Field operated as a commercial service airport until 1999 when the airlines relocated to the new Northwest Arkansas Regional Airport (XNA). All of Northwest Arkansas is supported by flights into and out of XNA. As a result, the airport is equipped with perimeter fencing and automatic vehicle gates. Old cameras and ramp lighting systems are mostly inoperative and in disrepair. The purpose of this RFP is to receive proposals from a single provider to make improvements to the following security systems:

- **Personal Identification System:** Develop and install personnel identification system for the Airport with system administration and encoding equipment in Airport Administration offices. Include personal photo identification badges which include RFID entry coding characteristics utilizing International Electronics Incorporated technology or equivalent.
- **Airport vehicle and personnel gates:** Install new and improved gate operating systems, lighting as necessary and card readers for entry and exit.
- **Airport surveillance cameras:** Install surveillance cameras on the three major West side parking aprons (the Terminal Apron, the Executive Apron, and the West Side GA Apron) and the Fuel Farm. Install surveillance cameras on selected east side movement areas (self serve fuel station, east side gate). Install surveillance cameras in the Terminal parking lot and main terminal entrances. Install up to 9 cameras utilizing Video Insight Digital Video Management Systems or equivalent with administration in the Airport Administration offices. Utilize wireless IR technology for cameras across the field if possible.
- **Install monitoring systems at Airport Administration and Customer Service Desk.**
- **Install alarm system in the terminal building integrating the fire alarm system with the security alarm system.**
- **Make recommendations for additional security upgrades that will improve the overall airport security posture.**

The successful proposal will include comprehensive description of how the security company will achieve each of the above security improvements and include a not to exceed dollar amount for completion of each provision. The City of Fayetteville is interested in contracting with a single company to provide the entire security package, Video, Personal Identification, and Entry Operation and Control. The City reserves the right to select the most comprehensive response to this request including acceptability of equipment and total cost of the project.



RAY BOUDREAX
DRAKE FIELD
FAYETTEVILLE, AR

Fleming Network Services, Inc.

Your Total Solution Provider
P.O. Box 856 Bryant, AR 72089
(501) 847-9500 Fax: (501) 847-3598
<http://www.fleminc.com>
email: network@fleminc.com

C. 3
Arkansas Department of Aeronautics Grant
Page 10 of 14



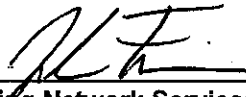
Sales Quotation

Quote # 000440
Project DRAKE FIELD SECURITY

Date 5/23/2008
Exp. Date 6/22/2008

Description	Price	Qty	Extend
PRICE FOR INSTALLING NEW SECURITY CAMERAS TO INCLUDE ALL OF THE FOLLOWING:			
LABOR:	\$8,000.00		
BUCKET TRUCK USAGE PER DAY	\$880.00		
ELECTRICAL POWER NEEDED FOR CAMERAS	\$3,250.00		
MATERIALS:			
(7) BOSCH FIXED DOME CAMERAS			
(2) BOSCH 18X PTZ DOME CAMERAS			
(1) BOSCH 36X PTZ DOME CAMERA			
(1) BOSCH DIBOS 22 CHANNEL 750GB DVR			
(1) 19-INCH COLOR LCD MONITOR			
(10) FIRETIDE HOTPORT OUTDOOR DUAL RADIO NODES			
(2) SECTOR ANTENNAS			
(10) SINGLE PANELS FOR CAMERA LOCATIONS			
(1) FIRETIDE HOTVIEW PROMESH MANAGEMENT SOFTWARE	\$64,540.76		
WIRE AND HARDWARE NEEDED FOR INSTALL:	\$6,135.19		
TOTAL PRICE FOR CAMERA INSTALLATION:	\$82,805.95	1	\$82,805.95
PRICE FOR INSTALLING NEW GATE CONTROLS TO INCLUDE ALL OF THE FOLLOWING:			
(3) 1HP DOORING SLIDE GATE OPERATOR WITH DC OPTION			
(2) WIEGAND PROXIMITY CARD READERS			
(2) WIEGAND PROXIMITY CARD READERS WITH TRACKER BOARDS			
(3) PROXMITTER RECIEVERS			

Description	Price	Qty	Extend
(1) 1838 PROGRAMMABLE CONTROLLER			
(1) CONTROL MATE RECIEVER			
(2) REMOTE MATE TRANSMITTERS			
(3) INFRAREDTHRU-BEAM PHOTO CELL			
(3) FIRE DEPT LOCK BOXES			
(1) 500 PERSON MEMORY CARD			
(3) HIGH VOLTAGE SURGE SUPPRESSORS			
(3) FAIL SECURE LOCK KITS			
(1) TRACKER BOARD ENCLOSURE			
(2) TRACKER BOARDS			
(1) RS232 CABLE			
(1) RS232 TO USB ADAPTER			
(1) 1200LB MAGNETIC LOCK			
(6) PLUG-IN 1 CHANNEL DETECTOR			
(10) PROXMITTER 1 BUTTON REMOTES			
(100) PROX CARDS			
ASSORTED WIRING, TRANSFORMERS, SEALANT, & MISC. MATERIALS	\$27,534.00		
MATERIALS:			
SAW BLADES-MULTICONDUCTOR WIRE-WIRE NUTS-BOLTS-ANCHOR			
BOLTS-CONDUIT-DRYWALL ANCHORS-CEMENT-CARFLEX-ASSORTED			
FITTINGS-SEALANTS-CABLE TIES-ETC.	\$5,160.00		
LABOR:			
APPROX 2-3 MEN 240 MAN HOURS@ \$40/HOUR	\$9,600.00		
6 HOURS TRAINING ON DOORKING SOFTWARE-THIS CAN BE DIVIDED	\$250.00		
INTO AS MANY AS 3 SESSIONS			
CLARIFICATIONS:			
1. REPAIRS TO EXISTING UNDERGROUND CONDUIT WILL CHANGE THE			
QUOTED PRICE			
2. ANY CHANGES ABOVE THE QUOTED MATERIAL OR LABOR MAY BE			
CAUSE FOR ADDITIONAL CHARGES			
3. REPAIR OF EXISTING GATES, GUIDES, OR SLIDES WILL BE CAUSE			
FOR ADDITIONAL CHARGES			
TOTAL PRICE FOR GATE CONTROL INSTALLATION:	\$42,544.00	1	\$42,544.00

Authorized Signature: 
Fleming Network Services, Inc.

Sub-Total \$125,349.95

Shipping

Sales Tax \$11,281.50

I accept the terms and conditions of this quotation.

Signed: _____

Total \$136,631.45

Name: _____ Title: _____

Terms: 30 Day Draws. Balance Due Upon Completion/Delivery.

[☐] I decline my option for an extended service contract.

GA Airport Security

IP A-001

Appendix A – Airport Characteristics Measurement Tool

Security Characteristics	Assessment Scale	
	Public Use Airports/Heliports	Private Use Airports/Heliports
Location		
Within 30 nm of mass population areas ¹ 450,000	5 X	3
Within 30 nm of a sensitive site ² UA & Stadium	4 X	2
Falls within outer perimeter of Class B airspace	3	1
Falls within the boundaries of restricted airspace	3	1
Based Aircraft		
Greater than 101 based aircraft	3	1
26-100 based aircraft	2 X	-
11-25 based aircraft	1	-
10 or fewer based aircraft	-	-
Based aircraft over 12,500 lbs	3 X	1
Runways		
Runway length equal to or greater than 5000 feet	5 X	3
Runway length less than 5000 feet, Greater than 2001 Feet	4	2
Runway length 2000 feet or less	2	-
Asphalt or concrete runway	1 X	-
Operations		
Over 50,000 annual aircraft operations	4	2
Part 135 operations	3 X	1
Part 137 operations	3	1
Part 125 operations	3	1
Flight training	3 X	1
Flight training in aircraft over 12,500 lbs	4	2
Rental aircraft	4 X	2
Maintenance, Repair, and Overhaul facilities conducting long term storage of aircraft over 12,500 lbs	4 X	2
Total	34	

Assess points for every characteristic that applies to your facility.

1. Mass population area - Area with a total metropolitan population of at least 100,000 people.
2. Sensitive sites - Areas which would be considered key assets or critical infrastructure of the United States. Sensitive sites can include certain military installations, nuclear and chemical plants, centers of government, monuments and iconic structures, and/or international ports.
3. Facilities with multiple runways should only consider the longest runway on the airport.
4. Airports at higher elevations may need longer runways to accommodate even the smallest of aircraft. It is not the intent of this document to assess points for a longer runway if it is unrealistic that the runway could be used for larger aircraft operations.

GA Airport Security

IP A-001

Appendix B – Suggested Airport Security Enhancements

Points/Suggested Guidelines			
>45	25-44	15-24	0-14

Agenda Session
6/24/08

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
July 01, 2008**

A meeting of the Fayetteville City Council will be held on July 01, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Agenda Session Presentations:

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Van Scoyoc Presentation: Kevin Kelly

Agenda Additions:

A. Consent:

1. Approval of the June 3, 2008 and June 17, 2008 City Council meeting minutes.
2. **Bid 08-45 Benchmark Construction of NWA, Inc:** A resolution to approve a bid and award a contract in the amount of \$79,900.00 to Benchmark Construction of NWA, Inc. to construct a concrete pad for Solid Waste with a contingency of \$7,290.00.

3. **Bid 08-49 Deerskin Manufacturing, Inc:** A resolution to award Bid 08-49 to Deerskin Manufacturing, Inc. to purchase a chassis mounted animal control body in the amount of \$19,770.00 plus tax of \$1,828.73 for a total of \$21,598.73.

New
resolution
from Kit

4. **Racial Profiling Prohibited Policy:** A resolution to approve an amendment to Fayetteville Police Department Policy 1.2.3 "Racial Profiling Prohibited."

5. **Frisco Trail Art Sculpture Donation:** A resolution to accept a donated metal art sculpture to be placed upon the Frisco Trail in honor of the Hoover Family.

6. **McClelland Consulting Engineers, Inc. Amendment # 2:** A resolution to approve Amendment # 2 to an agreement with McClelland Consulting Engineers, Inc. for engineering services for an additional year.

7. **Arkansas Historic Preservation Program Grant:** A resolution to approve a budget adjustment and a contract with the Arkansas Historic Preservation Program to receive a Certified Local Government Grant in the amount of \$7,500 to provide travel and training funds for the Historic District Commission and Staff.

8. **Arkansas Natural Resources Commission Grant:** A resolution authorizing the Engineering Division to apply for a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River.

68-08
B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals:

2. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Association (POA) in an amount not to exceed \$69,674.00 to dredge the Boardwalk POA pond. *This ordinance was left on the First Reading at the August 7, 2007 City Council meeting. This ordinance was left on the Second Reading at the August 23, 2007 City Council meeting. This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting and Tabled to the October 2, 2007 City Council meeting. This ordinance was tabled indefinitely at the October 2, 2007 City Council meeting.*

This ordinance was left on the Second Reading.

3. **Northwest Arkansas Regional Mobility Authority:** An ordinance providing for Fayetteville's participation in the Northwest Arkansas Regional Mobility Authority and approving an agreement with participating members of the Northwest Arkansas Regional Mobility Authority. *This ordinance was left on the Second Reading at the June 17, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

C. New Business:

1. ✓ **VAC 08-2916 (Hill Place):** An ordinance approving VAC 08-2916 submitted by Appian Centre for Design for property located at the southwest corner of 6th Street and Hill Avenue intersection, to vacate various utility easements and rights-of-way, within the subject property.
2. ✓ **RZN 08-2971 (Walker Park Neighborhood):** An ordinance rezoning that property described in rezoning petition RZN 08-2971, for approximately 304.3 acres, bounded by Archibald Yell Boulevard, Huntsville Road, Morningside Drive, 15th Street and South School Avenue from RMF-24, Residential Multi-family, 24 units per acre, C-2, Thoroughfare Commercial, and P-1, Institutional to NC, Neighborhood Conservation, DG, Downtown General, RMF-18, Residential Multi-family, 18 units per acre, and MSC, Main Street Center.
3. ✓ **Arkansas Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Executive Airport staff to apply for a grant in the amount of \$68,235.00 from the Arkansas Department of Aeronautics to fund an Airfield Security Project.

Announcements:

1. **City Council Tour: June 30, 2008**

Adjournment:

Pre Agenda Session Mtg. 6/18/08

Aldermen

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Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
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- NB#3?
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 8. **Arkansas Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Executive Airport staff to apply for a grant in the amount of \$68,235.00 from the Arkansas Department of Aeronautics to fund an Airfield Security Project.
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Announcements:

1. **City Council Tour: June 30, 2008**

Adjournment:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to be 'Kit Williams', written over a horizontal line.

DATE: **July 2, 2008**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of July 1, 2008**

1. **Bid 08-45 Benchmark Construction of NWA, Inc.:** A resolution to approve a bid and award a contract in the amount of \$79,900.00 to Benchmark Construction of NWA, Inc. to construct a concrete pad for Solid Waste with a contingency of \$7,290.00;
2. **Bid 08-49 Deerskin Mfg., Inc.:** A resolution to award Bid 08-49 to Deerskin Manufacturing, Inc. to purchase a chassis mounted animal control body in the amount of \$19,770.00 plus tax of \$1,828.73 for a total of \$21,598.73;
3. **Police Department Policy Amendment:** A resolution to approve an amendment to Fayetteville Police Department Policy 1.2.3.;
4. **Frisco Trail Art Sculpture Donation:** A resolution to accept a donated metal art sculpture to be placed upon the Frisco Trail in honor of the Hoover Family;
5. **McClelland Consulting Engineers, Inc. Amendment #2:** A resolution to approve Amendment #2 to an agreement with McClelland Consulting Engineers, Inc. for engineering services for an additional year;
6. **Arkansas Historic Preservation Program Grant:** A resolution to approve a budget adjustment and a contract with the Arkansas Historic Preservation program to receive a certified local government grant in the amount of \$7,500.00 to provide travel and trailing funds for the Historic District Commission and staff;

7. Arkansas Natural Resources Commission Grant: A resolution authorizing the Engineering Division to apply for and accept a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River and approving a budget adjustment recognizing the grant revenue;

8. Northwest Arkansas Regional Mobility Authority: An ordinance providing for Fayetteville's participation in the Northwest Arkansas Regional Mobility Authority and approving an agreement with participating members of the Northwest Arkansas Regional Mobility Authority;

9. Arkansas Department of Aeronautics Grant: A resolution authorizing the Fayetteville Executive Airport Staff to apply for a grant in the amount of \$68,235.00 from the Arkansas Department of Aeronautics to fund an airfield security project.

From: Ron Petrie
To: Coody, Dan; Dumas, Gary
Date: 7/1/2008 5:01 PM
Subject: Tyson Mexican Original Appraisals
Attachments: 2633.pdf

The Engineering Division could not begin this appraisal until the special Ad Hoc Committee gave us direction. The last of three meetings occurred on March 27, 2008. After the meeting, the Engineering Division requested quotes from numerous local appraisal companies in order to get the three that are mandatory to meet City purchasing policy. After getting sufficient quotes, Mark Risk was chosen. At that time, we had to get a contract from him, negotiate the final terms, and then route around and get signatures. The actual PO (attached) and Notice To Proceed is dated May 29, 2008. The contract called for six weeks and we are still within that contract time. So from actual start to finish, the process will have taken approximately 4 months.

From: Sondra Smith
To: Branson, Lisa
Date: 5/9/2008 10:41 AM
Subject: Fwd: July 1 meetingg
Attachments: Sondra Smith.vcf

Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
(479) 718-7695 (Fax)
ssmith@ci.fayetteville.ar.us

>>> Susan Thomas 5/9/2008 10:18 AM >>>

Kevin Kelly from Van Scoyoc Associates will make a presentation to Council on July 1, 2008.

thanks,
Susan

Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record
P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville – Final Agenda

June 30, 2008

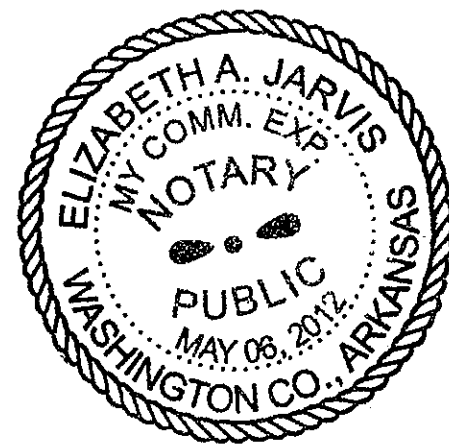
Publication Charge : \$163.53

Subscribed and sworn to before me
This 8 day of *July*, 2008.

Notary Public *Elizabeth A. Jarvis*

My Commission Expires: *May 6, 2012*

Do not pay from Affidavit, an invoice will be sent



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JUL 08 2008

**CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE**

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
JULY 01, 2008**



A meeting of the Fayetteville City Council will be held on July 01, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

- 1. Van Scoyoc Presentation: Kevin Kelly**
- 2. Regional Ambulance Authority Executive Board Appointment Discussion**

Agenda Additions:

A. Consent:

- 1.** Approval of the June 3, 2008 and June 17, 2008 City Council meeting minutes.
- 2. Bid 08-45 Benchmark Construction of NWA, Inc:** A resolution to approve a bid and award a contract in the amount of \$79,900.00 to Benchmark Construction of NWA, Inc. to construct a concrete pad for Solid Waste with a contingency of \$7,290.00.
- 3. Bid 08-49 Deerskin Manufacturing, Inc:** A resolution to award Bid 08-49 to Deerskin Manufacturing, Inc. to purchase a chassis mounted animal control body in the amount of \$19,770.00 plus tax of \$1,828.73 for a total of \$21,598.73.
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- 8. Arkansas Natural Resources Commission Grant:** A resolution authorizing the Engineering Division to apply for a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River.

B. Unfinished Business:

- 1. Hiring Freeze:** Hiring Freeze Appeals.
- 2. Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Association (POA) in an amount not to exceed \$69,674.00 to dredge the Boardwalk POA pond. *This ordinance was left on the First Reading at the August 7, 2007 City Council meeting. This ordinance was left on the Second Reading at the August 23, 2007 City Council meeting. This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting and Tabled to the October 2, 2007 City Council meeting. This ordinance was tabled indefinitely at the October 2, 2007 City Council meeting. This ordinance was left on the Second Reading.*
- 3. Northwest Arkansas Regional Mobility Authority:** An ordinance providing for Fayetteville's participation in the Northwest Arkansas Regional Mobility Authority and approving an agreement with participating members of the Northwest Arkansas Regional Mobility Authority. *This ordinance was left on the Second Reading at the June 17, 2008 City Council meeting. This ordinance was left on the Second Reading.*

C. New Business:

- 1. VAC 08-2916 (Hill Place):** An ordinance approving VAC 08-2916 submitted by Appian Centre for Design for property located at the southwest corner of 6th Street and Hill Avenue intersection, to vacate various utility easements and rights-of-way, within the subject property.
- 2. RZN 08-2971 (Walker Park Neighborhood):** An ordinance rezoning that property described in rezoning petition RZN 08-2971, for approximately 304.3 acres, bounded by Archibald Yell Boulevard, Huntsville Road, Morningside Drive, 15th Street and South School Avenue from RMF-24, Residential Multi-family, 24 units per acre, C-2, Thoroughfare Commercial, and P-1, Institutional to NC, Neighborhood Conservation, DG, Downtown General, RMF-18, Residential Multi-family, 18 units per acre, and MSC, Main Street Center.
- 3. Arkansas Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Executive Airport staff to apply for a grant in the amount of \$68,235.00 from the Arkansas Department of Aeronautics to fund an Airfield Security Project.
- 4. Ruskin Heights - Amend Ordinance No. 4994:** An ordinance to amend Ordinance No. 4994, Condition of Approval No. 1 of Ruskin Heights R-PZD 06-2299 regarding street improvements.

Announcements:

- 1. City Council Tour:** None

Adjournment:

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JUL 08 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE