

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
September 2, 2008**

A meeting of the Fayetteville City Council will be held on September 2, 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: None

Presentations, Reports and Discussion Items: None

Agenda Additions: Discussion regarding Res. 162-08: University of Arkansas Technology Development Foundation cost share for the preparation of an Economic Development Strategic Plan.

A. Consent:

1. Approval of the August 19, 2008 City Council meeting minutes. **APPROVED.**
2. **Bid # 08-54 Hill Electric, Inc:** A resolution awarding Bid # 08-54 and approving a contract with Hill Electric, Inc. in the amount of \$139,875.00 for the installation of street lighting along College Avenue from Rock Street to Maple Street; and approving a 10% project contingency in the amount of \$13,988.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 163-08.

3. **2008-2009 Justice Assistance Grant:** A resolution accepting 2008-2009 Justice Assistance Grant (JAG) for federal and state funding in the amount of \$164,306.00 and \$32,818.00 respectively, for the primary funding source of the 4th Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$46,560.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 164-08.

4. **State and Federal Forfeiture:** A resolution approving a budget adjustment to recognize Federal Forfeiture Revenue in the amount of \$59,133.00, and State Forfeiture Revenue in the amount of \$21,237.00 for Police Department use only.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 165-08.

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 left on the Second Reading and was tabled indefinitely at the October 2, 2007 City Council meeting. This ordinance was left on the Second Reading and tabled to the September 2, 2008 City Council meeting at the July 1, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

THIS ITEM WAS TABLED INDEFINITELY.

3. **Raze and Removal at 402 E. Center Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Tiffany R. Major located at 402 E. Center Street in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$4,945.00. *This resolution was tabled at the August 19, 2008 City Council meeting to the September 2, 2008 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 166-08.

4. **ANX 08-3036 (Fayetteville Farmington Land Swap):** An ordinance simultaneously detaching territory from the City of Farmington and annexing said territory into the City of Fayetteville, pursuant to A.C.A §14-40-2101. *This ordinance was left on the Second Reading at the August 19, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5172.

C. Public Hearing:

1. **Epperly Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel and Reba Epperly.

THIS ITEM WAS TABLED TO THE OCTOBER 7, 2008 CITY COUNCIL MEETING.

2. **Parker Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Herbert G. Parker, being an heir at law of Otis J. Parker, deceased.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 167-08.

3. **Littlefield Investment Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Littlefield Investment Company.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 168-08.

D. New Business:

1. **Amend Chapter 33, Departments, Boards, Commissions and Authorities:** An ordinance to amend the Code of Fayetteville to establish the procedures for the use of funds budgeted for the in-house street overlay projects.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5173.

2. **Amend Chapter 174, Signs:** An ordinance to amend Section 174.03 (H) Non-Commercial Signs of the Unified Development Code to allow property owners to post a small political sign for each candidate up to sixty days before an election.

PASSED WITH AN EMERGENCY CLAUSE AND SHALL BE RECORDED AS ORDINANCE NO. 5174.

3. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

THIS ITEM WAS TABLED TO THE SEPTEMBER 16, 2008 CITY COUNCIL MEETING.

4. **Center Street Drainage Contract:** An ordinance to waive competitive bidding and to award a construction contract in the amount of \$43,315.00 plus a \$5,000.00 project contingency to Sweetser Construction, Inc. to replace the existing drainage structure under Center Street and completely repair the street and appurtenances.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5175.

5. **Per-Erik Persson Contract:** A resolution approving a contract with Per-Erik Persson, an agent for the Swedish-American Business South Central, LLC, in an amount not to exceed \$13,125.00 to recruit Swedish companies to locate in the City of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 169-08.

6. **Discussion regarding Res. 162-08:** University of Arkansas Technology Development Foundation cost share for the preparation of an Economic Development Strategic Plan.

Announcements:

1. **City Council Tour:** None

Adjournment: Meeting adjourned at 8:05 p.m.

Subject: Roll					
Alderman Rhoads was absent until 6:05 PM	Allen	✓			
	Rhoads	✓	Absent until 6:05 PM		
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	Absent			
	Mayor Coody	✓			

8-0

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

Subject: Consent					
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Allen			
Passed Minutes Approved Res. 163-08 to 165-08	Allen	✓			
	Rhoads	absent during the vote	absent until	6:05 PM	
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	absent			
	Mayor Coody				

6-0

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

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

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

Subject:		Boardwalk Property Owners Association			
Motion To:		Table Indef.			
Motion By:		Ferrell			
Seconded:		Gray			
B. 2 Unfinished Business <i>Tabled Indef.</i>	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	Absent			
	Mayor Coody				

7-0

Subject:		Raze and Removal at 402 E. Center Street			
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Gray			
B. 3 Unfinished Business <i>Passed</i> <i>166-08</i>	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	absent			
	Mayor Coody				

7-0

Subject:		ANX 08-3036 (Fayetteville Farmington Land Swap)			
Motion To:		3rd Read	Pass		
Motion By:		Jordan			
Seconded:		Lucas			
B. 4 Unfinished Business <u>passed</u> 5172	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	Absent	Absent		
	Mayor Coody				

7-0

7-0

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

Subject:		Epperly Condemnation			
Motion To:		Table to 1st Meeting in October			
Motion By:		Allen			
Seconded:		Rhoads			
C. 1 Public Hearing <i>Tabled to October, 7, 2008</i>	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	N			
	Jordan	✓			
	Gray	✓			
	Thiel	N			
	Cook	Absent			
	Mayor Coody				

5-2

Subject:		Parker Condemnation			
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Cook			
C. 2 Public Hearing <i>Passed</i> 167-08	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	Absent during the voted			
	Gray	✓			
	Thiel	✓			
	Cook	Absent			
	Mayor Coody				

6-0

Subject:		Littlefield Investment Company Condemnation			
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Gray			
C. 3 Public Hearing <u>Passed</u> 168-08	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	Absent			
Mayor Coody					

7-0

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

Subject:		Amend Chapter 33, Departments, Boards, Commissions and Authorities			
Motion To:		<i>Amend</i>	<i>2nd Read</i>	<i>3rd Read</i>	<i>Pass</i>
Motion By:		<i>Ferrell</i>	<i>Ferrell</i>	<i>Ferrell</i>	
Seconded:		<i>Jordan</i>	<i>Jordan</i>	<i>Jordan</i>	
C. 1 New Business <i>passed</i> 5173	Allen	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Rhoads	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Ferrell	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Lucas	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Jordan	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Gray	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Thiel	<i>✓</i>	<i>✓</i>	<i>✓</i>	<i>✓</i>
	Cook	<i>Absent</i>	<i>absent</i>	<i>absent</i>	<i>absent</i>
Mayor Coody					
		<i>7-0</i>	<i>7-0</i>	<i>7-0</i>	<i>7-0</i>

Subject:		Amend Chapter 174, Signs			
Motion To:		<i>Amend to 3 Small & 1 large</i>	<i>Amend to Add Emergency Clause</i>		
Motion By:		<i>Lucas</i>	<i>Thiel</i>		
Seconded:		<i>Thiel</i>	<i>Gray</i>		
C. 2 New Business	Allen	<i>N</i>	<i>✓</i>		
	Rhoads	<i>N</i>	<i>✓</i>		
	Ferrell	<i>N</i>	<i>✓</i>		
	Lucas	<i>✓</i>	<i>✓</i>		
	Jordan	<i>✓</i>	<i>✓</i>		
	Gray	<i>N</i>	<i>✓</i>		
	Thiel	<i>✓</i>	<i>✓</i>		
	Cook	<i>Absent</i>	<i>absent</i>		
Mayor Coody					
		<i>3-4</i>	<i>7-0</i>		
		<i>Failed</i>			

Subject: Amend Chapter 174, Signs					
Motion To:		2nd Reading	3rd Reading	Pass	Emergency Clause
Motion By:		Thiel	Jordan		Jordan
Seconded:		Gray	Gray		Ferrell
C.2. New Business Passed with Emergency Clause 5/74	Allen	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	N	✓	N	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	absent	absent	absent	absent
	Mayor Coody				
		6-1	7-0	6-1	7-0

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

Subject:		Amberwood Place Appeal			
Motion To:		Table to Sept 16, 2008			
Motion By:		Ferrell			
Seconded:		Jordan			
C. 3 New Business Tabled to Sept. 16, 2008	Allen	✓			
	Rhoads	✓			
	Ferrell	Absent during the vote			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	absent during the vote			
	Cook	absent			
	Mayor Coody				

5-0

Subject:		Center Street Drainage Contract			
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Rhoads	Allen		
C. 4 New Business passed 5175	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	Absent during the vote	Absent during the vote	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	absent	absent	absent	
	Mayor Coody				

6-0

6-0

7-0

Subject:		Per-Erik Persson Contract			
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Rhoads			
C. 5 New Business <u>passed</u> 169-08	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	Absent			
Mayor Coody					

Subject:		Talk about Resolution 162-08			
Motion To:		Motion to discuss			
Motion By:		Jordan ✓			
Seconded:		Lucas			
Add Discussion was approved	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	N			
	Thiel	✓			
	Cook	Absent			
Mayor Coody					

Aldermen

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City Attorney Kit Williams
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Presentations, Reports and Discussion Items:

Agenda Additions:

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D. New Business:

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- 5. Per-Erik Persson Contract:** A resolution approving a contract with Per-Erik Persson, an agent for the Swedish-American Business South Central, LLC, in an amount not to exceed \$13,125.00 to recruit Swedish companies to locate in the City of Fayetteville.

Announcements:

- 1. City Council Tour: None**

Adjournment:

City of Fayetteville
Bid 08-54, College Avenue Lighting Construction
Contract

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

1. Hill Electric, 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 08-54 as stated in Hill Electric, Inc. bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #08-54, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay Hill Electric, Inc. based on their bid proposal in an amount not to exceed \$139,875.00. 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 Hill Electric, Inc. consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 08-54 with the specifications & conditions typed thereon.
 - B. Hill Electric, 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 Hill Electric, Inc. and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Hill Electric, Inc.
5. Hill Electric, Inc. shall not assign its duties under the terms of this agreement.
6. Hill Electric, 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 Hill Electric, 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. Hill Electric, 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, Hill Electric, 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. \$1,000,000 for each accident.
Property Damage Liability	\$1,000,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by Hill Electric, Inc.

8. Hill Electric, 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 Hill Electric, 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

Hill Electric Inc
CONTRACTOR
BY [Signature] President
NAME AND TITLE

ATTEST: COMPANY SECRETARY

[Signature]
Secretary

14020 Goose Creek Rd Fayetteville, AR 72704
BUSINESS ADDRESS

B. 3.
City of Fayetteville Staff Review Form

B.3.
Raze and Removal
402 E. Center Street
Page 1 of 24

City Council Agenda Items
and
Contracts, Leases or Agreements

8/19/2008

City Council Meeting Date
Agenda Items Only

Additional
Information was
Added at Agenda
Session 8/26/08

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the unsafe structure located at 402 E. Center St.
(WC Parcel # 765-12746-000)

Cost of this request

1010.6420.5315.04

Account Number

\$

Category / Project Budget

Funds Used to Date

\$

Project Number

Remaining Balance

Program Category / Project Name

Raze and Removal

Program / Project Category Name

General Fund

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

ENTERED

Received in
Mayor's Office

ENTERED

Comments: Staff recommends the Raze and Removal of the structure and approval of the budget adjustment.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, Community Resources Director 

Date: August 22, 2008

Subject: Raze & Removal of structure on 402 E. Center Street.

BACKGROUND

Service Request # 48553, Case #5721: Code Compliance responded to a complaint concerning the structure located at 402 E. Center St. The structure appeared to be in violation of Subsection 173.08, Unsafe Building, of the City Code of Ordinances. The Building Safety Division Director inspected the property and determined that the structure was in violation of Subsection 173.08, Unsafe Buildings, of the City Code of Ordinances. Specifically, the Building Safety Division Director observed: Roof and Ceiling collapsed; structure unsecure with broken windows and open door; floor rotten; mold; foundation damaged; and vermin. He also determined the "house is beyond repair and is a hazard to the community".

This item was tabled indefinitely during the June 17, 2008 City Council meeting due to a change in ownership. On June 12, 2008, the property owner filed a Quitclaim Deed with the Washington County Circuit Clerk, File# 2008-00019604. The property was deeded to Tiffany R. Major, the daughter of the previous property owners.

On June 13, 2008, an Unsafe Building Notice of Violation was hand delivered to the current property owner, Tiffany R. Major. By ordinance, the owner was given until **July 14, 2008** to acquire a building permit or to raze and remove the structure.

This item was tabled again during the August 19, 2008 City Council Meeting.

DISCUSSION

This parcel contains a 1,000 square foot, one story wood frame single family dwelling. The structure is secured, but has deteriorated to a point where it is no longer safe. There is not a current building permit on this structure.

RECOMMENDATION

Staff recommends a resolution to order the raze and removal of the structure.

BUDGET IMPACT

Contracting the raze and removal of the structure would cost approximately \$4,945. An ad was placed in the newspaper on April 20 and April 27 for bids on the raze and removal of the structure. The lowest winning bid was from Burnett Commercial Contracting Inc., for \$4,945. A budget adjustment is needed to fund this project. The cost will be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

RESOLUTION NO. _____

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY TIFFANY R. MAJOR LOCATED AT 402 E. CENTER STREET IN THE CITY OF FAYETTEVILLE, ARKANSAS; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$4,945.00.

WHEREAS, Tiffany R. Major is the record owner of the real property situated at 402 E. Center Street, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-12746-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, Tiffany R. Major, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1: That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, Tiffany R. Major is hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2: That, if Tiffany R. Major does not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

Section 3: That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$4,945.00 to contract for the razing and removal of said structure.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

June 13, 2008

Owner TIFFANY R. MAJOR
2710 N. COLETTE

FAYETTEVILLE, AR 72703

RE: Property @ 402 CENTER

WC Parcel # 765-12746-000

Case # 5721

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at.

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

BRENT JOHNSON
Code Compliance Officer

Cc: file

CITY OF FAYETTEVILLE CODE COMPLIANCE PROGRAM

OFFICER DELIVERY FORM

Officer delivery is required for the attached document:

Notice: 173.08 Unsafe Building

Name and Address to Deliver:

Tiffany R. Major

2710 M. COLETTE
FAYETTEVILLE, AR 72703

Owner/Occupant's Signature: _____

Tiffany Major

Return of Service

I, Brent Johnson, of the Code Compliance
Program (Officer name – print)

certify that I provided a true copy of the document described above to:

TIFFANY MAJOR at the following address;
(name of recipient)

Delivery Date 6/13/09 Time 11:00 AM

Officer Signature *Brent Johnson*



City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

B.3.
Raze and Removal
402 E. Center Street
Page 7 of 24

August 22, 2008

Tiffany R. Major
2710 Colette Ave.
Fayetteville, AR 72703

COPY

RE: Enforcement of Fayetteville Code 173.08
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 402 E. Center St. (Parcel #765-12746-000), should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on September 16, 2008 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (479-575-8323) for information confirming the date of the public hearing.

Sincerely,

Chad Ball
Community Resources Coordinator

Cc: file

Parcel Number: **765-12746-000** Prev. Parcel Number: **145921-000-00** Type: **RI**
 Location: **402 E CENTER ST**
 Owner Name: **MAJOR, TIFFANY RONCHELLE**
 Mailing Address: **2710 N COLETTE FAYETTEVILLE AR 72703**
 Lot: Block: S-T-R: **15-16-30**
 Addition: **15-16-30 COUNTY COURT PLAT**
 School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
 City: **FAYETTEVILLE**
 Legal: **PT S 1/2 L; 40-41 NW**
 Current Year A79 Credit Status: **V**
 Last Appraised: **2007**

	Appraised Value	Taxable Value
Land	26,400	4,224
Improvement	55,450	9,036
Total	81,850	13,260

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit	A79 Status	Net Total Tax	Total Tax Paid	Payment Status
2006	11,050	\$582.34	\$0.00	\$0.00	\$0.00			\$582.34	\$0.00	
2005	10,836	\$571.06	\$0.00	\$0.00	\$0.00			\$571.06	\$571.06	PAID
2004	9,933	\$515.13	\$0.00	\$0.00	\$0.00			\$515.13	\$515.13	PAID
2003	9,030	\$478.23	\$0.00	\$0.00	\$0.00			\$478.23	\$478.23	PAID
2002	8,844	\$459.53	\$0.00	\$0.00	\$0.00			\$459.53	\$459.53	PAID
2001	8,107	\$421.24	\$0.00	\$0.00	\$0.00			\$421.24	\$421.24	PAID
2000	7,370	\$386.93	\$0.00	\$0.00	\$0.00			\$386.93	\$386.93	PAID
1999	7,370	\$377.34	\$0.00	\$0.00	\$0.00			\$377.34	\$377.34	PAID
1998	7,370	\$378.08	\$0.00	\$0.00	\$0.00			\$378.08	\$378.08	PAID
1997	7,370	\$378.08	\$0.00	\$0.00	\$0.00			\$378.08	\$378.08	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2005	998035	8/23/2007	\$571.06	\$0.00	\$0.00	\$0.00	\$0.00	\$571.06
2004	998035	8/23/2007	\$515.13	\$0.00	\$0.00	\$0.00	\$0.00	\$515.13
2003	998035	8/23/2007	\$478.23	\$0.00	\$0.00	\$0.00	\$0.00	\$478.23
2002	998035	8/23/2007	\$459.53	\$0.00	\$0.00	\$0.00	\$0.00	\$459.53
2001	109398	10/24/2002	\$421.24	\$0.00	\$0.00	\$0.00	\$0.00	\$421.24
2000	14281	10/20/2001	\$386.93	\$0.00	\$0.00	\$0.00	\$0.00	\$386.93
1999	11382	10/2/2000	\$377.34	\$0.00	\$0.00	\$0.00	\$0.00	\$377.34
1998	8697	10/25/1999	\$378.08	\$0.00	\$0.00	\$0.00	\$0.00	\$378.08
1997	18491	10/17/1998	\$378.08	\$0.00	\$0.00	\$0.00	\$0.00	\$378.08

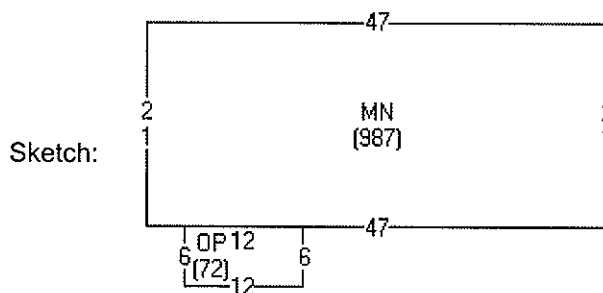
Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
6/12/2008	2008	19304	MAJOR, TIFFANY RONCHELLE		QC	0	
			LAJ 2008-19304 QC NO REV				
8/14/2007	2007	32069	TAYLOR, ROY LEE & SANDRA RUTH		RD	0	
			LMV 2007-32069 RD #238945				

Real Estate Parcel Information

1/1/1985 805 176 TAYLOR, ROY LEE & SANDRA RUTH WD 0 0.00
93-26292 RED DEED #89936 (7/1/93) (MC)

Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
1	SF	FS	987	987	1960	
	Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
	4	A	SIDING			47



Out Buildings and Yard Improvements			
Qty	Description	Size	Quality
1	Outbuilding,metal	6x6	

[Next Item](#) | [Previous Item](#) | [Ledger Card](#) | [Prev. Ledger Card](#) | [Return to Search Results](#) | [Modify Search](#) | [New Search](#)



Doc ID: 012322490002 Type: REL
Recorded: 06/12/2008 at 01:53:12 PM
Fee Amt: \$20.00 Page 1 of 2
Washington County, AR
Bette Stamps Circuit Clerk

File 2008-00019604

Above Space Reserved for Recording
[If required by your jurisdiction, list above the name & address of: 1) where to return this form; 2) preparer; 3) party requesting recording.]

Quitclaim Deed

Date of this Document: June 12 2008

Reference Number of Any Related Documents: 7165-12746-000

Grantor:

Name Roy Lee and Sandra Ruth Taylor
Street Address 2710 N Colette
City/State/Zip Fayetteville, Arkansas 72703

Grantee:

Name Tiffany Ronchelle Major
Street Address 2710 N Colette
City/State/Zip Fayetteville, Arkansas 72703

Abbreviated Legal Description (i.e., lot, block, plat or section, township, range, quarter/quarter or unit, building and condo name): Exhibit A

Assessor's Property Tax Parcel/Account Number(s): Exhibit A

THIS QUITCLAIM DEED, executed this 12 day of June, 2008, by first party, Grantor, Roy Lee and Sandra Ruth Taylor, whose mailing address is 2710 N Colette Fayetteville, AR 72703, second party, Grantee, Tiffany Ronchelle Major, whose mailing address is 2710 N Colette Fayetteville, AR 72703

WITNESSETH that the said first party, for good consideration and for the sum of One Dollars (\$ 1.00) paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim unto the said second party forever, all the right, title, interest and claim,

which the said first party has in and to the following described parcel of land, and improvements and appurtenances thereto in the County of _____, State of _____

Part of the Southwest quarter of the Northwest quarter of Section Fifteen in Township Sixteen North, of Range Thirty West, more particularly described as beginning at a point which is five feet North and two hundred forty five feet West of the Southwest corner of said forty acre tract, and running thence West seventy nine and seventy five hundredths feet, more or less, to the East line of Willow Avenue at a point five feet North and thirty five feet East of the Southwest corner of the Old McGarran tract; thence North along the East line of Willow Avenue one hundred ten and five tenths feet; thence East seventy nine and seventy five hundredths feet; thence South one hundred ten and five tenths feet, more or less, to the place of beginning.

sealed and delivered in the presence of:

Signature of Witness

Print Name of Witness

Keshia Fletcher
Keshia Fletcher

Signature of Witness

Print Name of Witness

Catherine Hagihara
Catherine Hagihara

Signature of Grantor

Print Name of Grantor

State of

County of

Arkansas
Washington

On July 12, 2008, before me, Nasha Mayo, appeared Sandra and Roth Taylor and Tiffany Major, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

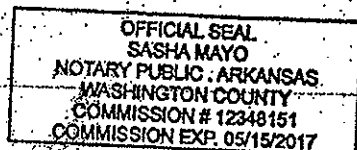
WITNESS my hand and official seal.

Signature of Notary

Affiant Known ☒ Produced ID

Type of ID AROL

(Seal)



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

B.3.
Raze and Removal
402 E. Center Street
Page 12 of 24

Budget Year 2008	Department: Operations Division: Community Resources Program: Code Compliance	Date Requested 8/4/2008	Adjustment Number
----------------------------	---	-----------------------------------	-------------------

Project or Item Added/Increased: \$4,945 in the Raze and Removal account	Project or Item Deleted/Reduced: None. \$4,945 from the General Fund Use of Fund Balance Account.
---	--

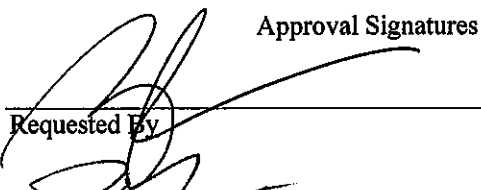
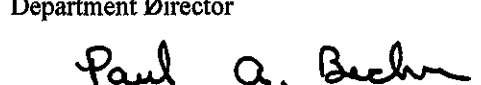
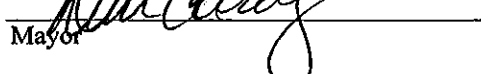
Justification of this Increase: Funding is needed for the Raze and Removal of a structure located at 402 East Center Street.	Justification of this Decrease: There is sufficient Fund Balance remaining to comply with 2008 obligations.
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number
Raze and Removals	1010	6420	5315	04	4,945	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Use of fund balance	1010	0001	4999	99	4,945	

Approval Signatures		Budget Office Use Only	
Requested By 	Date 8/5/08	Type: A B C <u>D</u> E	
Budget Manager 	Date 8-4-08	Posted to General Ledger	Initial _____ Date _____
Department Director 	Date 8-4-08	Posted to Project Accounting	Initial _____ Date _____
Finance & Internal Services Director 	Date 8-4-08	Entered in Category Log	Initial _____ Date _____
Mayor 	Date 8/6/08		

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

6/17/2008

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the unsafe structure located at 402 E. Center St.
(WC Parcel # 765-12746-000)

Cost of this request	\$ -	Category / Project Budget	Program Category / Project Name
1010.6420.5315.04			Raze and Removal
Account Number		Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Remaining Balance	General Fund
			Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

Date

5-28-08

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

6/2/08

Finance and Internal Service Director

Date

6-2-08

Received in City
Clerk's Office



Received in
Mayor's Office



Mayor

Date

6/3/08

Comments: Staff recommends the Raze and Removal of the structure and approval of the budget adjustment.

Revised April 16, 2007

Tabled Indefinitely 6/17/08

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, Community Resources Director

Date: August 1, 2008

Subject: Raze & Removal of structure on 402 E. Center Street.

BACKGROUND

Service Request # 48553, Case #5721: Code Compliance responded to a complaint concerning the structure located at 402 E. Center St. The structure appeared to be in violation of Subsection 173.08, Unsafe Building, of the City Code of Ordinances. The Building Safety Division Director inspected the property and determined that the structure was in violation of Subsection 173.08, Unsafe Buildings, of the City Code of Ordinances.

This item was tabled indefinitely during the June 17, 2008 City Council meeting due to a change in ownership. On June 12, 2008, the property owner filed a Quitclaim Deed with the Washington County Circuit Clerk, File# 2008-00019604. The property was deeded to Tiffany R. Major, the daughter of the previous property owners.

On June 13, 2008, an Unsafe Building Notice of Violation was hand delivered to the current property owner, Tiffany R. Major. By ordinance, the owner was given until **July 14, 2008** to acquire a building permit or to raze and remove the structure.

DISCUSSION

This parcel contains a 1,000 square foot, one story wood frame single family dwelling. The structure is secured, but has deteriorated to a point where it is no longer safe. There is not a current building permit on this structure.

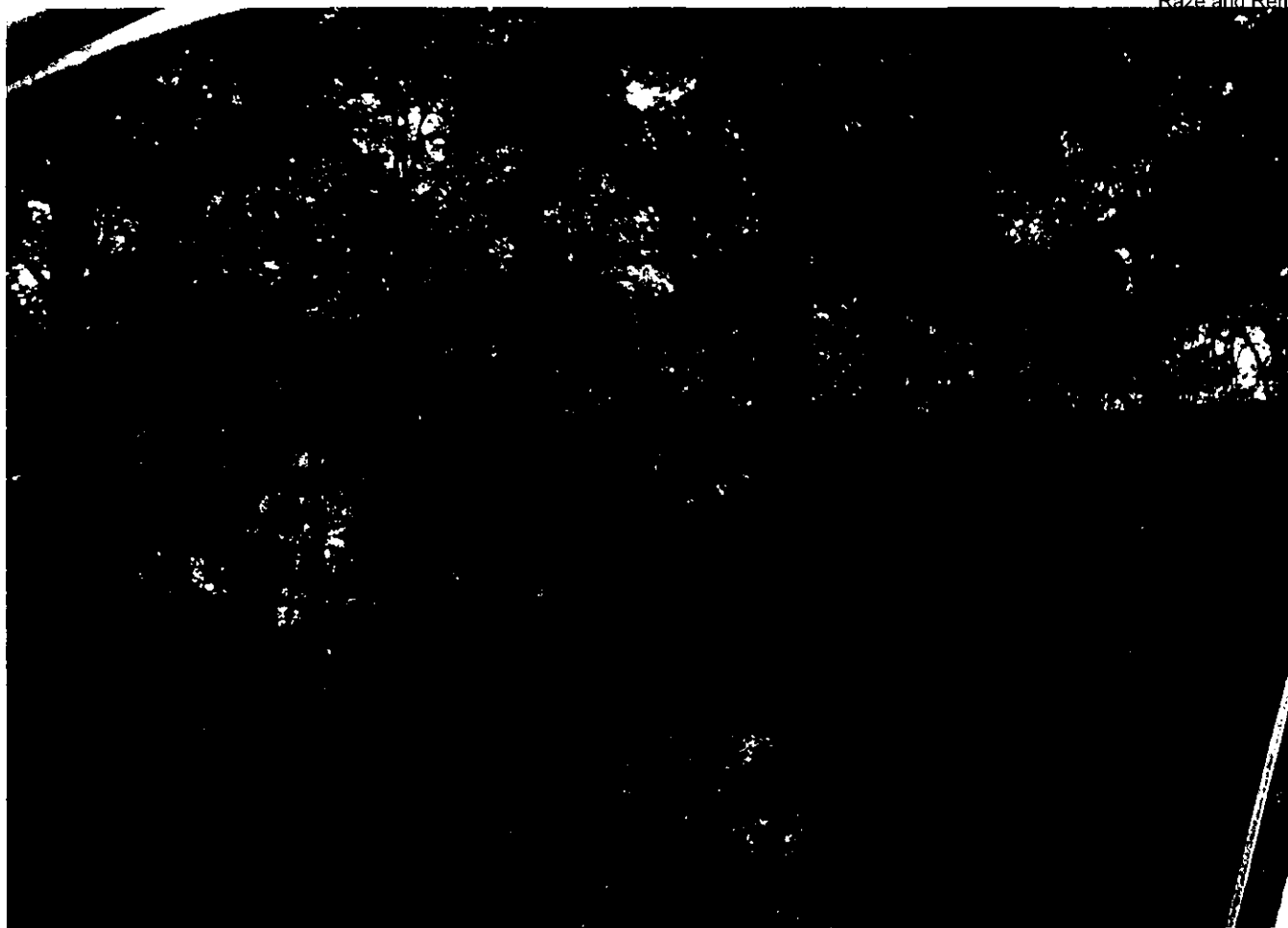
RECOMMENDATION

Staff recommends a resolution to order the raze and removal of the structure.

BUDGET IMPACT

Contracting the raze and removal of the structure would cost approximately \$4,945. An ad was placed in the newspaper on April 20 and April 27 for bids on the raze and removal of the structure. The lowest winning bid was from Burnett Commercial Contracting Inc., for \$4,945. A budget adjustment is needed to fund this project. The cost will be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.













City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



B.3.
Raze and Removal
402 E. Center Street
Page 22 of 24

Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

June 13, 2008

Owner TIFFANY R. MAJOR
2710 N. COLETTE

FAYETTEVILLE, AR 72703

RE: Property @ 402 CENTER

WC Parcel # 765-12746-000

Case # 5721

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at .

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

BRENT JOHNSON
Code Compliance Officer

Cc: file

CITY OF FAYETTEVILLE CODE COMPLIANCE PROGRAM

OFFICER DELIVERY FORM

Officer delivery is required for the attached document:

Notice: 173.08 Unsafe Building

Name and Address to Deliver:

Tiffany R. Major

2710 N. COLETTE
FAYETTEVILLE, AR 72703

Owner/Occupant's Signature: _____

Tiffany Major

Return of Service

I, Brent Johnson, of the Code Compliance
Program (Officer name - print)

certify that I provided a true copy of the document described above to:

TIFFANY MAJOR at the following address;
(name of recipient)

Delivery Date 6/13/09 Time 11:00 AM

Officer Signature *Brent Johnson*

N.B. 4
City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

D.4.
Center Street Drainage Contract
Added at Agenda Session 8/26/08

9/2/2008

City Council Meeting Date
Agenda Items Only

Ron Petrie
Submitted By

Engineering
Division

Operations
Department

ordinance

Action Required:

\$43,315.⁰⁰

Approval of a ~~resolution~~ awarding a lump sum contract with Sweetser Const., Inc. in the amount of ~~\$900,000.00~~ for the replacement of the existing drainage structure under Center Street including the complete repair of the street and appurtenances, approving a ~~10%~~ project contingency in the amount of ~~\$90,000.00~~, and approval of a bid waiver in order to accept contract price quotes. *\$5,000.00*

\$48,315.⁰⁰

Cost of this request

\$ 576,010.00

Category / Project Budget

Other Drainage Improvements

Program Category / Project Name

4470.9470.5817.00

Account Number

\$ 19,827.00

Funds Used to Date

Bridge & Drainage Improvements

Program / Project Category Name

02108

Project Number

\$ 556,183.00

Remaining Balance

Sales Tax Capital Improvement Fund

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature]
Department Director

8-26-08
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

8-26-08
Date

Original Contract Date:

Original Contract Number:

Paul A. Burch
Finance and Internal Service Director

8-26-08
Date

Received in City
Clerk's Office

8-26-08

ENTERED

[Signature]
Mayor

8/26/08
Date

Received in
Mayor's Office

ENTERED
8/26/08

Comments:

*See attached for Contract Amount
that was received on 8/28/08.*

City of Fayetteville Staff Review Form

D.4.
Center Street Drainage Contract
Page 2 of 10

**City Council Agenda Items
and
Contracts, Leases or Agreements**

9/2/2008

City Council Meeting Date
Agenda Items Only

Ron Petrie
Submitted By

Engineering
Division

Operations
Department

Ordinance

Action Required:

Approval of a ~~resolution~~ awarding a lump sum contract with Sweetser Construction, Inc. in the amount of \$43,315.00 for the replacement of the existing drainage structure under Center Street including the complete repair of the street and appurtenances, approving a project contingency in the amount of \$5,000.00, and approval of a bid waiver in order to accept contract price quotes.

\$48,315.00

Cost of this request

\$ 576,010.00

Category / Project Budget

Other Drainage Improvements

Program Category / Project Name

4470.9470.5817.00

Account Number

\$ 19,827.00

Funds Used to Date

Bridge & Drainage Improvements

Program / Project Category Name

02108

Project Number

\$ 556,183.00

Remaining Balance

Sales Tax Capital Improvement Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City
Clerk's Office

Finance and Internal Service Director

Date

Received in
Mayor's Office

Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Date: August 28th, 2008

Subject: Center Street Culvert Replacement

RECOMMENDATION:

Approval of a resolution awarding a lump sum contract with Sweetser Construction, Inc. in the amount of \$ 43,315.00 for a complete "turn-key" replacement of the existing drainage structure under Center Street including the complete repair of the street and appurtenances, approving a project contingency in the amount of \$ 5,000.00, and approval of a bid waiver in order to accept the lowest price quote.

BACKGROUND:

The City of Fayetteville has recently become aware of a large washout area under Center Street that could potentially compromise the integrity of the road surface causing failure. The street has been closed and will remain closed until the drainage structure has been replaced and the roadway reconstructed.

DISCUSSION:

Since this work needs to be initiated immediately, Engineering is requesting that the City Council approve a bid waiver to accept quotes from 3 local contractors equipped to accomplish this work in a timely manner. Contractor shall schedule his work to re-open the street as top priority within 2 weeks. All other work including the culvert tie-in not under the roadway shall be totally complete within 6 weeks from the first day of construction.

BUDGET IMPACT:

This project will be paid from funds available in Other Drainage Improvements, Bridge & Drainage Improvements within the Sales Tax Capital Improvement Fund.

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE COMPETITIVE BIDDING AND TO AWARD A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$43,315.00 PLUS A \$5,000.00 PROJECT CONTINGENCY TO SWEETSER CONSTRUCTION, INC. TO REPLACE THE EXISTING DRAINAGE STRUCTURE UNDER CENTER STREET AND COMPLETELY REPAIR THE STREET AND APPURTENANCES

WHEREAS, it was recently discovered that an old, stone arch supporting Center Street over a creek has partially fallen in endangering the street and traffic and requiring closure of the street; and

WHEREAS, the need for very prompt replacement of this drainage structure and repair of the vital road connection precludes the opportunity for normal competitive bidding.

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 determines and declares that an emergency situation has arisen because of the immediate need to repair and reopen Center Street such that normal competitive bidding is neither feasible nor practical. Therefore, the City Council hereby waives normal competitive bidding and approves the lowest qualified bid (submitted under an abbreviated bidding process) by Sweetser Construction, Inc. in the amount of \$43,315.00, plus a contingency of \$5,000.00.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

Contractor Quote for Repair of Center Street Drainage Structure

The City of Fayetteville has recently become aware of washout areas under Center Street that could potentially compromise the integrity of the road surface causing failure. The street has been closed and will remain closed until the drainage structure has been replaced and the roadway reconstructed.

The Contractor's signature below indicates that he has made a field inspection of the existing failure with the City Engineer and has fully assessed the amount of labor, equipment, and materials required to provide a complete "turn key" repair for the lump sum dollar value submitted below.

Contractor shall schedule his work to re-open the street as top priority within 2 weeks. All other work including the culvert tie-in not under the roadway shall be totally complete within 6 weeks from the first day of construction.

The following is a brief list of work items anticipated to complete this project:

- Remove and dispose (R&D) pavement, curb & gutter, sidewalk, sanitary manhole, drop inlet, natural stone culvert, concrete slab, tree, etc. Temporarily remove and then reinstall a private chain link fence and metal posts.
- Excavate & install new 10'x10' precast box culvert over gravel bedding (remove shale rock, if necessary to fit box). Precast box shall be cut to provide opening for new drop inlet.
- Cast-in-place concrete transitions with reinforcing steel (min. #5 bars @ 12" o.c. each way) to connect precast box to existing concrete culverts on each end (drill and epoxy rebar).
- All fill material under roadway shall be compacted Class 7 base, and then 6" of 4000 psi concrete pavement with 2" of asphalt surfacing. Existing excavated dirt can be used as fill outside of roadway.
- Install new concrete curb & gutter, concrete sidewalk, drop inlet, topsoil, seed and mulch
- Work around, support or relocate existing utilities. Any City water or sewer conflicts will be resolved by City forces.
- All work shall meet City of Fayetteville Standard Specifications.
- Contractor shall be responsible for all standard construction safety, e.g. excavations as required by 29 CFR 1926 Subpart P, Occupational Safety and Health Standards.

This list is by no means all inclusive. Contractor understands that this work is being accomplished under an emergency situation. Contractor shall provide all items needed to complete the work and return the roadway and surrounding site to its pre-existing condition.

Lump Sum Price \$ 43,315.00 Forty Three Thousand, Three Hundred Fifteen dollars
Sweetser Construction, Inc.
William G. Sweetser
Printed Name _____ Signature _____
President _____ (479) 443-3026 8/28/08
Title _____ Phone Number _____ Date _____

ARKANSAS CONTRACTOR LICENSE # 0027470409
SWEETSER CONSTRUCTION, INC.
590 W. POPLAR
FAYETTEVILLE, AR 72703

City Of Fayetteville

City Of Fayetteville										Requisition No.:	Date:
Vendor #: 56870										Vendor Name:	8/28/2008
Address: 590 West Poplar St.										Company:	Expected Delivery Date:
City: Fayetteville										State:	ASAP
Requester: Paul Libertini										Requester's Employee #:	
Zip Code: 72703										Ship to code:	
Account Numbers										Project/Subproject #	
Extended Cost										Inventory #	
Unit Cost										Fixed Asset #	
Unit of Issue											
Quantity											
1											
Center Street Culvert Replacement											
2											
3											
4											
5											
6											
7											
8											
9											
10											
Shipping/Handling											
Special Instructions:											
Return PO to Engineering											
Subtotal:										\$43,315.00	
Tax:										\$0.00	
Total:										\$43,315.00	
Approvals:											
Mayor:											
Finance & Internal Services Director:											
Dispatch Manager:											
Department Director:											
Budget Manager:											
Utilities Manager:											
Purchasing Manager:											
IT Manager:											
Other:											

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations *GD*

From: Ron Petrie, City Engineer *RSP*

Date: August 26th, 2008

Subject: Center Street Culvert Replacement

RECOMMENDATION:

Approval of a resolution awarding a lump sum contract with _____, Inc. in the amount of \$_____ for a complete "turn-key" replacement of the existing drainage structure under Center Street including the complete repair of the street and appurtenances, approving a 10% project contingency in the amount of \$_____, and approval of a bid waiver in order to accept the lowest price quote.

BACKGROUND:

The City of Fayetteville has recently become aware of a large washout area under Center Street that could potentially compromise the integrity of the road surface causing failure. The street has been closed and will remain closed until the drainage structure has been replaced and the roadway reconstructed.

DISCUSSION:

Since this work needs to be initiated immediately, Engineering is requesting that the City Council approve a bid waiver to accept quotes from 3 local contractors equipped to accomplish this work in a timely manner. Contractor shall schedule his work to re-open the street as top priority within 2 weeks. All other work including the culvert tie-in not under the roadway shall be totally complete within 6 weeks from the first day of construction.

BUDGET IMPACT:

This project will be paid from funds available in Other Drainage Improvements, Bridge & Drainage Improvements within the Sales Tax Capital Improvement Fund.

Contractor Quote
for
Repair of Center Street Drainage Structure

The City of Fayetteville has recently become aware of washout areas under Center Street that could potentially compromise the integrity of the road surface causing failure. The street has been closed and will remain closed until the drainage structure has been replaced and the roadway reconstructed.

The Contractor's signature below indicates that he has made a field inspection of the existing failure with the City Engineer and has fully assessed the amount of labor, equipment, and materials required to provide a complete "turn key" repair for the lump sum dollar value submitted below.

Contractor shall schedule his work to re-open the street as top priority within 2 weeks. All other work including the culvert tie-in not under the roadway shall be totally complete within 6 weeks from the first day of construction.

The following is a brief list of work items anticipated to complete this project:

- Remove and dispose (R&D) pavement, curb & gutter, sidewalk, sanitary manhole, drop inlet, natural stone culvert, concrete slab, tree, etc. Temporarily remove and then reinstall a private chain link fence and metal posts.
- Excavate & install new 10'x10' precast box culvert over gravel bedding (remove shale rock, if necessary to fit box). Precast box shall be cut to provide opening for new drop inlet.
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- Install new concrete curb & gutter, concrete sidewalk, drop inlet, topsoil, seed and mulch
- Work around, support or relocate existing utilities. Any City water or sewer conflicts will be resolved by City forces.
- All work shall meet City of Fayetteville Standard Specifications.
- Contractor shall be responsible for all standard construction safety, e.g. excavations as required by 29 CFR 1926 Subpart P, Occupational Safety and Health Standards.

This list is by no means all inclusive. Contractor understands that this work is being accomplished under an emergency situation. Contractor shall provide all items needed to complete the work and return the roadway and surrounding site to its pre-existing condition.

Lump Sum Price \$ _____

Printed Name

Signature

Title

Phone Number

Date



APPROX. LOCATION
OF STRUCTURE
FAILURE

STRUCTURE FAILURE
TANGLEWOOD CREEK
AT CENTER STREET
AUG. 8, 2008

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

9/2/2008

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Action Required: Signature of Mayor. Approval of a consultant contract with Per-Erik Persson to recruit companies from Sweden to locate in Fayetteville.

\$ 13,125.00

Cost of this request

\$ 48,835.00

EcoDev Matches

Program Category / Project Name

4470.9470.5315.00

Account Number

\$ -

Funds Used to Date

EcoDev Matches

Program / Project Category Name

02050

Project Number

\$ 48,835.00

Remaining Balance

Sales Tax Cap Improv

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

Received in City Clerk's Office

8-19-08 [Signature]

Received in Mayor's Office

Mayor

Date

Comments:

City Council Meeting of: September 2, 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: August 19, 2008

SUBJECT: Approval of contract between the City of Fayetteville, the FEDC and Per Eric, Swedish Consultant, for potential green companies from Sweden interested in locating in the Fayetteville area.

RECOMMENDATION: Approve contract between the City of Fayetteville, the FEDC, and Per Eric for services to locate Swedish companies in Fayetteville in the amount not to exceed \$13,125.00 for the three month period.

BACKGROUND: FEDC and the Fayetteville Chamber of Commerce entered into the contract for the period of May thru August with the month of July excluded at the request of the contractor. The purpose of the contract was to invite companies that might be interested in locating in Fayetteville for a visit. Several companies have visited Fayetteville and many are considering locating here. One company has announced their intentions to locate in Fayetteville, a building materials recycling company. This contract is the second phase of the project and the FEDC and the City will share the cost 50/50 not to exceed \$13,125.00 each.

BUDGET IMPACT: Funds are available in the Economic Development Matches Project Budget.

Attachments: Staff Review Form
Contract

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH PER-ERIK PERSSON, AN AGENT FOR THE SWEDISH-AMERICAN BUSINESS SOUTH CENTRAL, LLC, IN AN AMOUNT NOT TO EXCEED \$13,125.00 TO RECRUIT SWEDISH COMPANIES TO LOCATE IN THE CITY OF FAYETTEVILLE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contract with Per-Erik Persson, an agent for the Swedish-American Business South Central, LLC, in an amount not to exceed \$13,125.00 to recruit Swedish companies to locate in the City of Fayetteville. A copy of the contract, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

**City of Fayetteville and
Fayetteville Economic Development Council**

CONSULTING SERVICES AGREEMENT

This Agreement is made this _____ day of _____, 2008 by **Per-Erik Persson**, representing the **Swedish American Business Center South Central, LLC**, with its principal place of business at P.O. Box 248, Madison, Mississippi 39130, and between the City of Fayetteville located at 113 W. Mountain, Fayetteville, Arkansas 72701, the Fayetteville Economic Development Council (FEDC) located at 21 W. Mountain, Suite 301, Fayetteville, Arkansas, 72701.

WHEREAS, Per-Erik Persson is engaged in consulting services for Swedish based companies and inventors seeking business opportunities and partners in the United States and to find business opportunities for U.S. businesses in Sweden.

And WHEREAS, Per-Erik Persson desires to furnish such services to the City of Fayetteville, and FEDC.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement and other good and valuable consideration, Per-Erik Persson, the City of Fayetteville and FEDC agree as follows:

1. Term: This Agreement shall be for a term of three (3) months beginning on September 8, 2008 until terminated by either party with 30 days prior notice.
2. Services to be Provided: During the terms of this Agreement, Per-Erik Persson shall provide consulting services as set forth in Exhibit A to this Agreement, as may be revised by mutual written agreement from time to time.
3. Fees and Expenses: The City of Fayetteville and FEDC agree the consulting fee shall be paid upon invoice as follows:

September 8 (for Sep 8 – Oct 7):	\$6,250
October 8 (for Oct 8 – Nov 7):	\$6,250
November 8 (for Nov 8 - Dec 7):	\$6,250

Consultation Services furnished for the three month period will be billed at the rate of \$18,750. Split 50/50, FEDC and The City of Fayetteville will each pay \$9,375. Per-Erik Persson shall track, log and report his hours and the resultant fee with its monthly invoice. Expenses directly related to this Agreement will be documented separately and paid in two installments - \$4,000 up front and the remainder as required substantiated by invoice; for a maximum of \$7,500 for the three month period, split 50/50 between FEDC and The City of Fayetteville. The City of Fayetteville and FEDC shall pay no more than \$13,125 each for this three month contract.

4. Independent Contractor: In carrying out his responsibilities under this Agreement, Per-Erik Persson shall at all times be an independent contractor. Nothing contained in this Agreement shall be construed to create an employer-employee relationship, a

partnership or joint venture between The City of Fayetteville, FEDC, and Per-Erik Persson.

5. Notice: Any notice required to be given under this Agreement to either party to the other shall be sufficient if addressed and mailed, certified mail, postage paid, delivery, fax (receipt confirmed), or overnight courier.
6. Applicable Law: This Agreement shall be governed by and construed in accord with the laws of the State of Arkansas.
7. Entire Agreement: This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Neither party shall be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein.
8. Amendment and Waiver: No modification of this Agreement shall be binding unless made in writing and executed by both parties. No waiver by either party or any breach or obligation of the other party under this Agreement shall constitute a waiver of any other prior or subsequent breach or obligation.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Swedish American Business Center South Central, LLC

By: _____
Per-Erik Persson

Date: _____

The City of Fayetteville, Arkansas

By: _____
Dan Coody, Mayor

Date: _____

EXHIBIT A

Scope of Consulting Services

At a minimum, the following companies will be invited to and may visit Fayetteville, Arkansas prior to December 5, 2008:

Ageratec and SplitVision develops and markets products and systems in the field of energy and the environment

Sweden Water supplies businesses and organizations throughout Sweden with water coolers trademarked Sweden Water

Stora Enso Swedish/ Finland company that integrated paper, packaging and forest products producing newsprint, magazine paper, fine paper, consumer board, industrial packaging and wood products.

Hellefors Bryggeri produces cider and soft drinks

Ageratec Manufactures processors producing biodiesel from seed, waste (oil and vegetables)

Ecoil Biofuel technology.

Hotab Gruppen Combustion plants for solid biofuels.

Lignoboost Lignin into biofuel technology.

Neova Biofuel plant technology.

REAC Fuel High efficiency biofuel technology.

Scandinavian Biogas Fuel Biogas production method.

Sekab Bioethanol, cellulosic ethanol.

Swedish Biofuels Biofuels.

Swedish Biogas International Build and operate bio-methane plants.

Äfab Bioenergy consultant.

At the end of the contract period it is anticipated that some companies would be willing to sign a "letter of intent" to move to Fayetteville.

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
September 2, 2008**

A meeting of the Fayetteville City Council was held on September 2, 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, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Cook

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Karen Minkel announced the Fayette Junction Kick-off and gave the dates and times of the event.

Mayor Coody welcomed the Spring International Group to Fayetteville and asked them to stand and be recognized.

Presentations, Reports and Discussion Items:

Agenda Additions:

Consent:

Approval of the August 19, 2008 City Council meeting minutes.

Approved

Bid # 08-54 Hill Electric, Inc: A resolution awarding Bid # 08-54 and approving a contract with Hill Electric, Inc. in the amount of \$139,875.00 for the installation of street lighting along College Avenue from Rock Street to Maple Street; and approving a 10% project contingency in the amount of \$13,988.00.

Resolution 163-08 as Recorded in the office of the City Clerk

2008-2009 Justice Assistance Grant: A resolution accepting 2008-2009 Justice Assistance Grant (JAG) for federal and state funding in the amount of \$164,306.00 and \$32,818.00 respectively, for the primary funding source of the 4th Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$46,560.00.

Resolution 164-08 as Recorded in the office of the City Clerk

State and Federal Forfeiture: A resolution approving a budget adjustment to recognize Federal Forfeiture Revenue in the amount of \$59,133.00, and State Forfeiture Revenue in the amount of \$21,237.00 for Police Department use only.

Resolution 165-08 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 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Cook** was absent.

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals: None

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 left on the Second Reading and was tabled indefinitely at the October 2, 2007 City Council meeting. This ordinance was left on the Second Reading and tabled to the September 2, 2008 City Council meeting at the July 1, 2008 City Council meeting.*

City Attorney Kit Williams: Mayor I think there was a request that this be tabled.

Mayor Coody: That's right.

Alderman Ferrell moved to table the ordinance indefinitely. **Alderman Gray** seconded the motion.

City Attorney Kit Williams: Was the motion to table indefinitely?

Alderman Gray: I believe so.

Upon roll call the motion passed 7-0. **Alderman Cook** was absent.

This ordinance was tabled indefinitely

Raze and Removal at 402 E. Center Street: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Tiffany R. Major located at 402 E. Center Street in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$4,945.00. *This resolution was tabled at the August 19, 2008 City Council meeting to the September 2, 2008 City Council meeting.*

City Attorney Kit Williams: We already had one public hearing but this is a continuation of the public hearing.

Yolanda Fields, Community Resources Director distributed pictures of the property and read the findings of the Building Official.

Aubrey Shepherd, a citizen asked if this could be removed without removing the trees on the lot. He also questioned if this should be done without being absolutely certain that the property owner can't sell it. I don't know the simple solution but I know this needs to be looked at very carefully.

Alderman Rhoads: Aubrey, have you taken all these comments to Code Enforcement?

Aubrey Shepherd: No, I just did it the other day and I have not had time to put the photos online. Code Enforcement is following their rules and regulations.

Alderman Rhoads: If you have issues with trees being destroyed and the way it's going to be taken down why not take it to Code Enforcement first and see if they can answer your questions before you come here.

Aubrey Shepherd: I have mentioned it in that context before with some of the folks that do that kind of thing. It comes down to the situation of whether a minor adjustment in the Code Enforcement rules might be needed to get one more step done or the individual members of the Council might want to look at it.

Alderman Thiel: I would like Yolanda to respond. This has been around for some time.

Yolanda Fields: We contacted the owner in April. So we have been communicating with them and advising them that they had the option of getting a permit to correct the issues. In June ownership was transferred within the family so we had to start the process anew. We have not received any communication that they're looking into restoring it. Upon approval of raze and removal we are still looking at 60 days out before we would do anything. We have not had any response from the owners.

Mayor Coody: If we spend \$4,900 tearing down the house there would be a lien put on the property to where if they ever sold it we would be reimbursed but there is no money out of pocket.

Yolanda Fields: What I have discovered in many situations the property becomes more valuable once the dilapidated structure is removed. We work with the property owners if they are wanting to do that.

Alderman Rhoads: I would rather have an occasional disappointed property owner than a child killed or injured because we have let a dilapidated building go on.

Alderman Rhoads: What is the majority of cases where a raze and removal order is issued that someone takes action before it's actually razed and removed?

Yolanda Fields: We have taken care of at least 70 and we have had three move forward. So owners have moved on their own to bring those locations down once they realize there is an issue with safety.

Alderman Allen: It is a place where kids gravitate to play making the neighborhood generally unsafe.

Yolanda Fields: The locations are vacant and have been for years.

Alderman Allen: I trust that you have taken every possible step to avoid coming to this place but once we are here I think it's our responsibility.

Yolanda Fields: We have worked with this location since April.

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

Resolution 166-08 as Recorded in the office of the City Clerk

ANX 08-3036 (Fayetteville Farmington Land Swap): An ordinance simultaneously detaching territory from the City of Farmington and annexing said territory into the City of Fayetteville, pursuant to A.C.A §14-40-2101. *This ordinance was left on the Second Reading at the August 19, 2008 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Karen Minkel, Director of Long Range Planning gave a brief description of the item and stated the City Council in Farmington will have their third and final reading on September 8th.

Alderman Thiel: Is it Rausch Coleman?

Karen Minkel: Yes.

Alderman Thiel: I think they are doing such a fantastic job out there and I am really pleased to have them in our city.

Alderman Allen: I agree.

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

Ordinance 5172 as Recorded in the office of the City Clerk

Public Hearing:

Mayor Coody opened the Public Hearing

Epperly Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel and Reba Epperly.

David Jurgens, Water and Wastewater Director gave a brief description of the condemnation. He stated that this and the condemnations to follow were all for WSIP Sewer Line EL-3 which runs from Razorback Road to Happy Hollow Road parallel and south to 15th Street. Of the 160 some odd easements that we have acquired for the WSIP, these are the last three that we have to bring forward. We need to process these to ensure that we don't delay a contract or incur more expenses due to difficulties in obtaining the easements.

Alderman Lucas: A temporary easement?

David Jurgens: Yes Ma'am, temporary easement parallel to the existing easements.

Alderman Thiel clarified what parcel David was referring to.

David Jurgens clarified which parcel it was and gave a description of where the easement would run. He also gave a description of the efforts they would use to create a smooth process.

Alderman Thiel: We are giving how much for that?

David Jurgens: What we offered was approximately \$1,000. He counter offered \$20,000 and that was more of a difference than I could justify. His counteroffer did include a clause for relocation of the trailers and I think that is fairly reasonable.

Alderman Thiel: You will move them and relocate them back?

David Jurgens: Yes or leave them on other empty trailer locations that are within that lot one or two slots away.

Alderman Thiel: How long is this going to be vacated?

David Jurgens: The construction through that area will not take very long because we are replacing the existing pipe so they would go through and we would require a contractor to lay the pipe and then clean the area very quickly. It would probably be less than a couple of weeks.

Alderman Thiel: Oh, so he wouldn't lose more than a months rent.

David Jurgens: He shouldn't even do that because the trailers will still be habitable on a different slot.

Alderman Thiel: You can't just move those trailers and all the utilities like that can you?

David Jurgens: They have utility hook ups at each location. So having enough notice it would be feasible to do that.

Alderman Thiel reconfirmed that they would be moving the trailers for them.

David Jurgens: We would be reimbursing him for the cost of moving.

Alderman Thiel: Is that clear in here that that would happen?

David Jurgens: It was included in the counteroffer and it was included in the discussion that we had.

Alderman Thiel: That is in addition to the \$1,000?

David Jurgens: Yes, Ma'am.

Alderman Allen reconfirmed where they would be moved to. She asked so no one would be left without a place to be.

David Jurgens: That is correct.

Alderman Jordan: I want to be sure that if we move a trailer that someone is not going to be without a house. We need to have them a place to stay if anything goes wrong don't you think?

David Jurgens: That was part of the discussion with Mr. Epperly.

Mayor Coody: We are always very fair.

Alderman Rhoads: We offered \$1,000 and he came back with \$20,600. Has there been a response to that besides this letter? Would it not make any sense to sweeten the pot?

David Jurgens: We did increase our offer and then we went and talked to him and he rescinded his offer entirely.

Alderman Rhoads: What was the first offer?

David Jurgens: \$1,000 plus. Then we counter offered with the second one where we raised our value some what. The original offer was based off the cost of the land alone. Then he sent back a counteroffer for certain expenses there were some of those and we told him that we want to be fair with him in the process.

Alderman Rhoads: I just don't see where we made a counter offer.

David Jurgens: That may have been in one of the verbal discussions because he asked us to come and show him exactly where the line would be.

Alderman Rhoads: How much was it?

David Jurgens: We went up to \$2,000 which is what his neighbor and we agreed to onsite. I wasn't the one actually doing the conversations with him so I don't remember the dollar amount that was discussed onsite.

Mayor Coody: So around between \$1,000 and \$2,000 plus expenses.

David Jurgens: It would have probably been around \$5,000 or \$6,000 range that would have been discussed.

Alderman Lucas: That including the cost of doing everything?

David Jurgens: Yes and the cost of moving the trailers are based off his numbers, not ours.

Alderman Thiel: The letter in here that is in our packet refers to the letter from Mr. Epperly to David. It refers to three mobile homes and they basically are basing this amount on moving those at \$3,500 each but the City is going to move them.

David Jurgens: We are going to pay him to move them.

Alderman Thiel: It sounds like what he is asking for in this total figure.

David Jurgens: Some of what he was wanting done we did not feel was necessary to obtaining the easement. He was wanting more things than what were needed in order to execute the work. His total listing of items are on page nine.

He went on to give a description of those items.

Alderman Lucas: So the trailers were put on the easement to begin with?

David Jurgens: Two of the trailers encroach on an easement by very small amounts but they do encroach in the area where the existing sewer line is. There are two other trailers that didn't even enter the discussion that are very much encroaching on an easement that we obtained in the 1950's. Those are a separate issue but all on the same trailer park property. Where the trailers encroach on the easement for the existing utility lines is a very minor encroachment.

Alderman Lucas: It's just that you needed more space for the deep line.

David Jurgens: In order to protect the trailers from the construction for the deeper line.

Alderman Ferrell: You are talking about paying for the relocation of all the utilities.

David Jurgens: Whatever expenses he would incur in order to move the trailers out of the way of where we are doing construction.

Alderman Ferrell: Was there an agreement established on the approximate cost of relocating the trailers?

David Jurgens: All that we had was his counteroffer to us which he then rescinded a couple of months ago.

Alderman Gray: So the \$20,000 included the \$3,500 to relocate is that correct?

Alderman Rhoads: I believe it includes \$9,500.

Alderman Gray: So what you are saying is some of the things he has listed here you don't think are appropriate so you would deduct that and pay the \$1,000 plus the expenses.

David Jurgens: Yes Ma'am.

Alderman Allen: Do we know why Mr. Epperly is not here this evening?

David Jurgens: No Ma'am. We did send a letter stating it would be coming forward to the City Council. I am still hoping that we can resolve this between us.

Mayor Coody: So if the Council decides not to go through with this it still gives you time to negotiate with him without having to go to court right?

David Jurgens: Either way with a contract being awarded in two weeks, by the time we get started with the actual construction it is probably going to be mid October. So we still have six to eight weeks before the contractor will be getting to this point before we will need to have this taken forward for any kind of action. We still have ample time to continue to negotiate.

Alderman Ferrell: David do you know why his #1 condition is we must be treated fairly and with respect. Have there been any problems in the past with this project?

David Jurgens: There is a lot of history on some of these southern lines. Some of the neighbors remember when the line was installed 40 years ago and have bad memories from that. We have done our best to try to overcome those

Mayor Coody: Did you say 40 years ago?

David Jurgens: On the line going to the plant of EL-1 and EL-2 some of those neighbors remember things very well from that. Also Mr. Epperly did not like the fact that we stated his trailers were on our easement. He stated they were approved by Planning as being on our easement and so he took offense to that.

Alderman Allen: I would feel better if we delayed this and made a bit more effort to see if we could make it a more comfortable situation with Mr. Epperly.

David Jurgens: We will continue to do that and I would request we go with two meetings and hopefully he will have another counteroffer prepared and he will send it to us. Then we can proceed from there.

Alderman Thiel: As long as the agreement is to reimburse expenses plus \$1,000, it doesn't really look like he has asked any more for the temporary easement. He is asking \$2,000 instead of \$1,000.

David Jurgens: There were just some things that I did not feel it was appropriate for me to approve.

Alderman Thiel: You don't see us tabling this as a real issue?

David Jurgens: If we table this to the first meeting in October I would be fine with that.

Alderman Lucas: Is it going to slow the process down though, that is what worries me.

David Jurgens: No ma'am. We would continue the negotiation until such point that we can't do it. We would then pass it to the City Attorney's office if he gets an attorney involved. We would try to do it ourselves if we can't. Postponing to the first meeting in October at that point

there is no way they could've started construction and they will start at the downstream end. Postponing one month would not cause a delay to the project.

City Attorney Kit Williams: It does take a little bit of time to prepare the complaint for condemnation to file it, serve the other side and then give them time to respond before you can get the order of possession you don't have to go all the way through trial. The last time you had a bunch of these kinds of condemnations for sewer lines I think there were seven of them that you all approved. We actually settled everyone but two without having to file suit and eventually we settled even those two before trial. So just because you would be approving condemnation actions doesn't mean that we would immediately jump through and say let's have a trial. You can't pass it on October 2nd and assume that we are going to be able to get possession of land by October 15th or October 20th. My office would need at least 30 days before we could assure you that we would have an order of possession that would allow our contractor to go onto the land.

Alderman Allen moved to table the resolution to the October 7, 2008 City Council meeting. Alderman Rhoads seconded the meeting. Upon roll call the motion passed 5-2. Alderman Lucas and Thiel voting no. Alderman Cook was absent.

This resolution was tabled to the October 7, 2008 City Council meeting.

Parker Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Herbert G. Parker, being an heir at law of Otis J. Parker, deceased.

David Jurgens: This is one where the owner that we would have been contacting is now deceased and we can't find anyone to contact relating to the easement. The Land Agents went through the courthouse and tried to get ownership of record and find out who to reach. We never received any responses back. It's a temporary construction easement where the existing line is located.

City Attorney Kit Williams: Let me say on this that if we have difficulty finding the owner we might have to have the court appoint an attorney to try to serve and find the owner and report back to the court whether or not they can find the owner. All that is going to take time as well as additional expenses. On this one if they are having trouble finding the owner I surely would ask that you not delay this one because it is going to be a much more difficult process to undertake.

Alderman Thiel moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 6-0. Alderman Jordan was absent during the vote. Alderman Cook was absent.

Resolution 167-08 as Recorded in the office of the City Clerk

Littlefield Investment Company Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Littlefield Investment Company.

David Jurgens: This is a permanent easement. Mr. Littlefield has promised to send the easement and we have received nothing.

David went on to clarify the location of the easement for Alderman Thiel.

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

Resolution 168-08 as Recorded in the office of the City Clerk

Mayor Coody closed the Public Hearing

New Business:

Amend Chapter 33, Departments, Boards, Commissions and Authorities: An ordinance to amend the Code of Fayetteville to establish the procedures for the use of funds budgeted for the in-house street overlay projects.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: At the Agenda Session there was a problem brought up by staff and the City Council asked me to respond about the timing of this that it would be done in January as opposed to October. I did work on that and presented to you all on August 27th the revised Subsection 33.302 which took out the November date and said for the first meeting in January. If that is still your desire I think you all received that copy and it is up to you whether you want to amend what I just read or not.

Mayor Coody: At the Agenda Session we pretty much agreed to change the date to the first meeting in January.

Alderman Thiel confirmed what the amendment was.

City Attorney Kit Williams: Subsection C had to have some other changes. He went on to read Subsection C as now proposed.

Alderman Ferrell confirmed that only two sections were amended.

City Attorney Kit Williams: I did not change Subsection 4.

Alderman Ferrell moved to amend the ordinance. Alderman Jordan seconded the motion. Upon roll call the motion to amend passed 7-0. Alderman Cook was absent.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel clarified what the amended ordinance meant.

Alderman Ferrell also clarified the ordinance.

Terry Gulley, Transportation Manager: I don't see in general there being any additional problems for us because we have done this ever since I have been there in the last five years. The only issue I see is when we do a name street project and we may turn the corner and find we have created another issue that we need to take care of at that time. My only concern would be how much lee way we have there. Can it be specifically addressed so I know what my limitations are?

Mayor Coody: The understanding we had from the last meeting was that any ancillary work that we done while you are onsite you can take care of that while you are onsite.

Alderman Ferrell: I am talking about a complete block or something. If you come onto something emergency there is no intent to tie the hands up of the Transportation crew. It excludes repair stuff that comes from other budgets.

Terry Gulley: In the past we listed only streets that were actually receiving an asphalt overlay.

He went on to list past repairs that have been conducted.

Mayor Coody: Have there been histories of adding things to the list without Street Committee approval?

Terry Gulley: No usually it's a history of we can't get everything done due to other issues. He gave an example of how asphalt prices are up between 50%-60% this year.

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

Ordinance 5173 as Recorded in the office of the City Clerk

Amend Chapter 174, Signs: An ordinance to amend section 174.03 (H) Non-Commercial Signs of the Unified Development Code to allow property owners to post a small political sign for each candidate up to sixty days before an election.

City Attorney Kit Williams read the ordinance.

Alderman Gray: I just feel that we should be allowed to have as many signs as we want to in our yards, especially in an election year like this year.

Alderman Lucas: I know there is a big push this year with it being General Election year. People want to support their issues but I am concerned with an unlimited number. This fall we have so many visitors and I hate for them to come and see a cluttered city. I wanted to make an amendment to three small signs and a big sign.

City Attorney Kit Williams read the ordinance including the emergency clause that was left out when he read the ordinance for the first time.

Alderman Ferrell: I am concerned about the cluttering but I feel the constitution trumps this and my ideas are more along the other way.

Alderman Thiel: The issue I have with this is it says post two additional political signs. Additional to what? Shouldn't that be the total, this is a new ordinance.

City Attorney Kit Williams: No because under the earlier subsection above that it talked about every citizen in zones that do not allow signs are allowed to have a non-commercial sign posted all the time. Because we cannot favor commercial speech over political speech people are allowed to put up a for sale sign.

Alderman Thiel: I just asked one question Kit.

City Attorney Kit Williams: We have in another subsection over large signs that at 60 days before the election each property owner is allowed to post one large election sign. That is two signs and this subsection would add two more.

Alderman Thiel: I understood that you were making a motion to have three total signs and that is not what this reads.

City Attorney Kit Williams: That is because one of the signs is already authorized all the time. She is recommending two additional signs to that meaning three small signs plus 60 days before the election you can have one large sign. So a total of four signs would be authorized by proposal by Alderman Lucas.

Alderman Allen: I wondered if Alderman Ferrell would share his thoughts when you refer to the constitutionality.

Alderman Ferrell: I understand what Shirley is talking about but I also think we should be able to at least have one sign for everybody running. I would offer an amendment that we make it 90 days; 30 days for small signs and 60 days before the election for the big sign.

Alderman Allen: I can't fathom that there would be very many people that would put 150 signs in their yard. It seems unlikely.

Alderman Lucas referred to a certain location that had several signs.

City Attorney Kit Williams clarified the ordinance and the difference between residential and commercial zonings.

A discussion followed.

Alderman Allen: I was wondering with how many political signs a business would be able to have with this ordinance that she is bringing forward.

City Attorney Kit Williams: It is all districts which means every district we have could have a small political sign for every candidate or issue that they are supporting and at least one big one. In commercial if you have more than 100 feet of frontage you are allowed more.

Alderman Lucas moved to amend the ordinance to allow three small and one large campaign sign. **Alderman Thiel** seconded the motion. Upon roll call the motion to amend failed 3-4. **Alderman Lucas, Jordan and Thiel** voting yes. **Alderman Allen, Rhoads, Ferrell, and Gray** voting no. **Alderman Cook** was absent.

This amendment failed.

Alderman Thiel moved to amend the ordinance to add an emergency clause to the ordinance. **Alderman Gray** seconded the motion.

Alderman Ferrell clarified the amendment.

Upon roll call the motion passed 7-0. **Alderman Cook** was absent.

Alderman Thiel moved to suspend the rules and go to the second reading. **Alderman Gray** seconded the motion. Upon roll call the motion passed 6-1. **Alderman Lucas** voting no. **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 Gray** 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 6-1. Alderman Lucas voting no. Alderman Cook was absent.

Alderman Jordan moved to approve an Emergency Clause. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

Ordinance 5174 as Recorded in the office of the City Clerk with Emergency Clause

Amberwood Place Appeal: An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

City Attorney Kit Williams: Jeremy Pate is not here and the reason he is not here is because he has been asked to table this from the Attorney representing them. They want it tabled until the next Council meeting.

Alderman Ferrell moved to table the ordinance to the September 16, 2008 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed 5-0. Alderman Ferrell and Thiel were absent during the vote. Alderman Cook was absent.

Center Street Drainage Contract: An ordinance to waive competitive bidding and to award a construction contract in the amount of \$43,315.00 plus a \$5,000.00 project contingency to Sweetser Construction, Inc. to replace the existing drainage structure under Center Street and completely repair the street and appurtenances.

City Attorney Kit Williams read the ordinance.

Ron Petrie, City Engineer: I appreciate you coming and touring the area. This is a bid waiver but we did solicit quotes and Sweetser Construction was the person that submitted the low quote.

He went on to list the other quote amounts. He stated the quote says we will have the road open in two weeks and I do not plan on issuing them a notice to proceed until we fully understand the rainfall that we are going to be getting in the next couple of days. It may be early next week before we can actually start that construction.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Rhoads seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent during the vote. 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 6-0. **Alderman Ferrell** was absent during the vote. **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 5175 as Recorded in the office of the City Clerk

Per-Erik Persson Contract: A resolution approving a contract with Per-Erik Persson, an agent for the Swedish-American Business South Central, LLC, in an amount not to exceed \$13,125.00 to recruit Swedish companies to locate in the City of Fayetteville.

Ray Boudreaux, Aviation and Economic Development Director gave a brief description of the item. He stated the project is to recruit Swedish companies to town. We have already been successful and we have one good announcement and Steve has another one to announce tonight.

Steve Rust with the Fayetteville Economic Development Council gave a description of the current projects the Green Valley Network is currently working on. He went on to show a video on controlled delamination which is laying a bead of glue down over a small electrical current which allows the package to be delaminated and unglued.

Mayor Coody clarified the controlled delamination process.

Steve Rust went on to give statistics on how much this process saves.

Alderman Lucas: Is this the company that is coming here?

Steve Rust: I think it's too early to say. We think so because we have a lot of advantages and these advantages parallel why these other companies want to come here. We think it is looking very promising that they will have a presence here in the future.

Alderman Ferrell: Do they do the development and technology of it and then do they fit the retailers with this stuff or do they sell it to them.

Steve Rust: Initially the electric current and the battery operated things they need to do the delamination; their plan is to give that to the retailers at no cost. As they wear out they will give them to them at cost.

Alderman Thiel: Mayor I have no problem with this discussion about these companies but that is not what we are looking at right now.

Mayor Coody: Basically Per-Erik Persson contract is to bring a lot more companies like this and this is the detail in the big picture.

Ray Boudreaux: There are at least 10 or 12 companies that have expressed interest in investigating the possibility of locating in Fayetteville. The contract is with Per-Erik to be our coordinator to get that to happen.

Alderman Thiel: And he is the one that has got these to us so far?

Ray Boudreaux: Yes, ma'am and he has more. If this works out well we would hope to get a fair percentage of these companies locating in Fayetteville.

Alderman Thiel: So really all we are asking here is to continue funding this contract for the next three months.

Ray Boudreaux: Yes.

Mayor Coody: We tried the first three months as a trial and the Chamber of Commerce paid for it. His performance was good so that is why I feel comfortable recommending this.

Alderman Jordan: If the FEDC and the Chamber of Commerce paid for it the first time why are they not paying for it now?

Steve Rust: The Chamber of Commerce and the FEDC's budget is very tight and we are trying to share the wealth wherever we can is the main reason.

Alderman Jordan: Or the debt. I have some concerns that the FEDC and Chamber of Commerce split the cost before and now we are being asked to pick up the other half.

Ray Boudreaux: This is the second phase. The first phase was paid for by the Chamber and the FEDC. This is our chance to participate.

Alderman Lucas: Is the City expected to take up the next three months?

Mayor Coody: This is a \$13,125 contract for this segment. If he performs well and we love what he does then the University might pick up a part. We are out of the University's budget cycle. We just want to commit to the next three months. If he brings half those companies here and even one of them decides to set up shop it was well worth the investment.

Steve Rust: We have Per-Erik speaking their language and he has worked in the Inventors Association over there and is very well connected. He is our point man over there finding those companies that best fit us. This is probably the most targeted marketing effort that I have seen in Economic Development. The first three months have paid off well and we hope the next three months will. If they don't then we are out of there.

Alderman Lucas: According to the website he is a consultant for the Swedish American Chamber of Commerce so he is working for the Swedish Government too isn't he?

Steve Rust: No, he is associated with them but not paid by them. A strategic partner would be a better description of his association with them.

Alderman Ferrell: I am sure that one would think that if we have a relationship with them they have to know that if they do not produce by the end of a period of time people are not going to re-up. So the ball is in their court and they are very focused if you look at that list of the number of companies which is what we are target marketing for development here.

Mayor Coody: You are exactly right. They performed adequately enough to where we have seen the results of that. For the money that we would have invested I think it looks pretty good.

Alderman Rhoads: It's a different approach but I think its forward thinking. You don't want to lose that but you have FEDC and the Chamber proving that it does work and I think it is a potent way to create what we all are looking to create here which is a bunch of high tech jobs.

Alderman Allen confirmed how it was paid for in the first three months. She asked can we have a better understanding as to why the Chamber won't pick up the second quarter.

Steve Rust: I don't think that it's necessarily that they won't but like everybody they are having budget crunches. From the beginning we thought there are a lot of players that benefit from this, the City Council being one of them and that we should share the debt because it's good for everybody.

Alderman Allen: It sounds really positive but the City too is suffering from the same problems.

Mayor Coody: Well this is long term thinking and if we want to be able to better fund programs we have to have more Economic Development. Everything we do and love in this town requires money and money is generated from business. I think it is fair for the City to be a partner here because the City is one of the beneficiary's.

Alderman Allen: It seems to me very logical because we have a lot to gain from these businesses coming to Fayetteville. I will support that.

Alderman Lucas: I think it is a great idea that we go out and look for economic engines that we can bring in. I don't know that it's the City's role. This is what the Chamber is for to promote businesses within the City. We started the FEDC to promote business in the City. Where does the Economic Development Matches Project Budget come from?

Ray Boudreaux: It's budgeted every year and I believe we budget about \$50,000 for economic development matches projects so that you have money in there to match projects and economic development every year.

Alderman Lucas: So that is in your area?

Ray Boudreaux: It's in the Economic Development Fund.

Alderman Lucas: What have we spent from that before?

Paul Becker, Finance and Internal Services Director: That line was in the CIP budget.

Ray Boudreaux: It's actually a project.

Mayor Coody clarified the project fund for Alderman Lucas.

Alderman Lucas: So you would consider something like that?

Ray Boudreaux: Yes Ma'am this is a very appropriate use for that money.

Steve Rust: It has been my experience with the cities have an economic development fund that they wisely use at the appropriate time. Economic Development is a legitimate activity of City Government, this would be one of them.

Alderman Thiel: Economic Development comes in a lot of forms that we sometimes don't think about. She went on to give examples. She stated I think since this has already proven that it has potential of bringing more businesses here I support it.

Alderman Lucas: I agree with Brenda that maybe this time since it is coming out of a fund balance that we have for Economic Development to match, but I don't see it going beyond the three months. I don't see me supporting this beyond the three months.

Alderman Allen: I agree with Alderman Lucas.

Mayor Coody: I would hope that we would give it a chance and if they happen to land two or three nice companies that would be worth \$13,000 to do it again.

Alderman Lucas: Then I think the Chamber might be excited enough to step up again.

Alderman Ferrell: One thing we have to remember in this is that the big chore that they will do is getting those people to Fayetteville and to look at Fayetteville. Then it is going to be up to all of us to say yes we want you. We are all going to be involved in this when they come to town.

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

Resolution 169-08 as Recorded in the office of the City Clerk

Alderman Jordan: I had one thing I need to add tonight.

Mayor Coody clarified how it needed to be added with City Attorney Kit Williams.

Alderman Jordan: I was contacted by one of my constituents Mr. Walt Eilers to reconsider Resolution 162-08. He wanted me to reconsider this so that he might speak to the City Council about concerns he has about the contract.

City Attorney Kit Williams: Prior to any vote we need to look at our Rules of Procedure. He read a section of the Rules of Order and Procedure. He stated this is a fully executed contract therefore it would be improper under our Rules of Procedure to reconsider that because you would be in breach of contract. He also read from Roberts Rules of Order and Procedure. He stated that in this particular case it would be improper to be held for reconsideration.

Alderman Jordan confirmed what City Attorney Kit Williams stated.

City Attorney Kit Williams: I think we cannot consider a motion to reconsider.

Mayor Coody: I still wouldn't mind hearing what the issues might be. Is there a way that we can add this to the agenda for a brief discussion or is it off limits all together?

City Attorney Kit Williams: Normally when you add something to the agenda there is actually some sort of resolution that you are adding to the agenda so there is something for the City Council to act upon. I am not aware of what that would be.

Alderman Allen: We have added items for discussion before.

City Attorney Kit Williams: If the City Council would agree unanimously to allow open discussion that is not what our Rules of Procedure do though. We have in the past ignored that and allowed someone to discuss something. Normally it has to be an issue for the Council to decide. I am not going to say that you as a unanimous group can't have open discussion if that is what you want to do.

Alderman Jordan: Can I bring it to an Agenda Session as a point of discussion?

City Attorney Kit Williams: Sure.

Alderman Thiel: What would the point of discussion be?

Alderman Jordan: He wants to be heard by the Council.

Mayor Coody described the ordinance Mr. Eilers was referring to.

City Attorney Kit Williams: You could by unanimous consent suspend the rules and allow an open discussion on that.

Alderman Jordan moved to add a discussion about Resolution 162-08 to the agenda. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 6-1. **Alderman Gray** voting no. **Alderman Cook** was absent.

City Attorney Kit Williams: Actually to suspend the rules I misspoke. I said unanimous vote but actually it takes six votes to suspend the rules.

Walt Eilers: At the last meeting I intended to come and speak and question the contract and I was unable to do that. When the motion was passed and the contract funded I simply did a search and found that the principal for the Economic Development Project also has a contractual relationship with the University and is a part of a four profit effort to build the new lab at the Tech Center. My understanding was a number of folks were eliminated because they were local consultants and they were considered to not be objective. The way I view this is if you are working for one client and doing similar projects that can be considered a conflict of interest. I am merely raising the question. Since we have a company with a financial interest in a major project in our city which is also doing the Economic Development for you all I raise the question of whether that was appropriate. Thank you Lioneld for raising the question.

Mayor Coody: We are at a bit of a disadvantage because Kyle was on the Selection Committee and he is not here tonight. We do have some other members of the Selection Committee that might be able to address these questions.

Phil Stafford: There were no local companies that submitted qualifications for this study they were all national firms.

Mayor Coody: Walt, I think you are confusing this with the people who did the Solid Waste Study but I didn't think there were any locals involved with this either.

Phil Stafford: The Selection Committee was made of representatives of the City and University and all the qualifications for all the national firms that submitted were considered in depth and through that process and even went to the interview process where we brought in three different national firms to interview and get very specific with their approach to the project. It was through that process that we all concluded that Ms. Kline was the most appropriate and best qualified consulting firm to do the work that we had solicited. Having an outside consultant is very important so that person can have an objective due towards the many disparate ideas that will emerge as we work with the public, City Council, School District, Chamber of Commerce, etc. Everyone is going to have a different idea about how that should be done. Having experts that come in and cause all those ideas to meld into one cohesive comprehensive plan is really what we are trying to achieve. It is a long range vision for the economic sustainability of Fayetteville. It has nothing to do with filling up a building at the ARTP. That building is an essential infrastructure that we need for the kinds of companies that Steve Rust has shown you here tonight. Without it we can't attract them here and we won't have the infrastructure that they require. I see the two totally independent and I just don't see how there is any conflict.

Gary Dumas, Director of Operations: It was disclosed early on in the process that the relationship that Eva had with the University was disclosed and we all knew it going in. I can say that when we chose the three firms to interview that Eva wasn't the first of those firms but when she came in and gave us her interview she is by far the most qualified to undertake the program that Phil just described.

Mayor Coody referred to a press release from the University of Arkansas. He stated so it was obviously meant to be a public document. We have been working on Economic Development for a long time. He went on to give examples of the City's efforts thus far.

Alderman Allen: I was never told that we had decided on this woman before. Did you say that we were told?

Phil Stafford: Yes, it was in the letter of agreement that was passed two weeks ago.

Alderman Allen: Right, but prior to then though. I thought that whoever came into do this is suppose to be someone that really had no preconceived notions about our community. That is what I am hearing as the concern but maybe I am incorrect.

Gary Dumas: We have an agreement with the University and that is who our agreement is with. The University has an agreement with Eva Kline. While she may have some relationship with the City I think that she is by far more qualified than any other firm that we reviewed in the process.

Alderman Thiel: Her company is not based out of Fayetteville. She is out of Great Falls, Virginia and Philadelphia, Pennsylvania.

Alderman Allen: I agree with Nancy that the idea of bringing in a consultant was to bring in someone that had a fresh idea that didn't know anything about Fayetteville and they were going to come in and find out about Fayetteville and tell us what we should be doing. That surprises me to find out that that is not the case.

Phil Stafford: I think it is the case. She has been here twice and she is experienced in working in College or University cities. So the strategic plans that she does are nearly always tied directly to leveraging intellectual assets of a major research university.

Alderman Lucas: We have established that the contract is the contract but I guess we are saying we would like to be completely informed next time.

Alderman Ferrell: Two things that stood out to me were when Phil said there was no conflict and Gary said the Selection Committee was privy to the fact that there was a relationship.

Mayor Coody: There was a Council member on the Selection Committee.

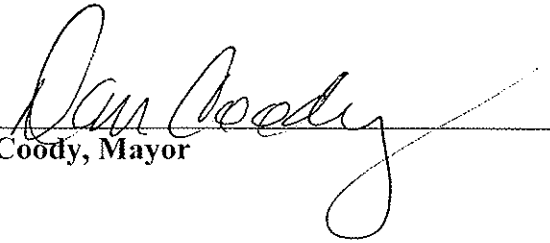
Alderman Ferrell: Yes and Kyle knew that and so let's move forward.

Alderman Lucas: It's a done deal.

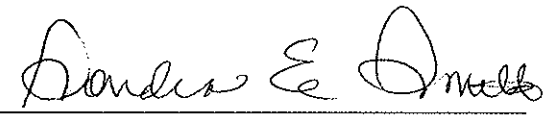
Mayor Coody: In that case let's move home.

Announcements:

Adjournment: Meeting adjourned at 8:05 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer

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
September 2, 2008**

A meeting of the Fayetteville City Council will be held on September 2, 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:

Agenda Additions:

A. Consent:

1. Approval of the August 19, 2008 City Council meeting minutes.
2. **Bid # 08-54 Hill Electric, Inc:** A resolution awarding Bid # 08-54 and approving a contract with Hill Electric, Inc. in the amount of \$139,875.00 for the installation of street lighting along College Avenue from Rock Street to Maple Street; and approving a 10% project contingency in the amount of \$13,988.00.

3. **2008-2009 Justice Assistance Grant:** A resolution accepting 2008-2009 Justice Assistance Grant (JAG) for federal and state funding in the amount of \$164,306.00 and \$32,818.00 respectively, for the primary funding source of the 4th Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$46,560.00.
4. **State and Federal Forfeiture:** A resolution approving a budget adjustment to recognize Federal Forfeiture Revenue in the amount of \$59,133.00, and State Forfeiture Revenue in the amount of \$21,237.00 for Police Department use only.

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 left on the Second Reading and was tabled indefinitely at the October 2, 2007 City Council meeting. This ordinance was left on the Second Reading and tabled to the September 2, 2008 City Council meeting at the July 1, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

3. **Raze and Removal at 402 E. Center Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Tiffany R. Major located at 402 E. Center Street in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$4,945.00. *This resolution was tabled at the August 19, 2008 City Council meeting to the September 2, 2008 City Council meeting.*
4. **ANX 08-3036 (Fayetteville Farmington Land Swap):** An ordinance simultaneously detaching territory from the City of Farmington and annexing said territory into the City of Fayetteville, pursuant to A.C.A §14-40-2101. *This ordinance was left on the Second Reading at the August 19, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

C. Public Hearing:

1. **Epperly Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel and Reba Epperly.
2. **Parker Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Herbert G. Parker, being an heir at law of Otis J. Parker, deceased.

3. **Littlefield Investment Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Littlefield Investment Company.

D. New Business:

1. **Cloud Gehshan Associates:** An ordinance waiving the requirements of formal competitive bidding and approving a proposal from Cloud Gehshan Associates in an amount not to exceed \$20,000.00 for a signage and wayfinding study; and approving a budget adjustment.
2. **Amend Chapter 33, Departments, Boards, Commissions and Authorities:** An ordinance to amend the Code of Fayetteville to establish the procedures for the use of funds budgeted for the in-house street overlay projects.
3. **Amend Chapter 174, Signs:** An ordinance to amend section 174.03 (H) Non-Commercial Signs of the Unified Development Code to allow property owners to post a small political sign for each candidate up to sixty days before an election.
4. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

Announcements:

1. **City Council Tour: September 1, 2008**

Adjournment:

City of Fayetteville Staff Review Form

A. 2
 Bid # 08-54 Hill Electric, Inc.
 Page 1 of 8



City Council Agenda Items
 and
 Contracts, Leases or Agreements

9/2/2008

City Council Meeting Date
 Agenda Items Only

Matt Mihalevich
 Submitted By

Engineering
 Division

Operations
 Department

Action Required:

Approval of a resolution awarding Bid # 08-54 and approving a contract with Hill Electric, Inc. in the amount of \$139,875.00 for the complete installation of street lighting for College Avenue from Rock Street to Maple Street; and approving a 10% project contingency in the amount of \$13,988.00.

\$ 153,863.00

Cost of this request

\$ 23,992,298.00

Category / Project Budget

Transportation Bond Street Improvements

Program Category / Project Name

4520-9520-5809.00

Account Number

\$ 4,428,931.49

Funds Used to Date

Transportation Improvements

Program / Project Category Name

06035.1920

Project Number

\$ 19,563,366.51

Remaining Balance

Sales Tax 2006A Construction Fund

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

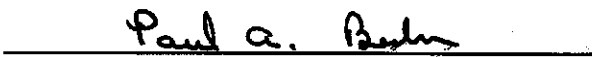
 8-15-08
 Department Director Date

Previous Ordinance or Resolution # _____

 8/20/08
 City Attorney Date

Original Contract Date: _____

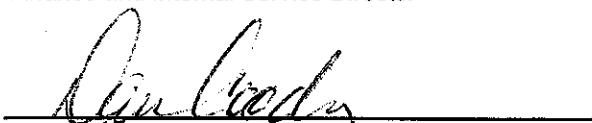
Original Contract Number: _____

 8-20-08
 Finance and Internal Service Director Date

Received in City
 Clerk's Office



8/15/08

 8/20/08
 Mayor Date

Received in
 Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

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

From: Matt Mihalevich, Trails Coordinator

Date: August 15th, 2008

Subject: College Avenue Lighting Installation – Bid 08-54

RECOMMENDATION:

Approval of a resolution awarding Bid # 08-54 and approving a contract with Hill Electric, Inc. in the amount of \$139,875 for the complete installation of street lighting for College Avenue from Rock Street to Maple Street; and approving 10% project contingency in the amount of \$13,988.

BACKGROUND:

As College Avenue improvements continue to progress, the installation of street lighting is now necessary to complete the project. 70 new street lights are planned for the 0.6 mile section of College Avenue from Rock Street to Maple Street.

Bid #08-54 includes the complete installation of the street lights and the associated electrical wiring. The transportation crews are installing the electrical conduit under the new sidewalks along with the concrete pole base footing and anchor bolts for the street lights. The contractor of Bid #08-54 will complete the installation of the street lights by pulling the wire, building of two electrical service panels, erecting the poles, and making sure everything is working properly.

DISCUSSION:

The Style of the street light fixtures and poles will match the recently installed street lighting leading up to and around the outside of the square. See the attached light style information sheet.

BUDGET IMPACT:

This payment will be funded by the 2006 Transportation Bond Street Improvement proceeds.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #08-54 AND APPROVING A CONTRACT WITH HILL ELECTRIC, INC. IN THE AMOUNT OF \$139,875.00 FOR THE INSTALLATION OF STREET LIGHTING ALONG COLLEGE AVENUE FROM ROCK STREET TO MAPLE STREET; AND APPROVING A 10% PROJECT CONTINGENCY IN THE AMOUNT OF \$13,988.00.

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 awards Bid #08-54 and approves a contract with Hill Electric, Inc. in the amount of \$139,875.00 for the installation of street lighting along College Avenue from Rock Street to Maple Street. A copy of the contract, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 10% contingency in the amount of \$13,988.00.

PASSED and APPROVED this 2nd day of September, 2008.

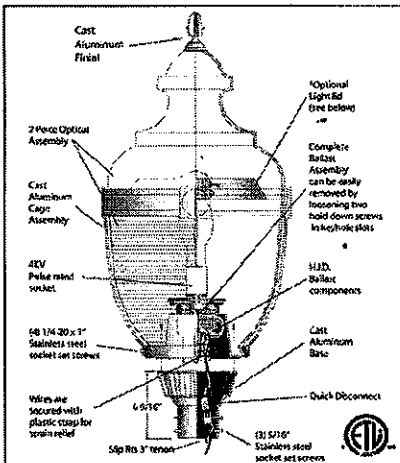
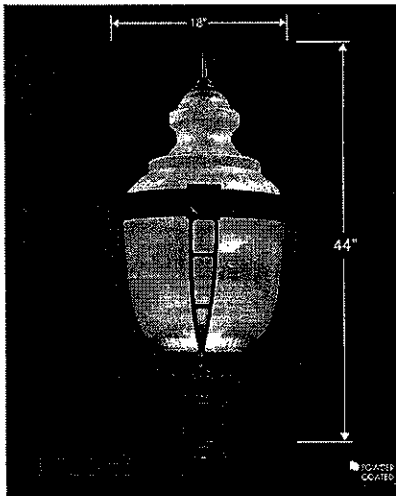
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

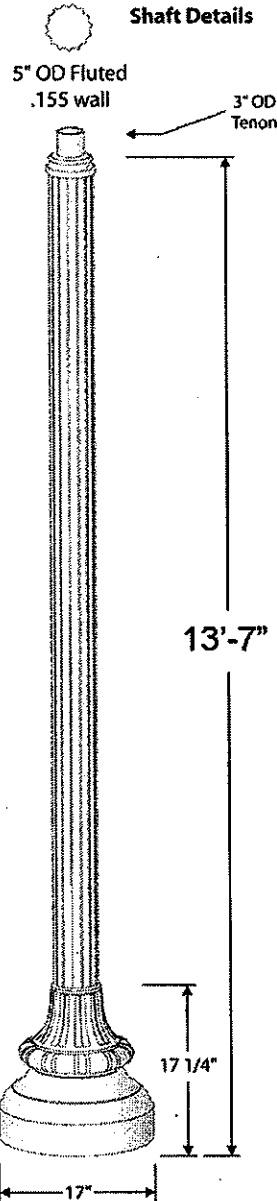
STREET LIGHTING STYLE:



FIXTURE ORDERING GUIDE
 D733AO/AC-T3/M75 MH - 240V/CC/FDR

POLE ORDERING GUIDE
 D1305-14 - 5" OD FLUTED - 3" TENON
 CUSTOM COLOR TO MATCH FIXTURE

DYNAMIC LIGHTING INC.



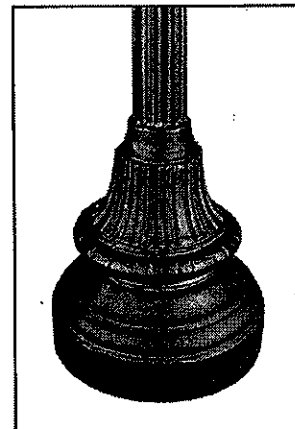
D1305-14

FEATURES

- 17" diameter fluted and tapered aluminum base cast from a permanent mold
- 5" OD fluted (15 flat flutes) .155 wall
- Extruded shaft is circumferentially welded to the base
- 3" tenon for luminaire mounting
- Strong yet lightweight for ease of installation
- Galvanized anchor bolts included
- Access door for anchor bolts and wiring is secured with tamper resistant stainless steel screws
- Ground lug provided inside base
- Capable of supporting multiple light brackets

MATERIALS

- Base - Cast aluminum (A319)
- Shaft - Extruded Aluminum (6005-T5)
- Tenon - Cast aluminum (A319)
- Anchor Bolts - Hot dipped galvanized steel



*CUSTOM COLOR FOR POLE AND FIXTURE TO MATCH THE NEW LIGHTS INSTALLED AROUND THE SQUARE. SAMPLE COLOR CHIP IS ON FILE WITH DYNAMIC LIGHTING.

BID: 08-54
8/15/2008
2:00 PM
CITY OF FAYETTEVILLE



Bid 08-54, College Ave Lighting Construction

BIDDER	Total Turn-Key	Deductive Alternate #1	Turn-Key Bid Less Deductive Alternate
1 Hill Electric, Inc	\$ 139,875.00 \$	114,057.00 \$	25,818.00
2 King Electric	\$ 152,500.00 \$	114,000.00 \$	38,500.00
3 Marrs Electric, Inc	\$ 173,947.00 \$	127,744.00 \$	46,203.00
4 Multi-Craft Contractors, Inc	\$ 181,455.00 \$	124,184.00 \$	57,271.00
5 Royal Electrical Contractors, Inc	\$ 196,000.00 \$	109,000.00 \$	87,000.00
6 Township Builders, Inc	\$ 264,702.00 \$	120,750.00 \$	143,952.00

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

CERTIFIED:

A. Foren
A. Foren - Purchasing Agent

WITNESS

Janaa Min
Janaa Min

DATE

8/15/08

City of Fayetteville
Bid 08-54, College Avenue Lighting Construction
Contract

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

1. Hill Electric, 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 08-54 as stated in Hill Electric, Inc. bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #08-54, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay Hill Electric, Inc. based on their bid proposal in an amount not to exceed \$139,875.00. 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 Hill Electric, Inc. consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 08-54 with the specifications & conditions typed thereon.
 - B. Hill Electric, 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 Hill Electric, Inc. and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Hill Electric, Inc.
5. Hill Electric, Inc. shall not assign its duties under the terms of this agreement.
6. Hill Electric, 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 Hill Electric, 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. Hill Electric, 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, Hill Electric, 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. \$1,000,000 for each accident.
Property Damage Liability	\$1,000,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by Hill Electric, Inc.

8. Hill Electric, 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 Hill Electric, 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 coping 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

CONTRACTOR
BY _____
NAME AND TITLE

ATTEST: COMPANY SECRETARY

BUSINESS ADDRESS

City Of Fayetteville

Vendor #: 16665		Vendor Name: Hill Electric, Inc.		Requisition No.:		Date: 8/12/2008	
Address:		Fob Point:		P.O Number:		Expected Delivery Date: ASAP	
City:		State:		Mail Yes: ☒ No: ☐		Quotes Attached Yes: ☐ No: ☒	
Requester: Matt Mihalevich		Requester's Employee #: 2509		Division Head Approval: 		No: X	
Item Description		Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #
1	Street Lighting Installation for College Avenue Improvements	1	LOT	139,875.00	\$139,875.00	4520-9520-5809.00	06035/1920
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:							
Per Bid #08-54 and Res # _____							
Subtotal:				\$139,875.00			
Tax:				\$0.00			
Total:				\$139,875.00			

Bid # 08-54 Hill Electric, Inc.	
Page 8 of 8	
Revised 8/17/03	A. 2
Approvals: Mayor: _____ Finance & Internal Services Director: _____ Dispatch Manager: _____ Department Director: _____ Budget Manager: _____ Utilities Manager: _____ Purchasing Manager: _____ IT Manager: _____ Other: _____	

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

9/2/2008

City Council Meeting Date

Greg Tabor
Submitted By

Police/Drug Enforcement
Division

Police
Department

Action Required:

Acceptance of the 2008-2009 Justice Assistance Grant for federal and state funding in the amount of \$164,306 and \$32,818, respectively, for the primary funding source of the 4th Judicial Drug Task Force. Also approve a budget adjustment in the amount of \$46,560.00 from Drug Enforcement Fund Balance.

\$ 469,226.00

Cost of this request

\$ 495,355.00

Category / Project Budget

Drug Enforcement

Program Category / Project Name

2930-2960

Account Number

\$ 345,000.00

Funds Used to Date

Drug Enforcement

Program / Project Category Name

\$ 150,355.00

Remaining Balance

Drug Enforcement

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]
Department Director

8-14-08
Date

[Signature]
City Attorney

8/20/08
Date

Paul A. Beebe
Finance and Internal Service Director

8-20-08
Date

[Signature]
Mayor

8/20/08
Date

Received in City Clerk's Office

ENTERED
8/15/08
[Signature]

Received in Mayor's Office

ENTERED
8/20/08
[Signature]

Comments:



Departmental Correspondence

To: Mayor Dan Coody and Members of the City Council
Thru: Greg Tabor, Police Chief 
From: Judy Cohea, Support Services Manager
Date: August 8, 2008
Re: Grant Acceptance for 4th Judicial Drug Task Force

Background

Since 1991, the 4th Judicial Drug Task Force (JDTF) has been receiving grant funding from the Justice Assistance Grant (JAG) Program. Through this grant, federal and state funds are made available for the implementation and continuation of drug enforcement operations across our State. Other than local matching funds, this grant is the 4th JDTF's primary funding source.

Discussion

The 4th JDTF's total projected budget for the 2008-2009 JAG grant period is \$69,306. The State Office of Intergovernmental Services has approved grant funding in the following amounts: federal - \$164,306, state - \$32,818, and local match - \$21,908. The JAG grant defines required local matching funds based on a percentage split of 75/15/10 in awarded federal and state funds plus local funds. To receive the federal and state portion of the Justice Assistance Grant, Fayetteville must commit to a match of \$23,829.00. However, Fayetteville must provide additional funds in the amount of \$160,244.00 to maintain the same level of effectiveness for the Drug Enforcement program.

The 2008 fiscal year grant award represents an 8.77 percent decrease from the grant award in 2007. This decrease was due to the elimination of grant funding for purchases of computer, office and small equipment. As in previous years, no salary/benefit increases from federal and/or state funds are allowed in this grant award resulting in greater local matching funds being required. As shown below, Fayetteville's local match requirements will be 58% of our projected budget, but still an excellent value for our money.

Below, please see a tabular distribution of the 4th JDTF's projected budget and sources of funds.

2007-2008 4th JDTF Grant Request

Percent Distribution by Total Request

Agency	Federal		State		Local		Total
	\$	%	\$	%	\$	%	\$
Fayetteville	97,709	35.1%	19,510	7.0%	161,317	57.9%	278,536
Springdale	25,555	38.7%	5,107	7.7%	35,390	53.6%	66,052
Prairie Grove	18,101	33.9%	3,617	6.8%	31,742	59.4%	53,460
Washington County	<u>22,941</u>	32.2%	<u>4,584</u>	6.4%	<u>43,653</u>	61.3%	<u>71,178</u>
Total	164,306		32,818		272,102		469,226

Attached, please find the grant application and requested budget adjustment. We would like to direct your attention to the problem statement and historical narrative for a more detailed description of the 4th Judicial Drug Task Force activities and purpose.

Recommendation

Staff recommends acceptance of the 2008-2009 Justice Assistance Grant for federal and state funding in the amount of \$164,306 and \$32,818, respectively, for the primary funding source of the 4th Judicial Drug Task and approval of a budget adjustment in the amount of \$46,560. If you should have any comments or questions regarding this grant acceptance, please contact me at extension 581.

RESOLUTION NO. _____

A RESOLUTION ACCEPTING 2008-2009 JUSTICE ASSISTANCE GRANT (JAG) FOR FEDERAL AND STATE FUNDING IN THE AMOUNT OF \$164,306.00 AND \$32,818.00 RESPECTIVELY, FOR THE PRIMARY FUNDING SOURCE OF THE 4TH JUDICIAL DISTRICT DRUG TASK FORCE; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$46,560.00.

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 accepts 2008-2009 Justice Assistance Grant (JAG) for federal and state funding in the amount of \$164,306.00 and \$32,818.00 respectively, for the primary funding source of the 4TH Judicial District Drug Task Force.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$46,560.00.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF INTERGOVERNMENTAL SERVICES
2008 Justice Assistance Grant (JAG)

GENERAL PROJECT INFORMATION

1. Applicant Agency: City of Fayetteville
Address: 100 A West Rock Street
2. Project Director: Kenneth Yates Tele #: (479) 587-3500
Fax #: (479) 587-3522
Address: 100 A West Rock Street, Fayetteville, AR 72701
E-Mail Address: kyates@ci.fayetteville.ar.us
3. Fiscal Officer: Judy Cohea Tele #: (479) 587-3581
Fax #: (479) 587-3570
Address: 100 A West Rock Street
E-Mail Address: jcohea@ci.fayetteville.ar.us
4. Program Title: Support Services Manager
5. Identify Counties and/or Cities in Which Program Will Operate: Cities of Fayetteville, Springdale Lincoln, Prairie Grove, Farmington, West Fork, Greenland, Johnson, Elm Springs, Elkins and the Counties of Washington and Madison.
6. If the Project is Multi-County/City indicate the Contracting Applicant Agency:
City of Fayetteville
Other Involved Agencies: Drug Enforcement Agency
7. Population or Clients to be Served: 201,882
8. Federal Funds Requested: \$164,306 State Match: \$32,818 Local Match: \$
272,102
9. Total (Federal, State and Local): \$469,226
10. Source of Matching Funds: Local governments of Fayetteville, Springdale, Washington County and Program Income
11. Project Summary: Funding to support the operation of the 4th Judicial District Drug Task Force operating in Washington and Madison Sounties.

**APPLICATION FOR
FEDERAL ASSISTANCE**

Version 7/03

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction		2. DATE SUBMITTED		Applicant Identifier	
		3. DATE RECEIVED BY STATE		State Application Identifier	
Pre-application ☐ Construction ☐ Non-Construction		4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier	
5. APPLICANT INFORMATION					
Legal Name: City of Fayetteville, Arkansas			Organizational Unit: Department: Police		
Organizational DUNS: 07-565-7742			Division: Drug Enforcement		
Address: Street: 100 A. West Rock Street			Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: First Name: Judy		
City: Fayetteville			Middle Name		
County: Washington			Last Name Cohea		
State: AR		Zip Code 72701		Suffix:	
Country: United States			Email: jcohea@ci.fayetteville.ar.us		
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 71-6018462			Phone Number (give area code) (479) 587-3581		Fax Number (give area code) (479) 587-3570
8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify)			7. TYPE OF APPLICANT: (See back of form for Application Types) c. Municipal Other (specify)		
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): 16-738			9. NAME OF FEDERAL AGENCY: Department of Justice		
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): all cities and the unincorporated areas of Washington and Madison counties			11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Operational support for the 4th Judicial District Drug Task Force		
13. PROPOSED PROJECT Start Date: 07/01/2008			14. CONGRESSIONAL DISTRICTS OF: a. Applicant 3rd		
Ending Date: 06/30/2009			b. Project 3rd		
15. ESTIMATED FUNDING:			16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?		
a. Federal	\$	164,306	a. Yes. ☒ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE:		
b. Applicant	\$		b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		
c. State	\$	32,818	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes" attach an explanation. ☒ No		
d. Local	\$	272,102			
e. Other	\$				
f. Program Income	\$				
g. TOTAL	\$	469,226			
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.					
a. Authorized Representative					
Prefix		First Name Dan		Middle Name	
Last Name Coody		Suffix			
b. Title Mayor		c. Telephone Number (give area code) (479) 575-8330			
d. Signature of Authorized Representative		e. Date Signed			



**ARKANSAS DEPARTMENT OF
FINANCE AND ADMINISTRATION**

OFFICE OF INTERGOVERNMENTAL SERVICES

1515 West Seventh Street, Suite 400
P. O. Box 8031
Little Rock, Arkansas 72203-8031
Phone: (501) 682-1074
Fax: (501) 682-5206
<http://www.state.ar.us/dfa>

☒ JAG	☐ RSAT
	☐ LLEBG

Edward Byrne Memorial
Justice Assistance Grant (JAG) Program

CFDA #:16.738

1. SUBGRANTEE NAME AND ADDRESS (Including Zip Code)

The Honorable Dan Coody,
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701

4. SUBGRANT NUMBER: 08014-

5. START DATE: July 1, 2008
END DATE: June 30, 2009

6. AWARD DATE: July 1, 2008

7. ACTION: ☒ Initial
☐ Modification

2. MODIFICATION EFFECTIVE DATE:

2A. MODIFICATION AMOUNT \$

FEDERAL \$
STATE MATCH \$
LOCAL MATCH \$

8. AWARD AMOUNT \$469,226

FEDERAL \$164,306
STATE MATCH \$ 32,818
LOCAL MATCH \$ 272,102

3. COMMON NAME: 4th Judicial District Drug Task Force

9. SPECIAL CONDITIONS (check if applicable)

☒

THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS SET FORTH IN IT'S APPLICATION AND ALL CERTIFICATIONS, ASSURANCES AND SPECIAL CONDITIONS PREVIOUSLY AGREED TO.

This project is supported under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3750).

AGENCY APPROVAL		SUBGRANTEE APPROVAL	
10. TYPED NAME AND TITLE OF APPROVING IGS OFFICIAL Doris Smith, Assistant Administrator Intergovernmental Services	12. TYPED NAME AND TITLE OF AUTHORIZED SUBGRANTEE OFFICIAL The Honorable Dan Coody, City of Fayetteville		
11. SIGNATURE OF APPROVING OFFICIAL	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; vertical-align: top; padding: 5px;"> 13. SIGNATURE OF AUTHORIZED OFFICIAL </td> <td style="width: 30%; vertical-align: top; padding: 5px;"> 14. DATE </td> </tr> </table>	13. SIGNATURE OF AUTHORIZED OFFICIAL	14. DATE
13. SIGNATURE OF AUTHORIZED OFFICIAL	14. DATE		

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM

SPECIAL CONDITIONS

1. The subrecipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide. This information is available at <http://www.ojp.usdoj.gov/FinGuide/>.
2. The subrecipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the subrecipient is in compliance.
3. The subrecipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as further described in the current edition of the OJP Financial Guide, Chapter 19.
4. Subrecipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.
5. The subgrantee agrees to assist the Bureau of Justice Assistance (BJA) in complying with the National Environmental Policy Act (NEPA) and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subgrantee. Accordingly, prior to obligating grant funds, the grantee agrees to first determine if any of the following activities will be related to the use of the grant funds.

The subgrantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subgrantee, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property either (a) listed on or eligible for listing on the National Register of Historic Places or (b) located within a 100-year flood plain;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size; and,
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments.

Application of This Special Condition to Subgrantee's Existing Programs or Activities: For any of the subgrantees' existing programs or activities that will be funded by these grant funds, the subgrantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

6. This special condition facilitates compliance with the provisions of the National Environmental Policy Act (NEPA) relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories [hereinafter, "meth lab operations"]. No monies from this award may be obligated to support meth lab operations unless the grantee implements this special condition.

The Office of Justice Programs (OJP), in consultation with the Bureau of Justice Assistance, the Drug Enforcement Administration, and the Office for Community Oriented Policing Services, prepared a Program-level Environmental Assessment (Assessment) governing meth lab operations. The Assessment describes the adverse environmental, health, and safety impacts likely to be encountered by law enforcement agencies as they implement specific actions under their methamphetamine laboratory operations. Consistent with the Assessment, the following terms and conditions shall apply to the subgrantee for any OJP funded meth lab operations:

- A. The subgrantee shall ensure compliance with federal, state, and local environmental, health, and safety laws and regulations applicable to meth lab operations, to include the disposal of the chemicals, equipment, and wastes resulting from those operations.

Initial

B. The grantee shall have a Mitigation Plan in place that identifies and documents the processes and points of accountability within its state. This plan will be used to ensure that the adverse environmental, health, and safety impacts delineated in the Assessment are mitigated in a manner consistent with the requirements of this condition.

C. The subgrantee shall comply with the following nine mitigation measures identified in the Assessment and whose implementation is addressed in the grantee's Mitigation Plan. These mitigation measures must be included as special conditions in all subgrants: (See Part II of this special condition)

7.
 1. Provide medical screening of personnel assigned or to be assigned by the grantee to the seizure or closure of clandestine methamphetamine laboratories;
 2. Provide Occupational Safety and Health Administration (OSHA) required initial and refresher training for law enforcement officials and all other personnel assigned to either the seizure or closure of clandestine methamphetamine laboratories;
 3. As determined by their specified duties, equip the personnel with OSHA required protective wear and other required safety equipment;
 4. Assign properly trained personnel to prepare a comprehensive contamination report on each seized/closed laboratory;
 5. Utilize qualified disposal personnel to remove all chemicals and associated glassware, equipment, and contaminated materials and wastes from the site(s) of each seized laboratory;
 6. Dispose of the chemicals, equipment, and contaminated materials and wastes at properly licensed disposal facilities or, when allowable, at properly licensed recycling facilities;
 7. Monitor the transport, disposal, and recycling components of subparagraphs numbered 5. and 6. immediately above in order to ensure proper compliance;
 8. Have in place and implement a written agreement with the responsible state environmental agency. This agreement must provide that the responsible state environmental agency agrees to (i) timely evaluate the environmental condition at and around the site of a closed clandestine laboratory and (ii) coordinate with the responsible party, property owner, or others to ensure that any residual contamination is remediated, if determined necessary by the state environmental agency and in accordance with existing state and federal requirements; and
 9. Have in place and implement a written agreement with the responsible state or local service agencies to properly respond to any minor, as defined by state law, at the site. This agreement must ensure immediate response by qualified personnel who can (i) respond to the potential health needs of any minor at the site; (ii) take that minor into protective custody unless the minor is criminally involved in the meth lab activities or is subject to arrest for other criminal violations; (iii) ensure immediate medical testing for methamphetamine toxicity; and (iv) arrange for any follow-up medical tests, examinations, or health care made necessary as a result of methamphetamine toxicity.
8. The subrecipient agrees to submit to DFA for review and approval any curricula, training materials, or any other written materials that will be published, including web-based materials and web site content, through funds from this subgrant at least thirty (30) working days prior to the targeted dissemination date.
9. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdiction, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.
10. To support public safety and justice information sharing, OJP requires the grantee to use the Global Justice Data Model specifications and guidelines for this particular grant. Grantee shall publish and make available without restriction all schemas (extensions, constraint, proxy) generated as a result of this grant to the component registry as specified in the guidelines. This information is available at www.it.ojp.gov/gjxdm.
11. The subrecipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund may not be used to pay debts incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate and expend the grant funds in the trust fund (including any interest earned) during the period of the grant. Grant funds (including any interest earned) not expended by the end of the grant period must be returned to DFA no later than 60 days after the end of the grant period, along with the final submission of the Financial Status Report.

Initial

12. The subgrantee agrees to comply with all reporting, data collection and evaluation requirements, as prescribed by the BJA in the program guidance for the Justice Assistance Grant (JAG). Compliance with these requirements will be monitored by BJA.
13. The subrecipient agrees that any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per 28 C.F.R. 23.20(g). Should any violation of 28 C.F.R. Part 23 occur, the subrecipient may be fined as per 42 U.S.C. 3789g(c)-(d). Subrecipient may not satisfy such a fine with federal funds.
14. The subrecipient agrees that all income generated as a direct result of this award shall be deemed program income. All program income must be accounted for and used for the purposes under the conditions applicable for the use of funds under this award, including the effective edition of the OJP Financial Guide and, as applicable, either (1) 28 C.F.R. part 66 or (2) 28 C.F.R part 70 and OMB Circular A-110. Further, the use of program income must be shown on the quarterly Financial Status Report.
15. The subrecipient agrees to ensure that the State Information Technology Point of Contact receives written notification regarding any information technology project funded by this grant during the obligation and expenditure period. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these grant funds. In addition, the recipient agrees to maintain an administrative file documenting the meeting of this requirement. For a list of State Information Technology Points of Contact, go to <http://www.ojp.usdoj.gov/ec/states.htm>.
16. Subgrantee agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.
17. Subgrantee agrees to comply with all confidentiality requirements of 42 U.S.C. section 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. Subgrantee further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.
18. Subrecipient agrees that funds provided under this award may not be used to operate a "pay-to-stay" program in any local jail. Subrecipient further agrees not to subaward funds to local jails which operate "pay-to-stay" programs.
19. "Applicants must certify that Limited English Proficiency persons have meaningful access to the services under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, subrecipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation when necessary. The U.S. Department of Justice has issued guidance for grantees to help them comply with Title VI requirements. The guidance document can be accessed on the Internet at www.lep.gov."

ACCEPTANCE OF SPECIAL CONDITIONS

Signature

Date

**EDWARD BYRNE JUSTICE ASSISTANCE GRANT
(JAG) - 2008**

SPECIAL CONDITIONS

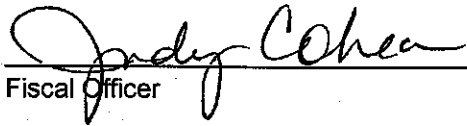
1. Submit an updated Inventory Report for equipment purchased with Byrne and/or JAG funds (federal and/or state) with the 1st quarterly report – October 16, 2008.
2. Submit a Request for Reimbursement Form (with invoices and the check number used as documentation of expenditures by line item) by the 15th day of each month following the month for which expenditures were billed. Include a document; i.e. (Excel Spread Sheet) showing allocations broken down between expenditures (federal, state and local).
3. Prepare and submit Quarterly Financial and Quarterly Narrative Progress Reports by the 15th of the month following the end of a quarter. Due dates will be October 16th, January 15th, April 16th and July 16th. Failure to submit reports in a timely manner may result in suspension of funds.
4. Prepare and submit requests for "budget revisions" on the attached form by the 10th of the month you would like for the revision to be considered. Budget revisions will not be considered during the last quarter of the grant period.
5. Prepare and submit Monthly Task Force Statistical Reports by the 15th of each month for the preceding month. Failure to submit reports in a timely manner may result in suspension of funds.
6. Submit within 60 days of the end of the grant period a Quarterly Financial Report "MARKED FINAL," to include a Quarterly Narrative Report "MARKED FINAL". Reimbursement Requests not submitted by October 1st, 2009, will be denied payment and Federal/State funds will be deobligated.

NOTE: Please keep in mind that at the close of the grant, expenditures of state funds must not exceed 60% of the total match as calculated on the **FEDERAL EXPENDITURES, NOT THE FEDERAL AWARD**. Misinterpretation of this requirement will result in subrecipients having to refund State funds.

7. **Time and/or Effort Records.** All expenditures for personnel shall be backed up by time and/or effort records signed by the employee and the appropriate supervisor and maintained in the DTF's position for review. The allocation method used shall produce an equitable distribution of time and/or effort.
8. Notify DFA, IGS of all changes made to the General Project Information, i.e. (contact information- name, address, telephone, fax, e-mail, etc.)

SUBGRANTEE ACCEPTANCE OF SPECIAL CONDITIONS

Authorized Official



Fiscal Officer

Date


8/14/08

Date



OMB APPROVAL NO. 1121-0140
EXPIRES 01/31/2006

STANDARD ASSURANCES

The Applicant hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars A-21, A-87, A-102, A-110, A-122, A-133; Ex. Order 12372 (intergovernmental review of federal programs); and 28 C.F.R. pts. 66 or 70 (administrative requirements for grants and cooperative agreements). The applicant also specifically assures and certifies that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
3. It will give the awarding agency or the General Accounting Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.
4. It will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61, and 63.
5. It will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Ex. Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).
6. It will comply (and will require any subgrantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); *see* Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).
7. If a governmental entity—
 - a) it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
 - b) it will comply with requirements of 5 U.S.C. §§ 1501-08 and §§ 7324-28, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

Signature _____

Date _____

CERTIFIED ASSURANCES

1. The applicant assures that federal funds made available under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program will not be used to supplant state and local funds, but will be used to increase the amount of funds that would, in the absence of federal funds, be made available for the activities of this project.
2. The applicant assures that fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Bureau of Justice Assistance and the Department of Finance and Administration shall prescribe shall be provided to assure fiscal control, proper management, and effective disbursement of funds received under this subaward;
3. The applicant assures that it will maintain an appropriate grant administration system to ensure that all terms, conditions and specifications of the grant, including these assurances, are met.
4. The applicant assures that it shall maintain such data and information and submit such reports in such form, at such times, and containing such data and information as the as the Bureau of Justice Assistance and the Department of Finance and Administration may require;
5. The applicant agrees to use the grant and matching funds only for the purposes stated in this application. Additionally, the applicant agrees that any grant and matching funds approved for personnel for this project will be based on the percent of time the personnel actually devote to the project.
6. The applicant assures that at the end of each federal fiscal year that the project is in force, and at the end of the project period, it will submit a performance report to the Department of Finance and Administration in a manner to be prescribed;
7. The applicant certifies that the program contained in this application meets all the requirements, and that all the information is correct, and that the applicant will comply with all provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and all other applicable federal and state laws;
8. The applicant assures that before any budgetary or programmatic amendment is made to an approved program, it will submit such an amendment to the Department of Finance and Administration for review;
9. The applicant assures that in the event a federal or state court or federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Justice Programs, Office of Civil Rights Compliance (OCRC) and the Arkansas Department of Finance and Administration, Office of Intergovernmental Services;
10. The applicant assures that if it is required to formulate an Equal Employment Opportunity Program (EEOP) in accordance with 28 CFR 42.301, et. seq., it should submit a certification to the state that it has a current EEOP on file which meets the requirements therein;
11. The applicant assures that it will comply with the provisions of the Department of Finance and Administration's "Drug Law Enforcement Subgrant Procedures and Financial Management Guidelines";
12. The applicant assures that it will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part II, Applicability of Office of Management and Budget Circulars; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; and Part 63, Floodplain Management and Wetland Protection Procedures;

INITIAL

13. The applicant assures that in addition to all other audit requirements, it will allow the Division of Legislative Audit or any other independent or internal auditors of the Department of Finance and Administration to have access to the applicant's records and financial statements;
- (A) as may be necessary for the Department of Finance and Administration to comply with the 1996 Single Audit Act Amendments and Office of Management and Budget (OMB) Circular A-133, and other rules and/or regulations governing financial accounting and auditing guidelines, principles, and procedures; and
- (B) as may be requested by the Department of Finance and Administration to comply with any State or local government rules and/or regulations;
14. The applicant assures that it will fully participate in the compilation of statistical information as required by state agencies, i.e., providing complete finger print arrest information;
15. The applicant assures that both federal and matching funds used for this project will be used exclusively to support defined JAG Program activities, and will not be used to support any general purpose law enforcement or other activity maintained by the applicant;
16. The applicant assures that if the grant funds are used to support a Task Force, the Task Force Board of Directors or 'Control Group' will hold regularly scheduled meetings at least monthly, and will provide the State Drug Director with copies of the agenda and minutes of each meeting;
17. The applicant assures that if grant funds are used to support a Task Force, the Task Force Administrator and the Board of Directors will develop and/or maintain a detailed policy and procedures manual for the guidance of task force operations.
18. The applicant assures that all proposals for out of state travel for conference and training will be submitted to the Arkansas Law Enforcement Committee for approval prior to any expense being incurred.
19. The applicant agrees to comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act if applicable. The applicant also agrees to accept full responsibility for any compensatory time allowance or overtime pay obligations for persons employed within the project not funded by the grant.
20. The applicant agrees that no officer or employee of its agency shall be involved in a decision that affects the applicant during the time of employment with the knowledge that there is an opportunity to further their interest as set forth in the Department of Justice, Office of Justice Programs Financial Guide.

CERTIFICATION

I hereby certify that the applicant will comply with the above certifications and certify that the program proposed in this application meets all the requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; that all the information presented is correct; and the application will comply with the provisions of the Act and all other federal laws, regulations, and guidelines and applicable state laws and regulations.

(Signature of Contracting Official)

Dan Coody

(Typed Name)

(Date)

Mayor, Dan

(Title)



(Signature of Fiscal Officer)

Judy Cohea

(Typed Name)

8/14/08

(Date)

Fiscal Officer

(Title)

Date _____

CERTIFICATION OF EMPLOYMENT OF QUALIFIED PERSONNEL

By acceptance of this subgrant provided through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, I certify the following:

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

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

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

Dan Coody

Printed Name

Mayor

Title

Signature of Contracting Official

Date



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

**Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions
(Sub-Recipient)**

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

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

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

Dan Coody, Mayor

Name and Title of Authorized Representative

Signature

Date

City of Fayetteville, Arkansas

Name of Organization

100-a West Rock Street, Fayetteville, AR 72701

Address of Organization

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposes," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of reports in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a

public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

City of Fayetteville, AR
100-a West Rock Street
Fayetteville, AR 72701

2. Application Number and/or Project Name

4th Judicial District Drug Task Force

3. Grantee IRS/Vendor Number

71-6018462

4. Typed Name and Title of Authorized Representative

Dan Coody, Mayor

5. Signature

6. Date

CERTIFICATION FORM

Recipient Name and Address: City of Fayetteville, 100-a W. Rock St., Fayetteville, AR 72701

Grant Title: Edward Byrne Memorial Justice Assistance Grant Program Grant Number: 16.738 Award Amount: \$197,124

Contact Person Name and Title: Judy Cohea, Fiscal Officer Phone Number: (479) 587-3581

Federal regulations require recipients of financial assistance from the Office of Justice Programs (OJP), its component agencies, and the Office of Community Oriented Policing Services (COPS) to prepare, maintain on file, submit to OJP for review, and implement an Equal Employment Opportunity Plan (EEOP) in accordance with 28 C.F.R §§ 42.301-308. The regulations exempt some recipients from all of the EEOP requirements. Other recipients, according to the regulations, must prepare, maintain on file and implement an EEOP, but they do not need to submit the EEOP to OJP for review. Recipients that claim a complete exemption from the EEOP requirement must complete Section A below. Recipients that claim the limited exemption from the submission requirement, must complete Section B below. A recipient should complete *either* Section A or Section B, not both. If a recipient receives multiple OJP or COPS grants, please complete a form for each grant, ensuring that any EEOP recipient certifies as completed and on file (if applicable) has been prepared within two years of the latest grant. Please send the completed form(s) to the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, N.W., Washington, D.C. 20531. For assistance in completing this form, please call (202)307-0690 or TTY (202) 307-2027.

Section A- Declaration Claiming Complete Exemption from the EEOP Requirement. Please check all the boxes that apply.

- | | | | |
|----------------------------|---|----------------------------|--|
| ☐ Q | Recipient has less than 50 employees, | ☐ Q | Recipient is an Indian tribe, |
| ☐ Q | Recipient is a non-profit organization, | ☐ Q | Recipient is an educational institution, or |
| ☐ Q | Recipient is a medical institution, | ☐ Q | Recipient is receiving an award less than \$25,000 |

I, _____ [responsible official], certify that
_____ [recipient] is not required to
prepare an EEOP for the reason(s) checked above, pursuant to 28 C.F.R §42.302. I further certify that
_____ [recipient] will comply with applicable Federal civil rights
laws that prohibit discrimination in employment and in the delivery of services.

Print or type Name and Title	Signature	Date
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Section B- Declaration Claiming Exemption from the EEOP Submission Requirement and Certifying That an EEOP Is on File for Review.

If a recipient agency has 50 or more employees and is receiving a single award or subaward for \$25,000 or more, but less than \$500,000, then the recipient agency does not have to submit an EEOP to OJP for review as long as it certifies the following (42 C.F.R. § 42.305):

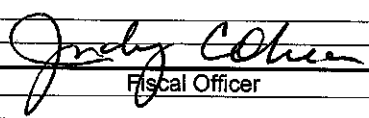
I, Dan Coody, [responsible official], certify that
the City of Fayetteville, AR [recipient], which has 50 or more
employees and is receiving a single award or subaward for \$25,000 or more, but less than \$500,000, has formulated an
EEOP in accordance with 28 CFR §42.301, *et seq.*, subpart E. I further certify that the EEOP has been formulated and
signed into effect within the past two years by the proper authority and that it is available for review. The EEOP is on file in
the office of: Human Resources, City of Fayetteville, AR [organization],
at 113 W. Mountain St., Fayetteville, AR 72701 [address], for review by the public and
employees or for review or audit by officials of the relevant state planning agency or the Office for Civil Rights, Office of
Justice Programs, U. S. Department of Justice, as required by relevant laws and regulations.

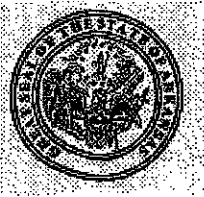
Print or type Name and Title	Signature	Date
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2008 JAG ITEMIZED BUDGET SUMMARY		Period: 07/01/2008 - 06/30/2008		
SUBGRANT # 08-014-		City of Fayetteville		
4th JUDICIAL DISTRICT DRUG TASK FORCE				
Budget Item	Federal Funds Requested	State Match Requested	Cash/In-Kind Match	Total
A. SALARY: List all positions for which funding is sought, include positions to be used as match. Include the number of hours worked per week, the salary rate, as well as a brief description of the job duties to be performed by each position. Grant funds and/or grant matching funds may not be used for CONFIDENTIAL FUNDS, unless the Authorized Official certifies ththe DTF will comply with the Department of Justice regulations concerning Confidential Funds.				
Position 1 Sergeant	\$23,797.00	\$4,754.00	\$28,344.00	\$56,895.00
Position 2 Investigator	\$16,713.00	\$3,339.00	\$20,404.00	\$40,456.00
Investigator Overtime	\$1,671.00	\$334.00	\$4,063.00	\$6,068.00
Position 3 Investigator	\$19,909.00	\$3,978.00	\$23,380.00	\$47,267.00
Investigator Overtime	\$1,991.00	\$398.00	\$4,701.00	\$7,090.00
Position 4 Secretary	\$0.00	\$0.00	\$31,720.00	\$31,720.00
TOTAL SALARY	\$64,081.00	\$12,803.00	\$112,612.00	\$189,496.00
B. MANDATED BENEFITS: Mandated Benefits include FICA, Worker's Compensation and State Unemployment. FICA is calculated at 7.65% of total salary. Worker's Compensation and State Unemployment rates are determined by the respective agencies.				
Medicare - 1.45% Officers and Secretary	\$929.00	\$186.00	\$1,633.00	\$2,748.00
Social Security - 7.65% Secretary	\$0.00	\$0.00	\$2,427.00	\$2,427.00
Worker's Comp - 3% Officers Salary	\$2,030.00	\$406.00	\$2,427.00	\$4,863.00
Worker's Comp - .26% Secretary	\$0.00	\$0.00	\$82.00	\$82.00
TOTAL MANDATED BENEFITS	\$2,959.00	\$592.00	\$6,569.00	\$10,120.00
C. EMPLOYER BENEFITS: Include all other benefits offered to employee through group policies held by the applicant (i.e.: health insurance, retirement, etc.). <u>Payments made directly to employees are not an allowable cost.</u>				
Health Insurance - (3) positions @ \$218.53 per month	\$3,683.00	\$733.00	\$3,451.00	\$7,867.00
Health Insurance - (1) position @ \$218.53 per month			\$2,622.00	\$2,622.00
Life Insurance	\$0.00	\$0.00	\$785.00	\$785.00
LTD Insurance	\$0.00	\$0.00	\$604.00	\$604.00
AD&D Insurance	\$0.00	\$0.00	\$72.00	\$72.00
Retirement - 12.72% Officers	\$8,151.00	\$1,628.00	\$14,324.00	\$24,103.00
Retirement - .26% Secretary	\$0.00	\$0.00	\$3,806.00	\$3,806.00
TOTAL EMPLOYER BENEFITS	\$11,834.00	\$2,361.00	\$25,664.00	\$39,859.00

D. MAINTENANCE AND OPERATIONS: Include items essential to the effective implementation of activities identified within this proposal (i.e. staff travel, telephone, office rental, office supplies, car lease (car lease not to exceed \$600.00 per month) etc.).				
Cell Phones Springdale (2) @ \$100/month	\$1,123.00	\$225.00	\$1,052.00	\$2,400.00
Cell Phones Fayetteville (3) @ \$60.67/month	\$1,022.00	\$204.00	\$958.00	\$2,184.00
Cell Phones Prairie Grove (1) @ 60.67/month	\$341.00	\$68.00	\$319.00	\$728.00
Office Phone w/ Long Distance	\$241.00	\$84.00	\$576.00	\$901.00
Alarm Service \$74.33/month	\$417.00	\$83.00	\$391.00	\$891.00
Copier \$27.25/month, \$300 maintenance	\$293.00	\$59.00	\$275.00	\$627.00
Pagers \$235/month	\$1,320.00	\$264.00	\$1,237.00	\$2,821.00
Vehicle Maintenance	\$3,200.00	\$639.00	\$4,345.00	\$8,184.00
Fuel	\$9,790.00	\$1,910.00	\$6,300.00	\$18,000.00
Office Supplies	\$234.00	\$47.00	\$219.00	\$500.00
Personal Liability Insurance	\$384.00	\$77.00	\$360.00	\$821.00
Vehicle Insurance	\$506.00	\$101.00	\$475.00	\$1,082.00
Evidence Collection Supplies	\$234.00	\$47.00	\$219.00	\$500.00
Postage	\$47.00	\$9.00	\$44.00	\$100.00
TOTAL MAINTENANCE AND OPERATIONS	\$19,152.00	\$3,817.00	\$16,770.00	\$39,739.00
E. PROFESSIONAL/CONTRACT SERVICES: Include any professional service needed to ensure success of the project. For each consultant enter the name, service to be provided and hourly fee. Estimate time worked on the project. If Contract Services is used for PERSONNEL - use the Personnel/Salary Category , but list that they are Contract Services .				
Springdale Police Department	\$24,432.00	\$4,882.00	\$34,338.00	\$63,652.00
Washington County Sheriff's Office	\$22,941.00	\$4,584.00	\$43,653.00	\$71,178.00
Prairie Grove Police Department	\$17,760.00	\$3,549.00	\$31,423.00	\$52,732.00
TOTAL PROFESSIONAL/CONTRACT SERVICES	\$65,133.00	\$13,015.00	\$109,414.00	\$187,562.00

F. TRAVEL/TRAINING: Itemize travel expenses of project personnel by purpose. Training for personnel (IN STATE ONLY). OUT OF STATE TRAVEL/TRAINING MUST BE APPROVED BY IGS/COMMITTEE.

Synthetic Drug Enforcement Training	\$1,147.00	\$230.00	\$1,073.00	\$2,450.00
Item Name	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL TRAVEL/TRAINING	\$1,147.00	\$230.00	\$1,073.00	\$2,450.00
G. TOTAL PROJECT BUDGET	\$164,306.00	\$32,818.00	\$272,102.00	\$469,226.00
2008 - 2009 Budget (Federal /State/Local):				
Maximum Eligibility Amount (FEDERAL) for 2008 - 2009:				\$164,306.00
Maximum Eligibility Amount (STATE) for 2008 - 2009:				\$32,861.20
Total Local Match Requirement 2008 - 2009:				\$21,907.47
Authorized Official			Date	
 Fiscal Officer			8/14/08 Date	



**DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF INTERGOVERNMENTAL SERVICES
JUSTICE ASSISTANCE GRANT PROGRAM**

**INVENTORY REPORT
(Federal and State Match Inventory Items)**

Subgrant Organization: 4th Judicial District Drug Task Force

Subgrant #: 07014-7J

Subgrant Period: 7/1/07-6/30/08

Equipment/Property Description:		Adaptec Snap Server 410			
Identification/Serial Number:		USCCSA75212198			
Date of Purchase:	3/28/2008	Original Cost:	2,818.99	Percent Paid with Federal Funds:	47%
Current Location:	Task Force Office			Current Use:	Data storage Server
Current Condition:	☒ Like New	☐ Good	☐ Poor	☐ Other, specify	

Equipment/Property Description:		Vostro 1700 Laptop Computer			
Identification/Serial Number:		13523520781			
Date of Purchase:	4/7/2008	Original Cost:	2,156.98	Percent Paid with Federal Funds:	47
Current Location:	Task Force Office			Current Use:	
Current Condition:	☒ Like New	☐ Good	☐ Poor	☐ Other, specify	

Equipment/Property Description:		Canon 12x36 Image Stabilizer II Binoculars (Qty 2)			
Identification/Serial Number:		34300238 / 34302204			
Date of Purchase:	2/27/2008	Original Cost:	568.09 each	Percent Paid with Federal Funds:	47
Current Location:	Task Force Office			Current Use:	Surveillance
Current Condition:	☒ Like New	☐ Good	☐ Poor	☐ Other, specify	

☐ No property/equipment was purchased with federal funds under this subgrant.

[Signature]

Authorized Official

Date



**DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF INTERGOVERNMENTAL SERVICES
JUSTICE ASSISTANCE GRANT PROGRAM**

INVENTORY REPORT
(Federal and State Match Inventory Items)

Subgrant Organization: 4th Judicial District Drug Task force

Subgrant #: 07014-7J

Subgrant Period: 7/1/07-6/30/08

Equipment/Property Description:		Canon EOS Digital Rebel XTI w/ accessories (Qty 2)			
Identification/Serial Number:		2271203724 / 2271203714			
Date of Purchase:	4/28/2008	Original Cost:	979.96 each	Percent Paid with Federal Funds:	47%
Current Location:	Task Force Office			Current Use:	Surveillance
Current Condition:		☒ Like New ☐ Good ☐ Poor ☐ Other, specify			

Equipment/Property Description:		CST-560 Transmitter			
Identification/Serial Number:		5603			
Date of Purchase:	4/22/2008	Original Cost:	1,329.06	Percent Paid with Federal Funds:	47%
Current Location:	Task Force Office			Current Use:	Surveillance
Current Condition:		☒ Like New ☐ Good ☐ Poor ☐ Other, specify			

Equipment/Property Description:		STR-751R Receiver			
Identification/Serial Number:		1041			
Date of Purchase:	4/22/2008	Original Cost:	3,586.90	Percent Paid with Federal Funds:	47%
Current Location:	Task Force Office			Current Use:	Surveillance
Current Condition:		☒ Like New ☐ Good ☐ Poor ☐ Other, specify			

☐ No property/equipment was purchased with federal funds under this subgrant.

Authorized Official

Date



**DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF INTERGOVERNMENTAL SERVICES
JUSTICE ASSISTANCE GRANT PROGRAM**

INVENTORY REPORT
(Federal and State Match Inventory Items)

Subgrant Organization: 4th Judicial District Drug Task Force

Subgrant #: 07014-7J

Subgrant Period: 7/1/07-6/30/08

Equipment/Property Description:		Canon imageClass MF180c Printer			
Identification/Serial Number:		70989101			
Date of Purchase:	6/9/2008	Original Cost:	671.83	Percent Paid with Federal Funds:	47%
Current Location:	Task Force Office			Current Use:	Printing
Current Condition:	☒ Like New	☐ Good	☐ Poor	☐ Other, specify	

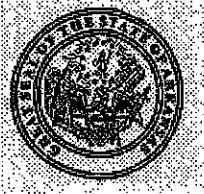
Equipment/Property Description:		Citation 24 Digital Receiver/Recorder Kit			
Identification/Serial Number:		1150			
Date of Purchase:	6/10/2008	Original Cost:	2,798.99	Percent Paid with Federal Funds:	47%
Current Location:	Task Force Office			Current Use:	Surveillance
Current Condition:	☒ Like New	☐ Good	☐ Poor	☐ Other, specify	

Equipment/Property Description:		MDVR 3000 Digital Recorder & Operating Software for Surveillance Vehicle			
Identification/Serial Number:		MDVR-3K05-000002-070502-0000-0007			
Date of Purchase:	6/5/2008	Original Cost:	4,994.91	Percent Paid with Federal Funds:	47%
Current Location:	Secure Lock-up Area			Current Use:	Surveillance
Current Condition:	☒ Like New	☐ Good	☐ Poor	☐ Other, specify	

☐ No property/equipment was purchased with federal funds under this subgrant.

Authorized Official

Date



**DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF INTERGOVERNMENTAL SERVICES
JUSTICE ASSISTANCE GRANT PROGRAM**

INVENTORY REPORT
(Federal and State Match Inventory Items)

Subgrant Organization: 4th Judicial District Drug Task Force

Subgrant #: 07014-7J

Subgrant Period: 7/1/07-6/30/08

Equipment/Property Description:		OptiPlex 755 Desktop Computer (Qty 5)			
Identification/Serial Number:		6RB6GG1 / 8RB6GG1 / 4RB6GG1 / 7RB6GG1 / 5RB6GG1			
Date of Purchase:	6/10/2008	Original Cost:	987.35 each	Percent Paid with Federal Funds:	47%
Current Location:	Task Force Office			Current Use:	Office Equipment
Current Condition:	☒ Like New	☐ Good	☐ Poor	☐ Other, specify	

Equipment/Property Description:					
Identification/Serial Number:					
Date of Purchase:		Original Cost:		Percent Paid with Federal Funds:	
Current Location:				Current Use:	
Current Condition:	☐ Like New	☐ Good	☐ Poor	☐ Other, specify	

Equipment/Property Description:					
Identification/Serial Number:					
Date of Purchase:		Original Cost:		Percent Paid with Federal Funds:	
Current Location:				Current Use:	
Current Condition:	☐ Like New	☐ Good	☐ Poor	☐ Other, specify	

☐ No property/equipment was purchased with federal funds under this subgrant.

Authorized Official

Date

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

A. 3
2008-2009 Justice Assistance Grant
Page 29 of 30

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

Project or Item Added/Increased: Recognize the Drug Enforcement and increase some of the operational expense for Drug Enforcement.	Project or Item Deleted/Reduced: None
--	---

Justification of this Increase: The 4th Judicial District Drug Task Force will continue with the same level of enforcement efforts as in the past year.	Justification of this Decrease:
---	--

Increase Budget			
Account Name	Account Number	Amount	Project Number

Decrease Budget			
Account Name	Account Number	Amount	Project Number

Approval Signatures		Budget & Research Use Only					
Requested By <u>Judy Cohen</u> Budget Director <u>[Signature]</u> Department Director <u>[Signature]</u> Finance Director <u> </u> Mayor <u> </u>	Date <u>8/14/08</u> Date <u> </u> Date <u>8-14-08</u> Date <u> </u> Date <u> </u>	Type:	A	B	C	D	E
General Ledger Date		3/31/2008					
Approval Date		Initial		Date			
Posted to General Ledger		Initial		Date			
Posted to Project Accounting		Initial		Date			

Budget Adjustment Detail Backup

Account Name	Account Number	Increase Budget	Decrease Budget	Project#	Sub#	Project Description
State Grants - Operational	2930.0993.4302.01		1,118			
Federal Grants - Operational	2930.0993.4309.01		5,606			
Grant - Rural Washington County	2930.099.04377.23		6,540			
Forfeitures - DTF	2930.0993.4503.00		3,296			
Use of Fund Balance	2930.0993.4999.99		30,000			
O & M-Fayetteville	2930.2960.5377.01	31,160				
O & M-Springdale	2930.2960.5377.02	3,000				
O & M-Washington County	2930.2960.5377.03	300				
O & M-Rural	2930.2960.5377.05	2,600				
Confidential-Fayetteville	2930.2960.5379.01	6,000				
Confidential-Springdale	2930.2960.5379.02	1,500				
Confidential-Washington	2930.2960.5379.03	2,000				
		46,560	46,560			

City Council Agenda Items
and
Contracts, Leases or Agreements

9/2/2008

City Council Meeting Date
Agenda Items OnlyGreg Tabor
Submitted BySupport Services
DivisionPolice
Department

Action Required:

Approve budget adjustment to record state forfeiture revenue in the amount of \$21,237.00 and federal forfeiture revenue in the amount of \$59,133.00. This also increases the expense account by the total of \$80,370.00.

\$ 80,370.00

Cost of this request

\$ 19,096.00

Category / Project Budget

Capital

Program Category / Project Name

1010-2900-5802.00

Account Number

\$ -

Funds Used to Date

State Forfeiture & Federal Forfeiture

Program / Project Category Name

03045-1 & 03046-1

Project Number

\$ 19,096.00

Remaining Balance

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Service Director

Date

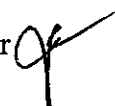
Mayor

Date

Received in City
Clerk's OfficeReceived in
Mayor's Office

Comments:

Departmental Correspondence

To: Mayor Dan Coody and Members of the City Council
Thru: Greg Tabor, Police Chief 
From: Judy Cohea, Support Services Manager 
Date: August 8, 2008
Re: **Approval of Budget Adjustments to recognize State and Federal Forfeitures**

Background

The Fayetteville Police Department receives forfeitures as a result of civil proceedings concerning cash or property seized during a criminal investigation. Most of the forfeitures we have received in the past are a direct result from the efforts of the officers we assign to the 4th Judicial District Drug Task Force (4th DTF) and the local office of the Federal Drug Enforcement Agency (DEA).

Discussion

We must follow the Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies to spend federal forfeitures. State forfeitures are to be spent for law enforcement purposes. All purchases utilizing these funds follow the City of Fayetteville Purchasing Policy.

Recommendation

Staff recommends approval of both budget adjustments in the amounts of \$21,237.00 and \$59,133.00.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT TO RECOGNIZE FEDERAL FORFEITURE REVENUE IN THE AMOUNT OF \$59,133.00, AND STATE FORFEITURE REVENUE IN THE AMOUNT OF \$21,237.00 FOR POLICE DEPARTMENT USE ONLY.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment to recognize Federal Forfeiture Revenue in the amount of \$59,133.00, and State Forfeiture Revenue in the amount of \$21,237.00 for Police Department use only.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 4
State and Federal Forfeiture
Page 4 of 6

Budget Year 2008	Department: Police Division: Police Program: Support Services	Date Requested 8/15/2008	Adjustment Number
----------------------------	---	------------------------------------	-------------------

Project or Item Added/Increased: Federal Forfeitures received from the Drug Enforcement Agency for Police Department use. Budget to be placed in Vehicles & Equipment line item for Project # 03046-1.	Project or Item Deleted/Reduced: Revenue received from Drug Enforcement Agency for Police Department use.
--	---

Justification of this Increase: These forfeitures will be utilized according to the Federal Guidelines for Equitable Sharing of Federally Forfeited Property	Justification of this Decrease: Recognize Federal Forfeitures received through 8-15-08.
--	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	1010	2900	5802	00	59,133	03046	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Federal Forfeitures	1010	0001	4504	00	59,133	03046	1

Approval Signatures		Budget Office Use Only	
Requested By <u>Judy Cohen</u> Budget Manager <u>[Signature]</u>	Date <u>8/15/08</u> Date <u>8/15/08</u>	Type: A B C <u>D</u> E	
Department Director	Date	Posted to General Ledger	Initial Date
<u>Paul A. Becker</u> Finance & Internal Services Director	<u>8-20-08</u> Date	Posted to Project Accounting	Initial Date
<u>Ken Coady</u> Mayor	<u>8/20/08</u> Date	Entered in Category Log	Initial Date

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

A. 4
State and Federal Forfeiture
Page 5 of 6

Budget Year 2008	Department: Police Division: Police Program: Support Services	Date Requested 8/15/2008	Adjustment Number
--------------------------------	---	--	-------------------

Project or Item Added/Increased:
State Forfeitures received from the 4th Judicial District Drug Task Force for Police Department use only. Budget to be placed in Vehicles & Equipment line item for Project # 03045-1.

Project or Item Deleted/Reduced:
Revenue received from 4th Judicial District Drug Task Force for Police Department use only.

Justification of this Increase:
These forfeitures will be used for any lawful purpose of law enforcement as specified by State law.

Justification of this Decrease:
Recognize State Forfeitures received through 8-15-08.

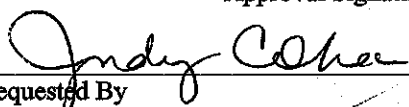
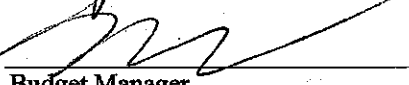
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Vehicles and equipment	1010 2900 5802 00	21,237	03045 1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Police Law Enforce Trust	1010 0001 4308 02	21,237	03045 1

Approval Signatures

	8/15/08
Requested By	Date
	8/15/08
Budget Manager	Date
	8-15-08
Department Director	Date
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
---------	------

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Aug-07
City Council Meeting Date

Ron Petrie Engineering Operations
Submitted By Division 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 ☐

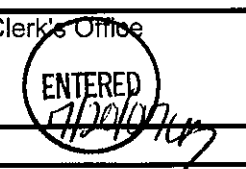
 7.19.07
Department Director Date

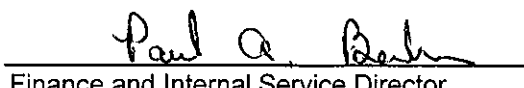
Previous Ordinance or Resolution # _____

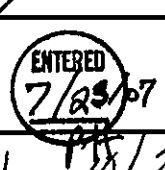
Original Contract Date: _____

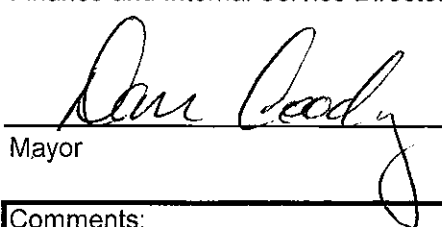
Original Contract Number: _____

 7/23/07
City Attorney Date

Received in City Clerk's Office


 7-23-07
Finance and Internal Service Director Date

Received in Mayor's Office


 7/23/07
Mayor Date

Comments:

Tabled Indefinitely 7/2/07
Tabled to October 2, 2007 mtg 7/1/07
Left on the second reading 8/23/07
Left on the first reading 8/17/07

Tabled to Sept 2 2008 mtg 7/1/08

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

City Council Meeting of August 7, 2007

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	\$ 77,274.00

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

PROPOSALDate: July 18, 2007

Company: _____

Project: Pond RestorationAttention: Mat CaseyLocation: 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
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.

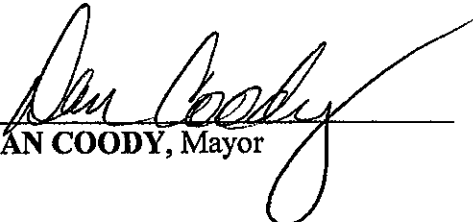
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

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.; ~~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.

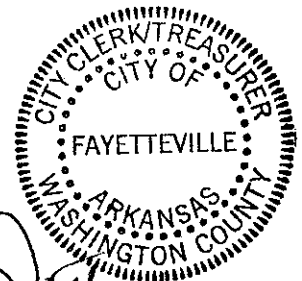
PASSED and APPROVED this 15th day of January, 2008.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA E. SMITH, City Clerk/Treasurer



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:

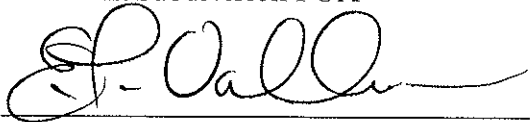
1. Upon the City Council and/or the Mayor approving the Cost-Share, the City of Fayetteville agrees to:
 - A. Pay a maximum-not-to-exceed cost of \$69,674.00 of the \$77,274.00 for the afore mentioned pond dredging as was provided by Wilson Excavating, LLC, the contractor, and made a part of this agreement.
 - 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:  _____

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:  _____

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:

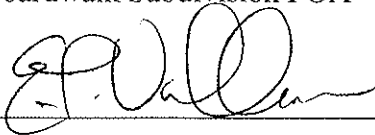
1. Upon the City Council and/or the Mayor approving the Cost-Share, the City of Fayetteville agrees to:
 - A. Pay a maximum-not-to-exceed cost of \$69,674.00 of the \$77,274.00 for the afore mentioned pond dredging as was provided by Wilson Excavating, LLC, the contractor, and made a part of this agreement.
 - 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:  _____

City of Fayetteville Staff Review Form

B. 3
Raze and Removal at 402 E. Center Street
Page 1 of 16

City Council Agenda Items and Contracts, Leases or Agreements

8/19/2008

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the unsafe structure located at 402 E. Center St.
(WC Parcel # 765-12746-000)

Cost of this request

1010.6420.5315.04

Account Number

\$

Category / Project Budget

Funds Used to Date

\$

Project Number

Remaining Balance

Program Category / Project Name

Raze and Removal

Program / Project Category Name

General Fund

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

ENTERED

Received in
Mayor's Office

ENTERED

Comments: Staff recommends the Raze and Removal of the structure and approval of the budget adjustment.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

6/17/2008

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the unsafe structure located at 402 E. Center St.
(WC Parcel # 765-12746-000)

Cost of this request	\$ -	Program Category / Project Name
1010.6420.5315.04	Category / Project Budget	Raze and Removal
Account Number	Funds Used to Date	Program / Project Category Name
Project Number	\$ -	General Fund
	Remaining Balance	Fund Name

Budgeted Item

☐

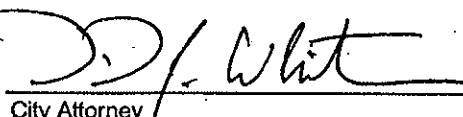
Budget Adjustment Attached

☐


Department Director

5-28-08
Date

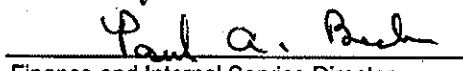
Previous Ordinance or Resolution #


City Attorney

6/2/08
Date

Original Contract Date:

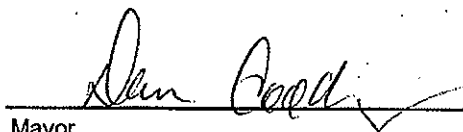
Original Contract Number:


Finance and Internal Service Director

6-2-08
Date

Received in City
Clerk's Office




Mayor

6/3/08
Date

Received in
Mayor's Office



Comments: Staff recommends the Raze and Removal of the structure and approval of the budget adjustment.

Revised April 16, 2007

Tabled Indefinitely 6/17/08

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, Community Resources Director

Date: August 1, 2008

Subject: Raze & Removal of structure on 402 E. Center Street.

BACKGROUND

Service Request # 48553, Case #5721: Code Compliance responded to a complaint concerning the structure located at 402 E. Center St. The structure appeared to be in violation of Subsection 173.08, Unsafe Building, of the City Code of Ordinances. The Building Safety Division Director inspected the property and determined that the structure was in violation of Subsection 173.08, Unsafe Buildings, of the City Code of Ordinances.

This item was tabled indefinitely during the June 17, 2008 City Council meeting due to a change in ownership. On June 12, 2008, the property owner filed a Quitclaim Deed with the Washington County Circuit Clerk, File# 2008-00019604. The property was deeded to Tiffany R. Major, the daughter of the previous property owners.

On June 13, 2008, an Unsafe Building Notice of Violation was hand delivered to the current property owner, Tiffany R. Major. By ordinance, the owner was given until **July 14, 2008** to acquire a building permit or to raze and remove the structure.

DISCUSSION

This parcel contains a 1,000 square foot, one story wood frame single family dwelling. The structure is secured, but has deteriorated to a point where it is no longer safe. There is not a current building permit on this structure.

RECOMMENDATION

Staff recommends a resolution to order the raze and removal of the structure.

BUDGET IMPACT

Contracting the raze and removal of the structure would cost approximately \$4,945. An ad was placed in the newspaper on April 20 and April 27 for bids on the raze and removal of the structure. The lowest winning bid was from Burnett Commercial Contracting Inc., for \$4,945. A budget adjustment is needed to fund this project. The cost will be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

RESOLUTION NO. _____

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY TIFFANY R. MAJOR LOCATED AT 402 E. CENTER STREET IN THE CITY OF FAYETTEVILLE, ARKANSAS; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$4,945.00.

WHEREAS, Tiffany R. Major is the record owner of the real property situated at 402 E. Center Street, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-12746-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, Tiffany R. Major, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1: That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, Tiffany R. Major is hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That, if Tiffany R. Major does not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$4,945.00 to contract for the razing and removal of said structure.

PASSED and APPROVED this 19th day of August, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

B. 3
Raze and Removal at 402 E. Center Street
Page 5 of 16

Budget Year 2007	Department: Operations Division: Community Resources Program: Code Compliance	Date Requested 8/4/2008	Adjustment Number
----------------------------	---	-----------------------------------	-------------------

Project or Item Added/Increased: \$4,945 in the Raze and Removal account	Project or Item Deleted/Reduced: None. \$4,945 from the General Fund Use of Fund Balance Account.
---	--

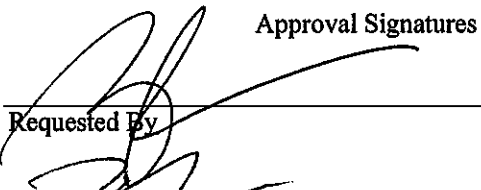
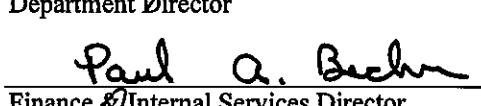
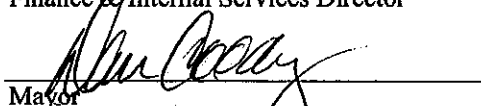
Justification of this Increase: Funding is needed for the Raze and Removal of a structure located at 402 East Center Street.	Justification of this Decrease: There is sufficient Fund Balance remaining to comply with 2008 obligations.
---	--

Increase Expense Budget (Decrease Revenue Budget)

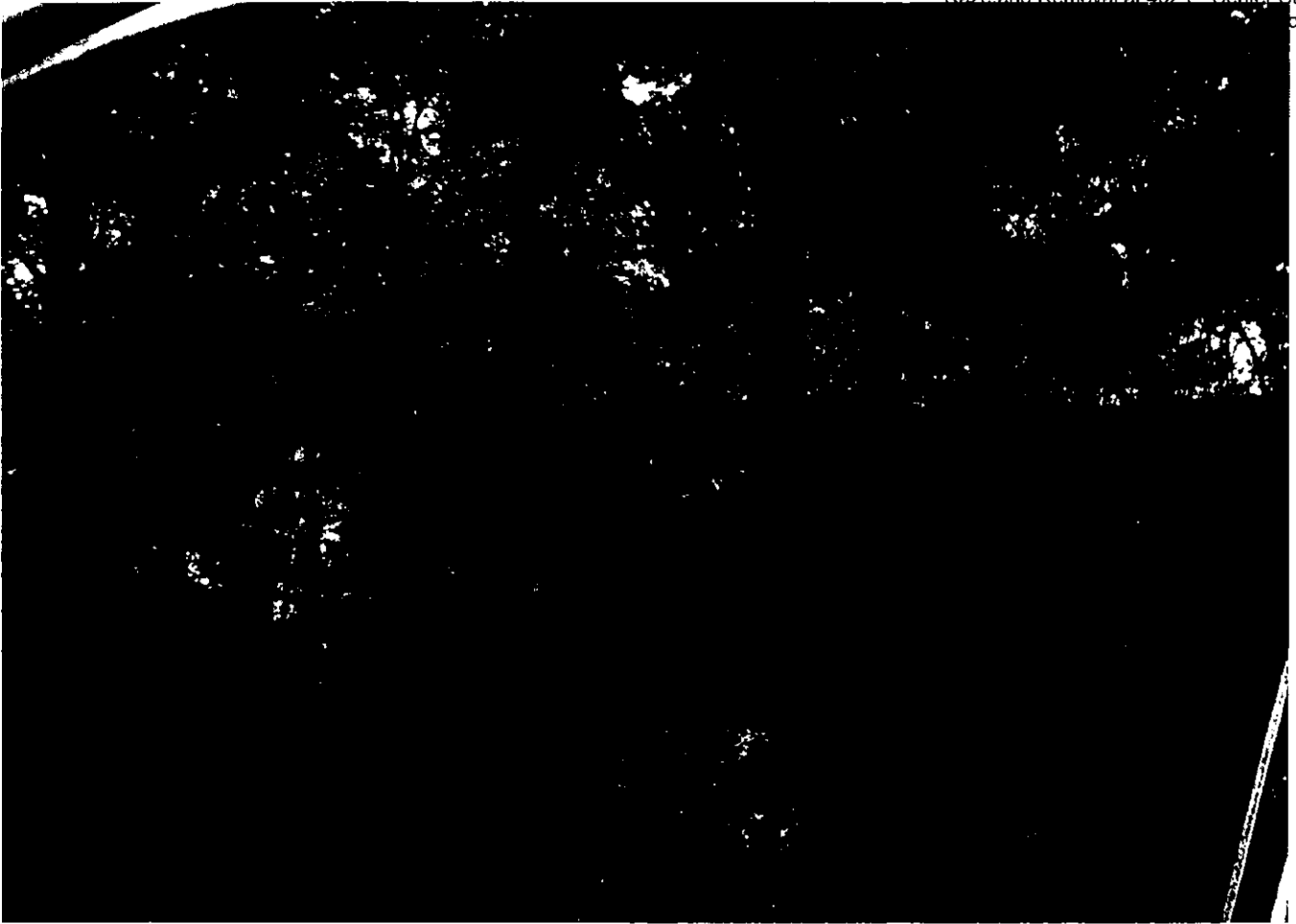
Account Name	Account Number				Amount	Project Number
Raze and Removals	1010	6420	5315	04	4,945	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Use of fund balance	1010	0001	4999	99	4,945	

Approval Signatures		Budget Office Use Only	
Requested By 	Date 8/5/08	Type: A B C <u>D</u> E	
Budget Manager 	Date 8-4-08	Posted to General Ledger	Initial _____ Date _____
Department Director 	Date 8-4-08	Posted to Project Accounting	Initial _____ Date _____
Finance & Internal Services Director 	Date 8-4-08	Entered in Category Log	Initial _____ Date _____
Mayor 	Date 8/6/08		







City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

June 13, 2008

Owner TIFFANY R. MAJOR
2710 N. COLETTE

FAYETTEVILLE, AR 72703

RE: Property @ 402 CENTER

WC Parcel # 765-12746-000

Case # 5721

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at .

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

BRENT JOHNSON
Code Compliance Officer

Cc: file

CITY OF FAYETTEVILLE CODE COMPLIANCE PROGRAM

OFFICER DELIVERY FORM

Officer delivery is required for the attached document:

Notice: 173.08 Unsafe Building

Name and Address to Deliver:

Tiffany R. Major

2710 W. COLETTE
FAYETTEVILLE, AR 72703

Owner/Occupant's Signature:

Tiffany Major

Return of Service

I, Brent Johnson, of the Code Compliance
Program (Officer name - print)

certify that I provided a true copy of the document described above to:

TIFFANY MAJOR at the following address;
(name of recipient)

Delivery Date 6/13/09 Time 11:00 AM

Officer Signature

Brent Johnson



July 22, 2008

Tiffany R. Major
2710 Colette Ave.
Fayetteville, AR 72703

COPY

RE: Enforcement of Fayetteville Code 173.08
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 402 E. Center St. (Parcel #765-12746-000), should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on August 19, 2008 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (479-575-8323) for information confirming the date of the public hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Ball".

Chad Ball
Community Resources Coordinator

Cc: file

Record 1 of 2 Last Updated 07/28/08

Parcel Number: **765-12746-000** Prev. Parcel Number: **145921-000-00** Type: **RI**
 Location: **402 E CENTER ST**
 Owner Name: **MAJOR, TIFFANY RONCHELLE**
 Mailing Address: **2710 N COLETTE FAYETTEVILLE AR 72703**
 Lot: Block: S-T-R: **15-16-30**
 Addition: **15-16-30 COUNTY COURT PLAT**
 School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
 City: **FAYETTEVILLE**
 Legal: **PT S 1/2 L; 40-41 NW**
 Current Year A79 Credit Status: **V**
 Last Appraised: **2007**

	Appraised Value	Taxable Value
Land	26,400	4,224
Improvement	55,450	9,036
Total	81,850	13,260

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit	A79 Status	Net Total Tax	Total Tax Paid	Payment Status
2006	11,050	\$582.34	\$0.00	\$0.00	\$0.00			\$582.34	\$0.00	
2005	10,836	\$571.06	\$0.00	\$0.00	\$0.00			\$571.06	\$571.06	PAID
2004	9,933	\$515.13	\$0.00	\$0.00	\$0.00			\$515.13	\$515.13	PAID
2003	9,030	\$478.23	\$0.00	\$0.00	\$0.00			\$478.23	\$478.23	PAID
2002	8,844	\$459.53	\$0.00	\$0.00	\$0.00			\$459.53	\$459.53	PAID
2001	8,107	\$421.24	\$0.00	\$0.00	\$0.00			\$421.24	\$421.24	PAID
2000	7,370	\$386.93	\$0.00	\$0.00	\$0.00			\$386.93	\$386.93	PAID
1999	7,370	\$377.34	\$0.00	\$0.00	\$0.00			\$377.34	\$377.34	PAID
1998	7,370	\$378.08	\$0.00	\$0.00	\$0.00			\$378.08	\$378.08	PAID
1997	7,370	\$378.08	\$0.00	\$0.00	\$0.00			\$378.08	\$378.08	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2005	998035	8/23/2007	\$571.06	\$0.00	\$0.00	\$0.00	\$0.00	\$571.06
2004	998035	8/23/2007	\$515.13	\$0.00	\$0.00	\$0.00	\$0.00	\$515.13
2003	998035	8/23/2007	\$478.23	\$0.00	\$0.00	\$0.00	\$0.00	\$478.23
2002	998035	8/23/2007	\$459.53	\$0.00	\$0.00	\$0.00	\$0.00	\$459.53
2001	109398	10/24/2002	\$421.24	\$0.00	\$0.00	\$0.00	\$0.00	\$421.24
2000	14281	10/20/2001	\$386.93	\$0.00	\$0.00	\$0.00	\$0.00	\$386.93
1999	11382	10/2/2000	\$377.34	\$0.00	\$0.00	\$0.00	\$0.00	\$377.34
1998	8697	10/25/1999	\$378.08	\$0.00	\$0.00	\$0.00	\$0.00	\$378.08
1997	18491	10/17/1998	\$378.08	\$0.00	\$0.00	\$0.00	\$0.00	\$378.08

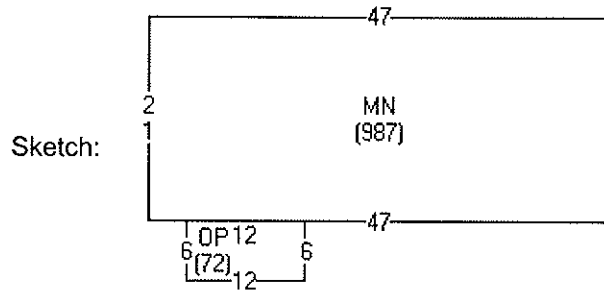
Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
6/12/2008	2008	19304	MAJOR, TIFFANY RONCHELLE		QC	0	
			LAJ 2008-19304 QC NO REV				
8/14/2007	2007	32069	TAYLOR, ROY LEE & SANDRA RUTH		RD	0	
			LMV 2007-32069 RD #238945				

Real Estate Parcel Information

1/1/1985 805 176 TAYLOR, ROY LEE & SANDRA RUTH
WD 0 0.00
 93-26292 RED DEED #89936 (7/1/93) (MC)

Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
1	SF	FS	987	987	1960	
	Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
	4	A	SIDING			47



Out Buildings and Yard Improvements			
Qty	Description	Size	Quality
1	Outbuilding,metal	6x6	



Doc ID: 012322490002 Type: REL
Recorded: 06/12/2008 at 01:53:12 PM
Fee Amt: \$20.00 Page 1 of 2
Washington County, AR
Bette Stamps Circuit Clerk

File **2008-00019604**

Above Space Reserved for Recording

[If required by your jurisdiction, list above the name & address of: 1) where to return this form; 2) preparer; 3) party requesting recording.]

Quitclaim Deed

Date of this Document: June 12 2008

Reference Number of Any Related Documents: 715-12746-000

Grantor:

Name

Street Address

City/State/Zip

Roy Lee and Sandra Ruth Taylor
2710 N Colette
Fayetteville, Arkansas 72703

Grantee:

Name

Street Address

City/State/Zip

Tiffany Ronchelle Major
2710 N Colette
Fayetteville, Arkansas 72703

Abbreviated Legal Description (i.e., lot, block, plat or section, township, range, quarter/quarter or unit, building and condo name): Exhibit A

Assessor's Property Tax Parcel/Account Number(s): Exhibit A

THIS QUITCLAIM DEED, executed this

12

day of

June

20 08, by first party, Grantor, Roy Lee and Sandra Ruth Taylor Sandra R. Taylor whose
mailing address is 2710 N Colette Fayetteville, AR 72703 Roy Lee Taylor
second party, Grantee, Tiffany Ronchelle Major
whose mailing address is 2710 N Colette Fayetteville, AR 72703

WITNESSETH that the said first party, for good consideration and for the sum of One
Dollars (\$ 1.00) paid by the said second party, the receipt whereof is hereby acknowledged,
does hereby remise, release and quitclaim unto the said second party forever, all the right, title, interest and claim,

which the said first party has in and to the following described parcel of land, and improvements and appurtenances thereto in the County of _____, State of _____

Part of the southwest quarter of the Northwest quarter of Section Fifteen in Township Sixteen North, of Range Thirty West, more particularly described as beginning at a point which is five feet North and two hundred forty five feet West of the Southeast corner of said forty acre tract, and running thence West seventy nine and seventy-five hundredths feet, more or less, to the East line of Willow Avenue at a point five feet North and thirty-five feet East of the Southwest corner of the Old McGarrah Tract, thence North along the East line of Willow Avenue one hundred ten and five-tenths feet, thence East twenty-nine and seventy-five hundredths feet; thence South one hundred ten and five tenths feet, more or less, to the place of beginning.

sealed and delivered in the presence of:

Signature of Witness Keshia Fletcher
Print Name of Witness Keshia Fletcher

Signature of Witness Catherine Hagihara
Print Name of Witness Catherine Hagihara

Signature of Grantor _____
Print Name of Grantor _____

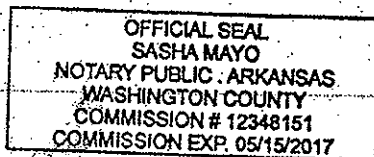
State of Arkansas
County of Washington

On June 12, 2008, before me, Sasha Mayo,
appeared Sandra and Ruth Taylor and Tiffany Major, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Sasha Mayo
Signature of Notary

Affiant Known ☒ Produced ID
Type of ID AROL
(Seal)



City of Fayetteville Staff Review Form

B. 4
ANX 08-3036 (Fayetteville
Farmington Land Swap)
Page 1 of 24

City Council Agenda Items
and
Contracts, Leases or Agreements

August 19, 2008

City Council Meeting Date
Agenda Items Only

Karen Minkel
Submitted By

Long Range Planning
Division

Operations
Department

Action Required:

ANX 08-3036 (Fayetteville_Farmington Land Swap): Submitted by Rausch Coleman Homes for property located west of the Walnut Crossing Subdivision. The request is to annex 11.86 acres from Farmington in exchange for 8.035 acres in Fayetteville to allow further development by the property owner.

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

Received in City
Clerk's Office

ENTERED

8-1-08 UH

Mayor

Date

Received in
Mayor's Office

ENTERED

8/1/08 BCP

Comments:

Revised April 16, 2007

Left on the second reading 8/19/08

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: July 31, 2008

Subject: Fayetteville_Farmington Land Swap (ANX 08-3036)

RECOMMENDATION

Planning staff and the Planning Commission recommend approval of the subject annexation request for approximately 11.86 acres from Farmington in exchange for 8.035 acres in Fayetteville to allow further development by the property owner.

BACKGROUND

The subject property contains 11.86 acres and is located within the City of Farmington west of the Walnut Crossing and Coves developments. Pursuant to A.C.A §14-40-2101, two contiguous municipalities may simultaneously detach and annex territory, subject to approval from the governing body of each municipality. Rausch Coleman Homes requested that the City of Fayetteville and the City of Farmington approve the exchange of two substantially equal tracts of property, resulting in new city limit boundaries for each municipality. Specifically, 11.86 acres north of Alberta Street would be detached from Farmington and annexed into Fayetteville, and 8.035 acres south of Alberta Street would be detached from Fayetteville and annexed into Farmington. The portion of Alberta Street that borders the property would fall under Fayetteville's jurisdiction. See attached maps for reference.

DISCUSSION

This item was heard at the regular Planning Commission meeting on July 28, 2008. The Planning Commission voted 6-0-0 to recommend forwarding this annexation request to the City Council with a recommendation for approval.

If this annexation is approved by the City Council, the City of Farmington City Council is required to hold a public hearing on the detachment and annexation within 60 days of the effective date of this ordinance. The City of Farmington had its first reading of the detachment and annexation of Fayetteville's 8.035 acres on July 14, 2008. The second reading is scheduled for August 11.

BUDGET IMPACT

None.

ORDINANCE NO. _____

**AN ORDINANCE SIMULTANEOUSLY DETACHING TERRITORY
FROM THE CITY OF FARMINGTON AND ANNEXING SAID
TERRITORY INTO THE CITY OF FAYETTEVILLE, PURSUANT
TO A.C.A. §14-40-2101**

WHEREAS, A.C.A. §14-40-2101 provides a procedure for the simultaneous detachment of territory from one municipality and annexation of such territory into an adjoining municipality; and

WHEREAS, Rausch Coleman Land Development Company is desirous of moving parcels of substantially equal size from Fayetteville into Farmington, and from Farmington into Fayetteville to provide a more manageable and clear city limits border within its development between the cities.

**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 calls for the simultaneous detachment from Farmington and annexation into Fayetteville of property described on Exhibit B and shown on Exhibit A (attached) upon request of the owners of this property.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby requests that the City of Farmington schedule and hold a public hearing on the detachment and annexation within 60 days of the effective date of this ordinance and notify the Fayetteville City Clerk of the date for the public hearing in sufficient time for her to publish a legal notice at least 15 days before the hearing.

Section 3: If the City of Farmington concurs by ordinance in the simultaneous detachment from Farmington and annexation into Fayetteville of the land described on

Page 2
Ord.

Exhibit B and shown on Exhibit A, the City Council of the City of Fayetteville, Arkansas, hereby annexes said land into Fayetteville, amends the official map of Fayetteville, and assigns the land to Ward 4.

PASSED and APPROVED this 5th day of August, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

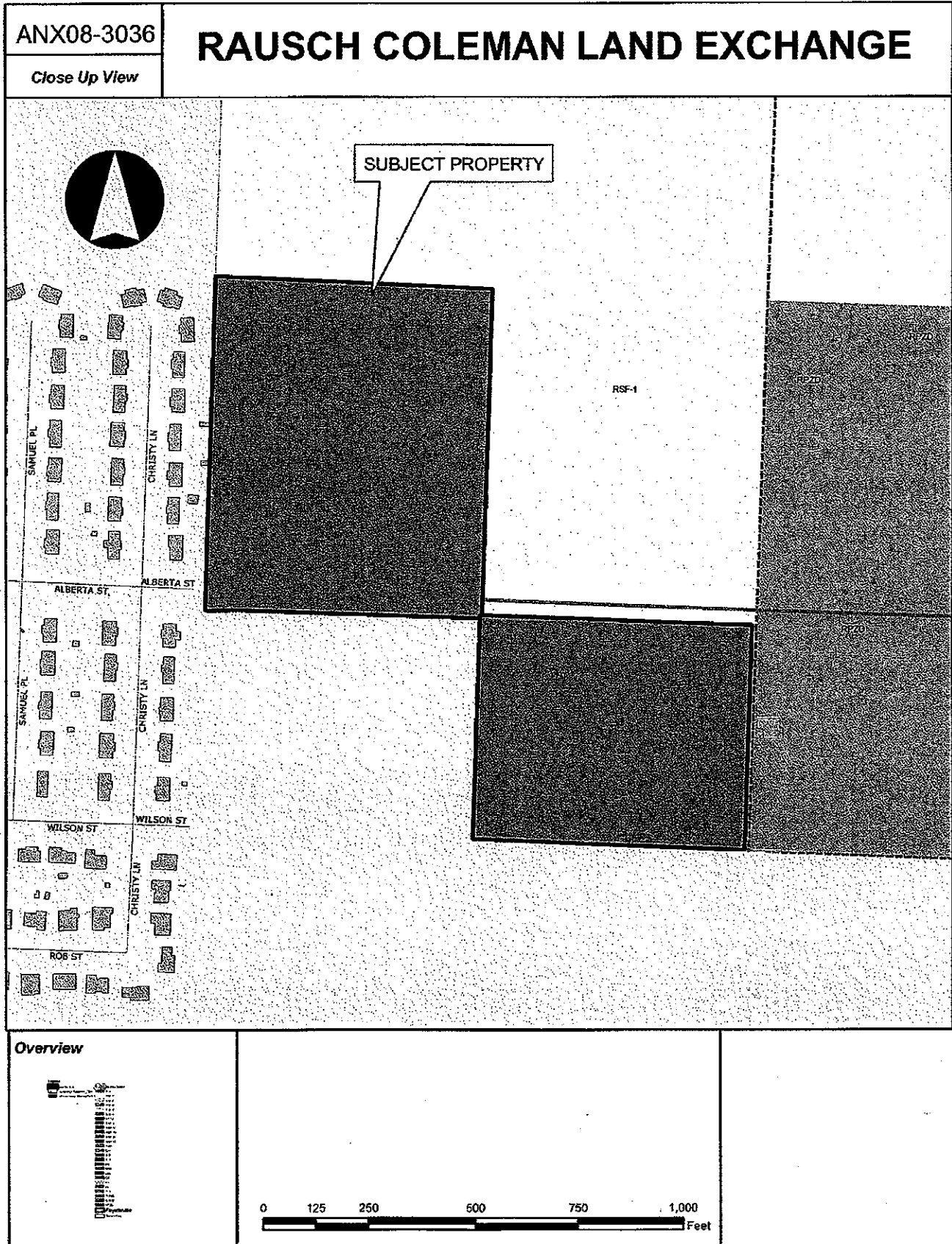


EXHIBIT "B"
ANX 08-3036

DESCRIPTION OF PARCEL TO CONVEY FROM FARMINGTON TO FAYETTEVILLE:

A PART OF THE WEST HALF (W ½) OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 24, TOWNSHIP 16 NORTH, RANGE 31 WEST (SEC 24, T-16-N, R-31-W) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A ½" REBAR MARKING THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 24, TOWNSHIP 16 NORTH, RANGE 31 WEST (SEC 24, T-16-N, R-31-W), SAID POINT LYING ON THE CURRENT CITY LIMITS LINE OF FARMINGTON AND FAYETTEVILLE, ARKANSAS; THENCE WITH SAID CITY LIMIT LINE S 87°17'55" E 653.78 FEET TO A POINT; THENCE CONTINUING WITH SAID CITY LIMIT LINE S 01°53'47" W 785.80 FEET TO A POINT; THENCE LEAVING SAID CITY LIMIT LINE N 87°59'22" W 558.53 FEET TO A POINT; THENCE IN A WESTERLY DIRECTION WITH A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 455.00 FEET, HAVING A CHORD BEARING OF N 89°10'04" W AND A CHORD DISTANCE OF 18.71, HAVING AN INTERIOR ANGLE OF 02°21'24" AND AN ARC LENGTH OF 18.71 TO A POINT; THENCE S 89°39'14" W 76.80 FEET TO A POINT ON THE EAST LINE OF MEADOWLARK SUBDIVISION; THENCE WITH SAID EAST LINE N 01°54'57" E 797.23 FEET TO THE POINT OF BEGINNING AND CONTAINING 11.86 ACRES MORE OR LESS. BASIS OF BEARINGS IS A SURVEY BY TONY ANDERSON (PLS 1272), JOB NUMBER 06-12-02, DATED 9/12/07.

NOTE:

CALLS THAT FOLLOW THE CURRENT AND FUTURE RIGHTS-OF-WAY OF ALBERTA STREET ARE BASED ON THE FINAL PLAT OF WALNUT CROSSING SUBDIVISION (PREPARED BY ENGINEERING SERVICES, INC, RECORDED AT PLAT FILE 23, PAGE 235) BUT HAVE BEEN ORIENTED TO THE TONY ANDERSON BOUNDARY SURVEY REFERENCED IN EACH SECTION ABOVE AS A BASIS OF BEARING.



PC Meeting of July 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: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~July 18, 2008~~ Updated July 31, 2008

ANX 08-3036: (RAUSCH COLEMAN LAND EXCHANGE, 555): Submitted by RAUSCH COLEMAN HOMES for property located W OF THE WALNUT CROSSING SUBDIVISION. The request is to annex 11.86 acres from Farmington in exchange for 8.035 acres in Fayetteville to allow further development by the property owner.

Planner: JESSE FULCHER

BACKGROUND:

Property description: The subject property contains 11.86-acres located west of the Walnut Crossing and Coves developments, and is currently within the City of Farmington. Access is provided by way of Alberta Street. Surrounding land uses and zoning is depicted in Table 1.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Undeveloped	R-PZD 07-2766 (The Coves)
South	Undeveloped	City of Farmington
East	Single Family Homes	R-PZD 04-1181 (Walnut Crossing)
West	Single Family Homes	City of Farmington

Proposal: Pursuant to A.C.A §14-40-2101, two contiguous municipalities may simultaneously detach and annex territory, subject to approval from the governing body of each municipality. The applicants have requested that the City of Fayetteville and the City of Farmington approve the exchange of two substantially equal tracts of property, resulting in new city limit boundaries for each municipality. Specifically, 11.86-acres north of Alberta Street would be detached from Farmington and annexed into Fayetteville, and 8.035-acres south of Alberta Street would be detached from Fayetteville and annexed into Farmington. See attached maps for reference.

INFRASTRUCTURE:

Streets: The property has frontage on Alberta Street (a collector street), which is an improved city street. Street improvements will be evaluated at the time of development.

- Water:** Public water is available to the site. There is an 8" water main along Alberta Street. Water will need to be extended through the property at the time of development to provide domestic service and fire protection.
- Sewer:** Sanitary sewer is available to the site. There is an 8" sewer main along Alberta Street. Sewer service will need to be extended through the property at the time of development.
- Fire:** The subject property is located approximately 3 miles from the Fire Station #6 with a projected response time of 8 minutes. The Fire Department does not figure calls for service on properties that are only being considered for annexation. There should be no adverse effects on call volume or response time to this annexation. The property will be reevaluated with any future land use changes.
- Police:** It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

RECOMMENDATION:

Staff recommends forwarding the requested annexation with a recommendation for approval based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Forwarded	☐ Denied
Date: <u>July 28, 2008</u>	Motion: <u>Graves</u>		
	Second: <u>Kennedy</u>		
	Vote: <u>6-0-0</u>		
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>August 19, 2008 (1st reading if recommended)</u>			

LAND USE PLAN: This area is not identified on the Future Land Use Plan, since it is located within the City of Farmington. Generally, the Land Use Plan indicates future uses in the are to consist of residential neighborhoods.

FINDINGS:

12.3.4 POTENTIAL ANNEXATION AREAS

The potential annexation areas should be identified by the City using the following criteria:

1. Areas that are already urban in character.

Finding: The subject property is adjacent to several residential subdivisions, with an additional subdivision approved for development directly to the north. Immediately to the south is 6th Street (State HWY 16), which provides commercial services and access to I-540.

2. Areas that can be developed at urban densities.

Finding: The subject property can support a traditional urban design given the location of the property along a collector street, proximity to 6th Street and I-540. Additionally, the area already supports more urban development styles as is evident by Walnut Crossing Subdivisions and most recently approved, The Coves at Walnut Crossing.

3. Immediate areas are those that are peninsulas or islands, where municipal services have already been extended.

Finding: There are existing water and sewer lines available to the subject development, which also has direct access to an improved public street. The City of Fayetteville currently services all properties to the north and east and is required to serve the parcel to the southeast, which is part of the land-exchange request. Ultimately, city services will continue to be provided to the immediately surrounding properties.

4. Vacant lands that are subject to development pressure.

Finding: The subject property is surrounded on three sides by either developed subdivisions, or by property which has been approved for development. It is unknown whether this area will continue to experience development pressure.

5. Areas where urban services are already provided.

Finding: Adjacent properties are currently developed or developing and are provided with city services.

6. Areas where urban services are needed.

Finding: Urban services are currently provided to developments in the surrounding areas.

12.3.5 ANNEXATION GUIDING POLICIES BOUNDARIES

- 12.3.5.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property will not create an island or a peninsula. Rather, annexation of the property will create a more appropriate City boundary than currently exists.

12.3.5.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the north, east and southeast.

12.3.5.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: The subject property is not currently a part of a platted subdivision; however, the applicant has indicated that the property would become an extension of the recently approved Coves Subdivision. The annexation will allow expansion of this development, which could not be provided under the regulations of the adjacent city.

12.3.5.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels and right-of-way.

12.3.5.e The provisions of services should be concurrent with development.

Finding: Current conditions result in a response time of 8 minutes for fire protection from Fire Station #6. The land that is currently within the City of Fayetteville, but is proposed to be moved into the City of Farmington is located across the street and therefore should have approximately the same response time.

ENVIRONMENTALLY SENSITIVE AREAS

12.3.5. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: There are no known environmentally sensitive areas that could be impacted by development.

EMERGENCY AND PUBLIC SERVICES

12.3.5.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: Water and sewer services are available to the site and would be required to be extended through any future development should the property be annexed into the City. The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Fire service would also be provided to the site at adequate levels.

12.3.5.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police service will be required to be provided to this area with the same level of response and service as other properties in this area, if annexed in the City

of Fayetteville. This property is adjacent to areas already being served by the city.

- 12.3.5.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

- 12.3.5.j Areas currently served by utilities and other public services should be annexed.

Finding: Water and sewer services and fire and police protection are currently provided to adjacent properties.

- 12.3.5.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Annexation and development of this property will result in an increased demand on the existing infrastructure systems. Improvements to utilities and streets may be made necessary should development occur on the subject property.

- 12.3.5.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

- 12.3.5.m Promote long-range planning with adjacent jurisdictions.

Finding: The applicants have requested the Cities of Fayetteville and Farmington to consider ordinances that would exchange similar sized properties. The applicants have stated in their application that the land exchange would allow for the extension of The Coves Subdivision within the City of Fayetteville, which will provide a more cohesive design. The land exchange will also allow development of the properties south of Alberta Street to be processed entirely within the limits of Farmington.

- 12.3.5.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

- 12.3.5.o Develop a land use plan for annexation initiated by the city.

Finding: N/A

12.3.5.p Designate zoning districts for the property during the annexation process.

Finding: The applicants have not requested rezoning of the property if the annexation is approved, and therefore the property will automatically be zoned R-A, Residential Agricultural.

12.3.5.q An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property. Comments from each department have been provided herein.

12.3.5.r Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed at this time.

12.3.5.s Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request and a public notice sign has been placed on the property. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

12.3.5.t Encourage larger annexations to create acceptable boundaries.

Finding: Annexation of the property will create a more desirable city boundary, by allowing development to be processed under Fayetteville's ordinances.

12.3.5.u Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 11.86 acres.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.

Date 7/9/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed ANX 08-3036: (Rausch Coleman Land Exchange, 555): Submitted by Rausch Coleman Homes for property located W of Walnut Crossing Subdivision would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 11.86 acres.

It is the opinion of the Fayetteville Police Department that this ANX will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This ANX will not create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701
Phone (479) 575-8365 Fax (479) 575-0471

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher

From: David Williams, Battalion Chief

Date: July 9, 2008

Re:

ANX 08-3036: (RAUSCH COLEMAN LAND EXCHANGE, 555): Submitted by RAUSCH COLEMAN HOMES for property located W OF THE WALNUT CROSSING SUBDIVISION. The request is to annex 11.86 acres from Farmington in exchange for 8.035 acres in Fayetteville to allow further development by the property owner.

This development will be protected by Engine 6 located at 900 Hollywood. It is 3 miles from the station with an anticipated response time of 8 minutes to the beginning of the development.

The Fire Department anticipates 2 EMS - 2 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 - 18 months, after the development is started, before maximum build-out occurs.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times currently. We will need to re-evaluate if there are any proposed Land Use changes.

Measured hydrant flow in this area is 2 gallons per minute.

If you have any questions please me.

David Williams

David Williams
Fire Marshal
Fayetteville Fire Department

ANX 08-3036: (RAUSCH COLEMAN LAND EXCHANGE, 555): Submitted by RAUSCH COLEMAN HOMES for property located W OF THE WALNUT CROSSING SUBDIVISION. The request is to annex 11.86 acres from Farmington in exchange for 8.035 acres in Fayetteville to allow further development by the property owner. Planner: Jessé Fulcher

Public water is available to the property. There is an 8" main along Alberta. Water will need to be extended through the property at the time of development to provide domestic service and fire protection.

Sanitary sewer is available to the site. There is 8" main along Alberta. Sewer will need to be extended through the property at the time of development.

The site has access to Alberta Street. Alberta Street is a fully improved two lane city street of sufficient width. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.



June 6, 2008

Fayetteville City Council
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Re: Proposed Land Exchange with Farmington

Dear Council Members,

Rausch Coleman Homes LLC wishes to request that the City of Fayetteville consider adjusting their city limits thus allowing an exchange of similar tracts of land with the City of Farmington. There exists a 10.5 acre tract lying in the city limits of Farmington located north of Alberta St. and adjacent to our Coves at Walnut Crossing project. Just south of Alberta Street is an 8.03-acre tract located within the city limits of Fayetteville. We are requesting that both cities consider exchanging their jurisdiction over these two parcels for the following reasons:

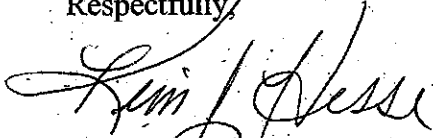
Cohesive Residential Design - As Rausch Coleman continues to develop the remaining land in this location we hope to maintain a consistent design theme within the various quadrants of the overall 168 acre tract. Our first phase of development, Walnut Crossing, has a unique neo-traditional design theme with higher density residential areas clustered around large tracts of open space. Our second phase of development, The Coves, embraces the environmentally sensitive "Coving" concept of design. The Coves is located north of Alberta Street consisting of 50 acres within Fayetteville and a remaining 10 acres in Farmington.

Rausch Coleman further owns approximately 34 acres south of Alberta of which 8 acres is within Fayetteville with the remainder in Farmington. We hope to change the design concept as we move south of Alberta Street to a theme that is conducive to Farmington zoning and subdivision regulations. By changing our remaining 10 acres north of Alberta to be within Fayetteville we could maintain The Coves design and complete that master planned development; current Farmington regulation would not allow such a design. Alternately, if we can change the 8 acres south of Alberta from Fayetteville to Farmington, that future development can be processed exclusively through Farmington with a consistent design theme.

Emergency Responders and Service Providers - Another benefit is the reduced confusion one would expect from City service providers and first responders having to deal with the jog in jurisdictions along Alberta Street and among adjacent lots within the development.

Additionally, we would ask that the right of way for Alberta Street be placed within the jurisdiction of Fayetteville to simplify the development process for our development to the north. We feel this request to exchange similar tracts of land is reasonable and beneficial for the orderly development of land in this adjoining city limit location. Please feel free to call with any questions or comments.

Respectfully,

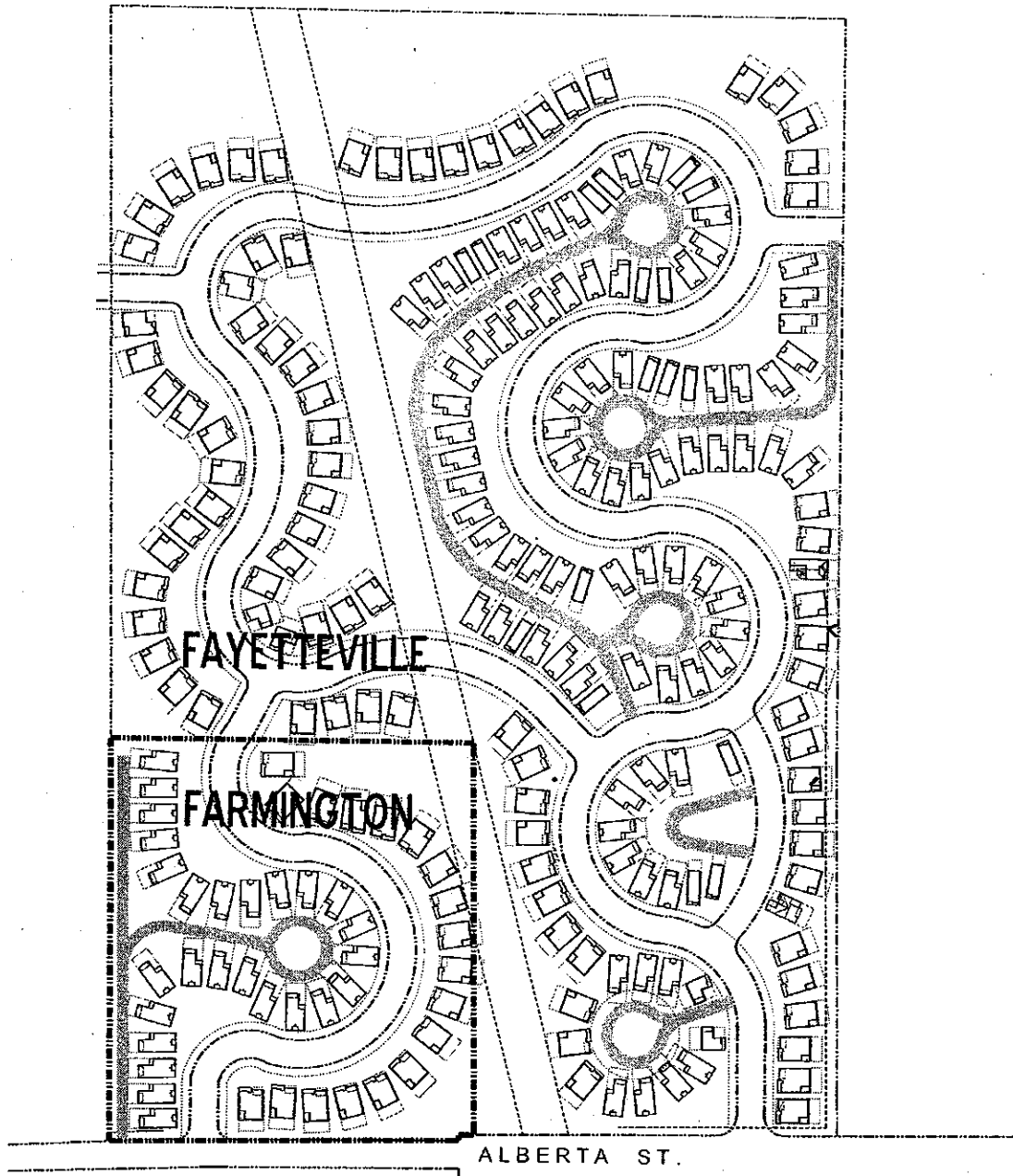


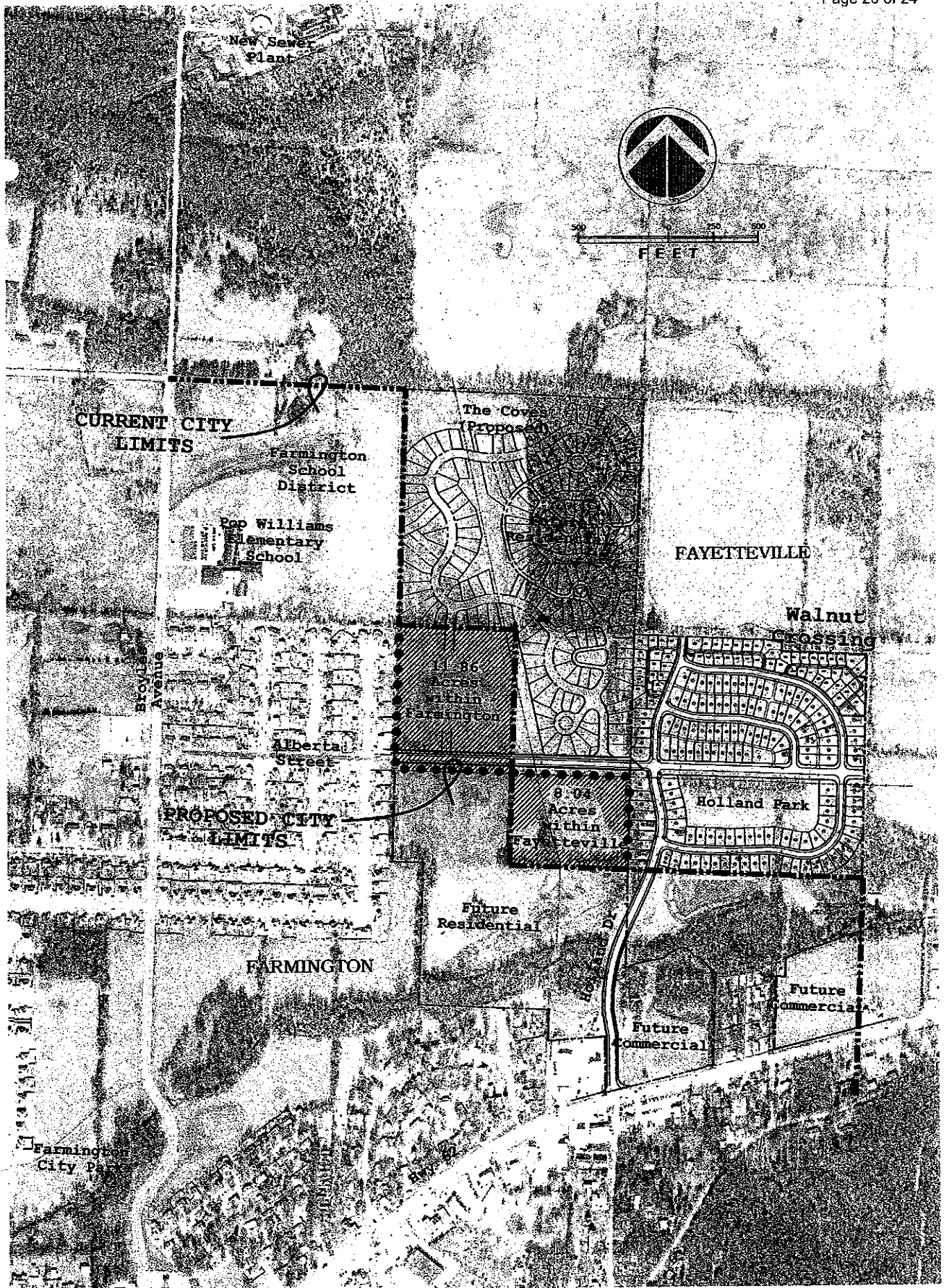
Kim J. Hesse, Director of Land Development
Rausch Coleman Homes
479-267-6008



200 0 100 250
 FEET

NOTE:
 THIS PLAN IS FOR CONCEPTUAL PLANNING
 PURPOSES ONLY AND HAS NOT HAD THE
 BENEFIT OF REVIEW BY ANY GOVERNING
 AUTHORITY.





1 of 1

DATE: 6/2/08
 SCALE: 1" = 500'
 REVISIONS:

**RAUSCH
 COLEMAN**
 HOMES

LAND EXCHANGE EXHIBIT "B"
WALNUT CROSSING AREA

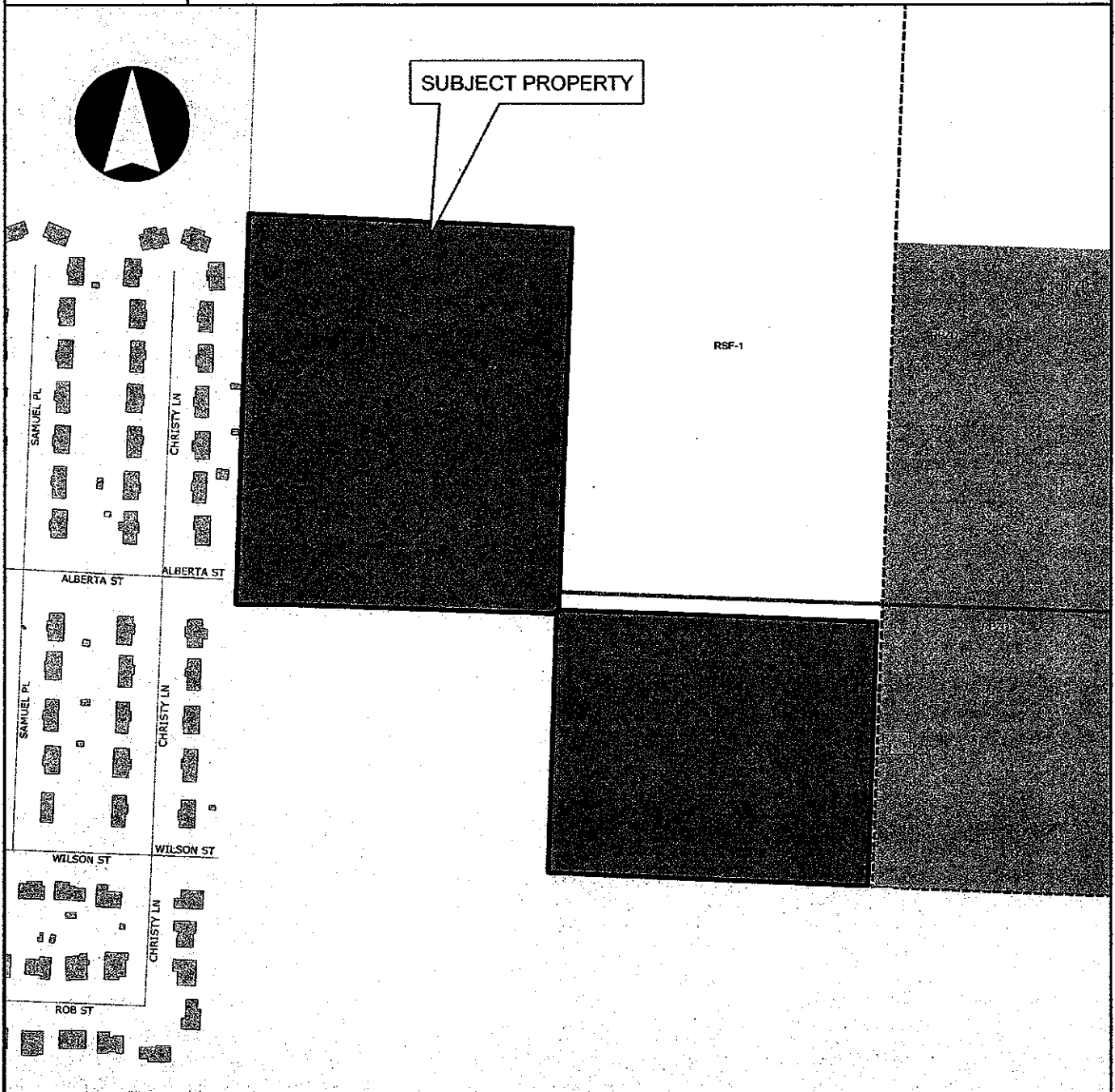
**RAUSCH COLEMAN
 LAND DEVELOPMENT**

308 EAST MAIN
 FARMINGTON, AR 72730
 479-267-6008

ANX08-3036

RAUSCH COLEMAN LAND EXCHANGE

Close Up View



Overview



0 125 250 500 750 1,000 Feet

RAUSCH COLEMAN LAND EXCHANGE

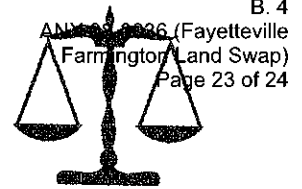
0 0.25 0.5 1 Miles

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



RECEIVED

JUL 15 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

TO: Karen Minkle, Director of Long Range Planning

CC: Sondra Smith, City Clerk

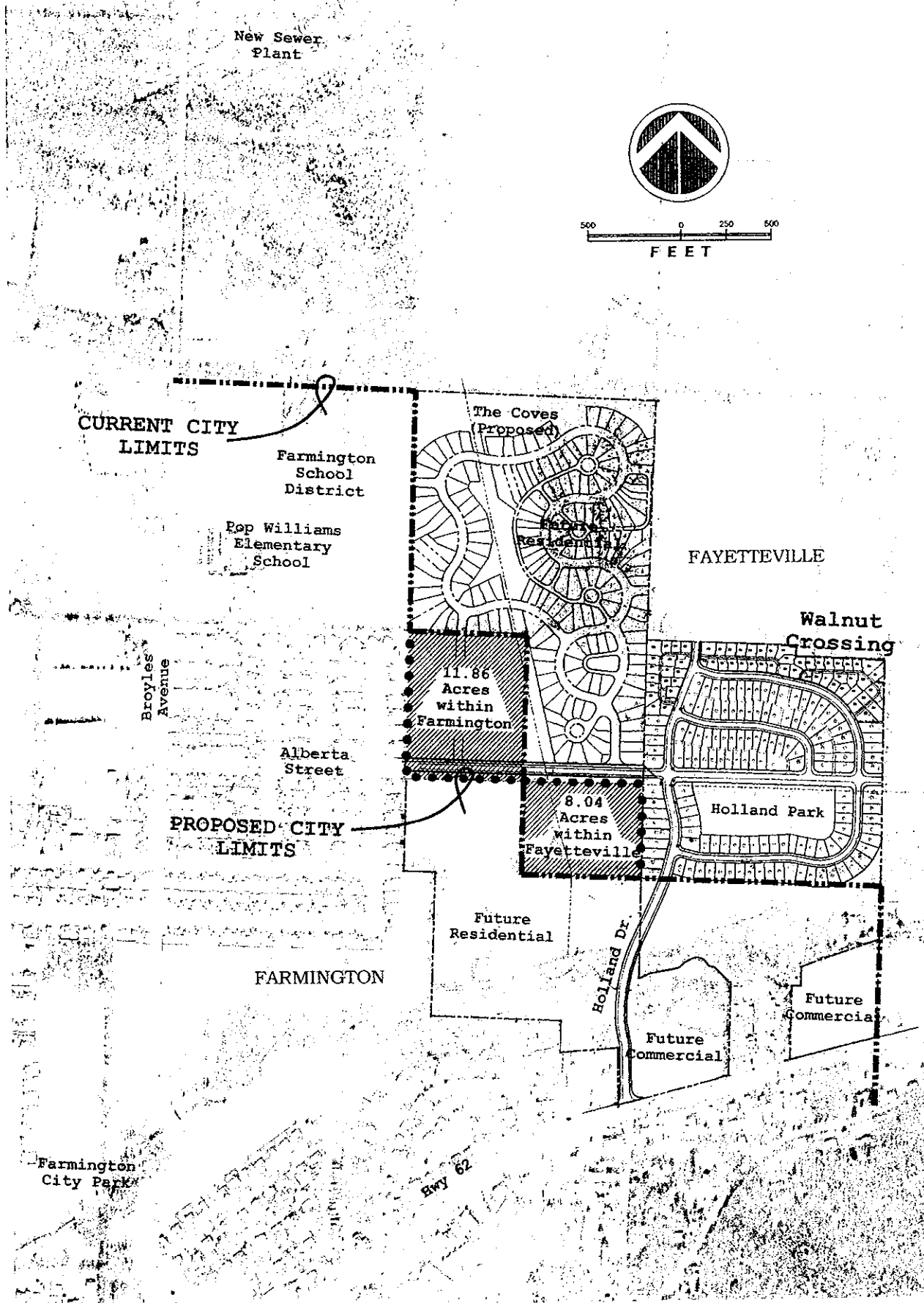
FROM: Kit Williams, City Attorney

DATE: July 15, 2008

RE: **Simultaneous Detachment and Annexation
of land between Farmington and Fayetteville**

Attached please find a draft ordinance I prepared as well as A.C.A. §14-40-2101 which guided my drafting. Ordinances do not need to repeat all statutory procedure nor should one city council **order** another city council to perform any actions (which the supplied proposed ordinance did).

Please review this draft ordinance. The City Clerk will be required to publish legal notice of the public hearing and publish any approved ordinance. I hope we will collect a filing fee (as we do in normal annexation requests) to cover the City Clerk's expenses.



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

2-Sep-08

City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Improv Proj
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel & Reba Epperly, husband and wife; located at Parcel No. 765-14983-000, located within SE-21-16-30. Location 4 on attached list and map.

\$ 1,165.00
Cost of this request

\$ 46,262,358
Category / Project Budget

Wastewater System Imp Project
Program Category / Project Name

4520.9520.5308.02
Account Number

\$ 27,801,066
Funds Used to Date

Water and Wastewater
Program / Project Category Name

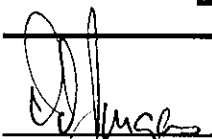
02133-0305
Project Number

\$ 18,461,292
Remaining Balance

Water/Sewer
Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☐

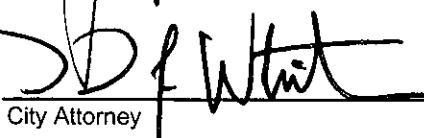

Department Director

15 Aug 08
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____


City Attorney

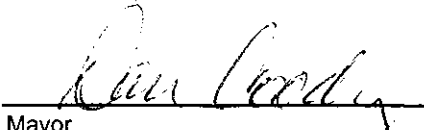
8/20/08
Date

Received in City Clerk's Office

Paul A. Beuh
Finance and Internal Service Director

8-20-08
Date

Received in Mayor's Office


Mayor

8/20/08
Date

Comments:



City Council Meeting of 2 September 2008

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee

A handwritten signature in black ink, appearing to read "D. Jurgens".

Date: August 15, 2008

Subject: Approval of Three Resolutions Authorizing The City Attorney to Seek Condemnation and Possession of Certain Lands Required for WSIP EL-3

RECOMMENDATION

Staff recommends approval of Three resolutions authorizing the city attorney to seek condemnation and possession of certain lands required for WSIP EL-3 owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. 18 were required; 13 have been acquired and 1 was eliminated. The owners of the remaining tracts have all been contacted via mail, telephone, and in person, except for the Parker estate, from which we have had no contact and are not sure of a correct address. Owners of the remaining tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process in August.

DISCUSSION

Negotiations are still underway with several of the owners, but the timing is such that we must proceed with the condemnation process in the event the negotiations do not succeed. Details of each parcel are below.

- (1) Parker Estate. No contact, previous owner deceased.
- (2) Epperly. One owner (Epperly) disputes the easement for the existing 80 year old sewer line and wants more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for permanent WSIP easements, based on appraisals. In this case, we are only obtaining a temporary construction easement, as we are replacing the existing line in place.
- (3) Littlefield Oil. Aaron Littlefield stated he would send easement prior to 22 August.
- (4) Ed Hurley (not included in packet) will drop off signed document prior to 18 August.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are shown on each individual Staff Review Form. Funds are available in the WSIP budget.

Attachments: List of Potential Condemnations
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY DANIEL AND REBA EPPERLY.

WHEREAS, the City of Fayetteville and Daniel and Reba Epperly, have been unable to agree on a fair price for the property owned by Daniel and Reba Epperly, husband and wife, that is needed for a temporary construction easement across Parcel No.765-14983-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin the installation of the EL-3 WSIP sewer line.

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 authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel No. 765-14983-000 and owned by Daniel and Reba Epperly, husband and wife, that is needed for the installation of the EL-3 WSIP sewer line, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

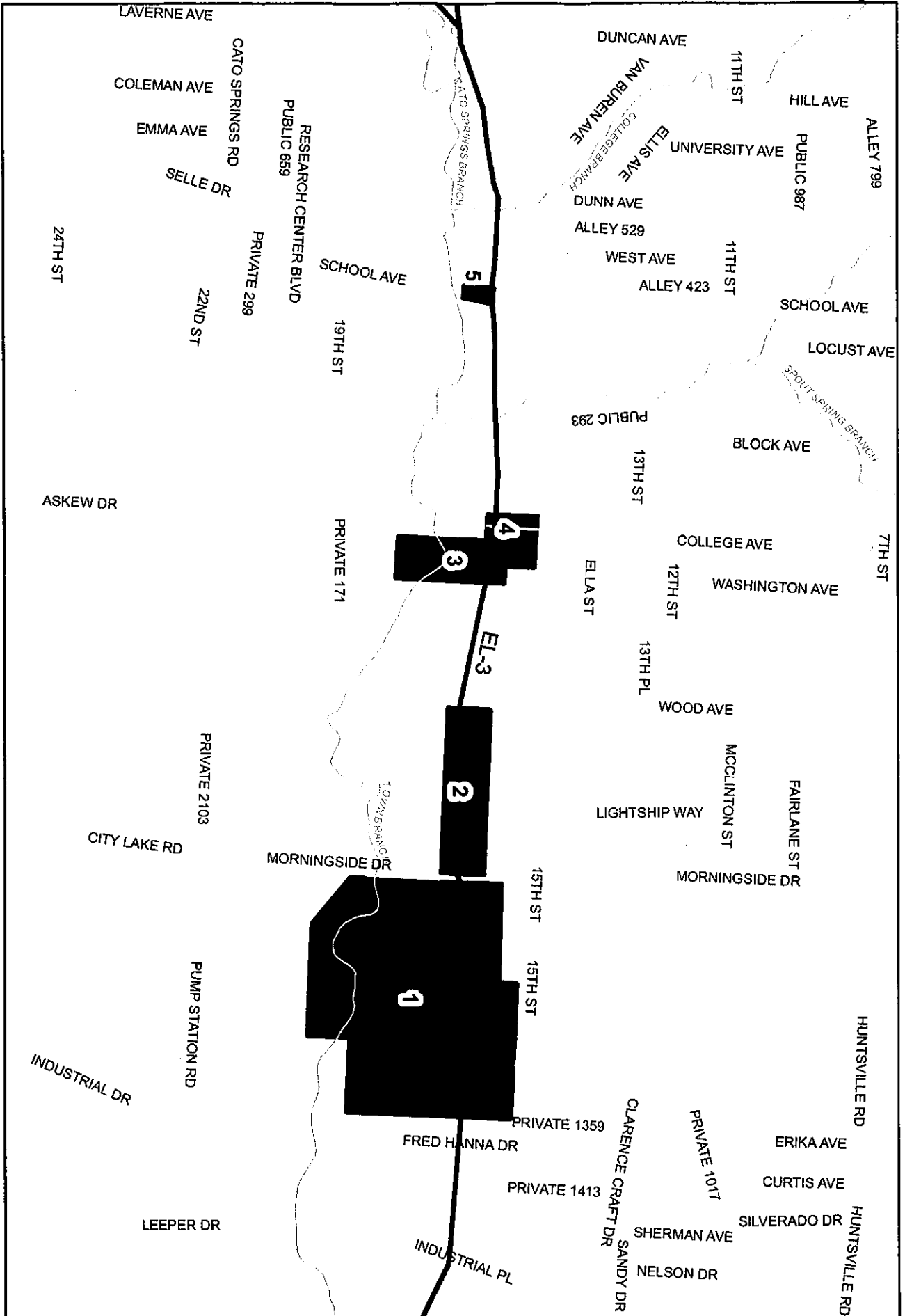
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

WSIP East Line Easement Condemnation List

Map Reference	Description
2.	EL3 – Tract 3 Owner: Herbert G. Parker, being an heir at law of Otis J. Parker, deceased Temporary Construction Easement across: Parcel No. 765-15165-000 Located within NE-SW-22-16-30 Offer Amount: \$260.00 (TCE only: 2812 sq. ft.)
4.	EL3 – Tract 5 Owner: Daniel L. Epperly and Reba W. Epperly, husband and wife Temporary Construction Easements across: Parcel No. 765-14983-000 Located within NE-SE-21-16-30 Offer Amount: \$1,025.00 (TCE north: 2006 sq. ft., TCE south: 2092 sq. ft.; total: 4098 sq. ft.)
5.	EL3 – Tract 7 Owner: Littlefield Investment Co. Permanent Easement across: Parcel No. 765-14998-000 Located within NW-SE-21-16-30 Offer Amount: \$5,400.00 (PE only: 2160 sq. ft.)



**WSIP East Line Work
EL-3 Condemnation Map**



CASE HISTORY

Daniel L and Reba W. Epperly
EL3 (Line 4) – Tract 5

12/9/2006	Date of appraisal by Mark Risk, the Real Estate Consultants for an appraisal of the Littlefield Oil property. Used that land value (\$2.50/sq. ft.) x 10% to calculate rental value of TCE. 4,098 square feet of Temporary Construction Easement at \$0.25/sq. ft. for a total offer of \$1,025.00.
1/8/2007	Date of offer letter. Packet containing letter, easement document, drawing, and vendor form mailed on 1/12/2007. Offer amount as calculated above.
Feb. 2007	Copy of packet given to Ron Petrie to hand-deliver to Mr. Epperly at civic club meeting.
Mar. 2007	Mr. Epperly called and talked with Holly Jones, land agent. Due to inclement weather, Mr. Epperly was requested to call back to arrange a meeting time convenient to him. He never called back.
1/14/2008	Notification letter mailed urging a response.
2/7/2008	Letter from Mr. Epperly outlining conditions to be met for him to sign TCE, including a total counter offer amount of \$20,600 (which includes damages for moving trailers located within existing easement).
6/18/2008	Notification letter mailed acknowledging letter of 2/7/2008. Urging contact with Lynn Hyke or David Jurgens.
7/1/2008	As of this date, no further contact with the Land Agents' office. Turned over to the City Attorney's office for potential condemnation.
7/1/2008	Per Lynn Hyke: Met with Mr. Epperly. We located the PUE & TCE that Garver had staked out. It appears that trailers 10 & 11 & 15 are on the PUE for the 21" clay pipe. Lynn planned to have a figure for him on the 14th or 15th.
7/11/2008	Mr. Epperly told Lynn Hyke that his previous offer to the City in his letter is now void. He had researched prescriptive easements, and in his opinion the city doesn't have an easement where the 21" clay pipe is. The City will need to purchase the easement in this area. Lynn told him that he would talk to David Jurgens about this issue.



WATER AND WASTEWATER DEPARTMENT

June 18, 2008

Daniel L. and Reba W. Epperly
2525 Mt. Comfort Road
Fayetteville, AR 72704

RE: Project No. 02133
 Wastewater Improvements Project
 EL-3 (Line 4) – Town Branch to Happy Hollow
 Tract 5
 Notification Letter

Dear Mr. and Mrs. Epperly:

As you are aware, the City of Fayetteville is constructing a new wastewater treatment plant on the west side of town, renovating the Noland Wastewater Treatment Plant on the east side of town, and constructing new and replacement gravity sewer lines, pump stations, and force mains associated with both the new plant and the existing east side treatment plant.

The City of Fayetteville needs to move forward with the next portion of this project, replacing the sewer line parallel to and south of 15th Street. In order to do this, we need to finalize easement acquisition along this line.

We are in receipt of your letter dated February 7, 2008. As requested, surveyors from Garver Engineers, the Engineer designing the project, will come to your property and stake the existing and proposed easements within the next few weeks. In order to comply with laws pertaining to easements, and for their own safety, the trailers will not be allowed to be placed back into the easement after construction is completed. One of the major purposes of the easement is to protect above ground assets from the potential damages that may be caused if a problem occurs within the line, as well as to protect the line and allow maintenance to be performed on and in it. Please contact Lynn Hyke, construction manager, at (479) 718-7670, or myself at (479) 575-8330 at your earliest convenience so that the issue of mobile home placement following construction and the possibility of moving cost/lost revenue reimbursement can be resolved.

Sincerely,

A handwritten signature in dark ink, appearing to read "David Jurgens".

David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg

RECEIVED

FEB 08 2008

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

DANIEL L. and REBA W. EPPERLY
2525 W. MT. COMFORT RD.
FAYETTEVILLE, AR. 72704

February 7, 2008

Mr. David Jurgens, P E
Water and Wastewater Director
113 West Mountain
Fayetteville, AR. 72701

RE: Your letter dated January 8, 2007
Your letter dated January 14, 2008

Dear Mr. Jurgens,

This is in answer to your above referenced letters, the second which I very strongly resent.

I have been a citizen of the City of Fayetteville, Arkansas for soon to be 79 years. I have always been a very strong supporter of the City and it's future. Over the years, I have served more than 30 years on various committees of the City of Fayetteville. I find your letter of January 14, 2008 to be very threatening. Even your own Engineer could only guess where the sewer line and easement is located

When I received your letter dated January 8, 2007, I contacted your office seeking some answers as to where the Sewer lines and Easements crossed my property. The weather was cold and rainy and the lady I talked to told me she "was a Weenie and would not get out into the cold". I asked her to call me when it was warm enough and we would meet at the property and locate the existing easement so that I would know what was needed to be done. I never heard anything else. Sometime later Mr. Ron Petrie handed me some drawings at a social function and insinuated that someone from your office would contact me in the near future. That is the last I heard from your office until this letter dated January 14, 2008. Surely even you would not sign an easement across your property without knowing exactly where it would be.

This week I placed 3 calls to Mr. Lynn Hyke and left messages, which were never returned. Finally one day at noon, Mr. Hyke met me at the Mobile Park and showed me where he thought the sewer and easement was. This decision was made by observing a slight swag in the driveway. I remind you that this sewer has been buried for some 65 years and the drive was put down in 1962. Also when Razorback Mobile Park was built in 1962, there was literally hundreds of feet of ditch dug to bury the various utilities.

I will not sign any documents until the sewer and easement as well as temporary easement is positively located and marked by a licensed surveyor.

If Mr. Hyke is correct with his assumptions, then we must move 3 Mobile Homes. 1 is setting on the assumed sewer and the other 2 are in the temporary area. I have contacted a professional mover and the moving expenses for these 2 Mobile Homes are \$3,500.00 each. We have 4 vacant spaces in Razorback. We were in the process of purchasing Mobile Homes for rental to put in these vacancies. We have since canceled the purchase of 2 of them so that we will have room to move these two until construction is complete. This price includes disconnecting and reconnecting all utilities, as these tenants want to move back to their space. The other will need to be moved to another Mobile Park as the remaining 2 spaces are not large enough.

The fact that we have had to cancel the purchase of the 2 rental units leaves us with lost revenue of \$210.00 per month per space for a total monthly rental of 420.00 per month. We will expect to be reimbursed for this lost revenue beginning March 1, 2008 and continuing until the Mobile Homes can be moved back to their original space and these spaces become available again.

We feel that the tenants that must be moved should be reimbursed for their inconvenience. At least \$1,000.00 each.

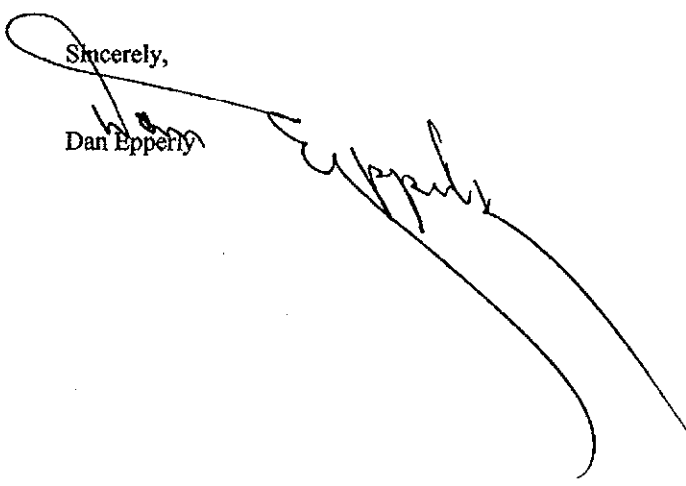
After considering the conditions described above, and before we can give a temporary easement, the following is required:

- 1 We must be treated fairly and with respect.
- 2 Exact location of easements must be located and staked by a licensed surveyor
- 3 When this project is completed, the area affected will be left in the same condition as it was before construction started, including concrete pads and sidewalks.
- 4 There will be no interruption of utilities to any tenants
- 5 Tenants will always have access to parking their vehicles in their own parking spaces
- 6 The street will be resurfaced immediately upon completion of sewer line construction across Razorback Mobile Park
- 7 All equipment and supplies as well as employee's vehicles must be kept within the temporary easement
- 8 Relocating 3 tenants at \$1,000.00 each for their inconvenience \$3,000.00
- 9 Moving Mobile Home from space # 10 to space #14 and back \$3,500.00
- 10 Moving Mobile Home from space # 11 to space #13 and back \$3,500.00
- 11 Moving Mobile Home from space # 15 to another Mobile Park \$2,500.00
- 12 Loss of revenue from spaces #13, #14 and #15 @ \$210.00 each month for 10 months, (March 1 to December 31, 2008). Should project not be completed by year end, space rent will continue until project is finished) \$6,100.00
- 13 Rent for temporary easement \$2,000.00
- 14 City of Fayetteville will issue a letter addressed to the Epperly accepting the above-described conditions signed by authorized authority.
- 15 A check from City of Fayetteville, Arkansas in the amount of \$20,600.00 will be delivered to Epperly at time of signing.

This proposal will expire 30 days from the date of this letter.

Sincerely,

Dan Epperly





THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION

January 14, 2008

Daniel L. and Reba W. Epperly
2525 Mt. Comfort Road
Fayetteville, AR 72704

RE: Project No. 02133
Wastewater Improvements Project
EL3 (Line 4) – Town Branch to Happy Hollow
Tract 5 (Parcel No. 765-14983-000)
Notification Letter

Dear Mr. and Mrs. Epperly:

As you are now aware, the City of Fayetteville is constructing a new wastewater treatment plant on the west side of town as well as new gravity sewer lines, pump stations, and force mains associated with both the new plant and the existing east side treatment plant.

The City of Fayetteville needs to move forward with this project; the primary obstacle to final approval of the project, enabling bidding of the work, is the finalization of easement acquisition.

On January 12, 2007, a packet of information was mailed to you regarding the acquisition of easement across your property. A second copy was hand-delivered by Ron Petrie to a mutual meeting. The City of Fayetteville has yet to receive a response.

In the absence of further negotiations and receipt of signed documents, a deadline for closure of these acquisitions has been established. If we have not heard from you nor received a signed easement document and vendor form by February 15, 2008, the file will be turned over to the City Attorney's office and procedures will be started to obtain possession through the courts, as based on the original offer.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or I can be reached at (479) 575-8330.

Sincerely,

A handwritten signature in black ink, appearing to read "David Jurgens", written over the word "Sincerely,".

David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg



THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION

January 8, 2007

Daniel L. and Reba W. Epperly
2525 Mt. Comfort Road
Fayetteville, AR 72704

RE: Project No. 02133
Wastewater Improvements Project
EL3 (Line 4) – Town Branch to Happy Hollow
Tract 5
Offer Letter

Dear Mr. and Mrs. Epperly:

The City of Fayetteville is currently in the process of replacing and expanding the wastewater treatment facility on the east side of Fayetteville, as well as constructing a new treatment facility on the west side of town. These activities are anticipated to meet the requirements of our growing city over the next twenty to twenty-five years. As part of this improvement, the water and wastewater collection and transmission facilities must be modified and expanded at the same time. The City needs to install a 42" gravity flow sewer line within a 58" steel encasement across your property to accomplish these much needed improvements. This new line will be located within the existing easement. As noted on the attached diagram, our consulting engineers are asking for a 10 foot wide temporary construction easement, on either side of the existing easement, for a little extra working room. The temporary construction and grading easement shall terminate when the project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

The City of Fayetteville hereby offers **\$1,025.00** for the rental of the area within the temporary construction easement (4,098 square feet). This amount is based on 10% of fee simple land value (or 10% x \$2.50/sq.ft.). Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated area required for the proposed easement.

Should you elect to accept this offer, the *Temporary Construction Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the document if you will advise our office accordingly. Upon receipt of the easement, a check will be requested and you will be paid the amount indicated in this offer letter.

A copy of the *Temporary Construction Easement* is included for your records. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or I can be reached at (479) 575-8330.

Sincerely,


David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg
Enclosures

Parcel #765-14983-000
WSIP-EL 4 Tract #E-4-5

TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Daniel L. Epperly and Reba W. Epperly, husband and wife**, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for construction of a water line, to-wit:

PROPERTY DESCRIPTION: (Deed Book 697 at Page156)

A part of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 21, in Township 16 North, Range 30 West, and being more particularly described as follows: Beginning at the Northeast corner of said Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) and running thence South (420) feet; thence West (210) feet; thence North (410) feet; thence East along the North line of said forty acre tract to the place of beginning, containing Two Acres, more or less, LESS & EXCEPT: Thirty (30) feet of equal and uniform width off of the North end of said two (2) acre tract conveyed to the City of Fayetteville, Arkansas, for street purposes.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Temporary Construction Easement North Description: A temporary construction easement, being 10 feet of equal and uniform width, running parallel with and adjacent to the North line of the 20-foot utility easement for the existing 21" clay sewer line, containing 2,006 square feet (0.046 acres), more or less, as shown on Exhibit A. The sidelines of said easement shall be lengthened or shortened to terminate on the deed line of the above described property on the East side and the existing easement line on the West side.

Temporary Construction Easement South Description: A temporary construction easement, being 10 feet of equal and uniform width, running parallel with and adjacent to the South line of the 20-foot utility easement for the existing 21" clay sewer line, containing 2,092 square feet (0.048 acres), more or less, as shown on Exhibit A. The sidelines of said easement shall be lengthened or shortened to terminate on the deed line of the above described property.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2006.

Daniel L. Epperly

Reba W. Epperly

TEMPORARY CONSTRUCTION EASEMENT
Daniel L. and Reba W. Epperly
Page 2 of 2

ACKNOWLEDGMENT

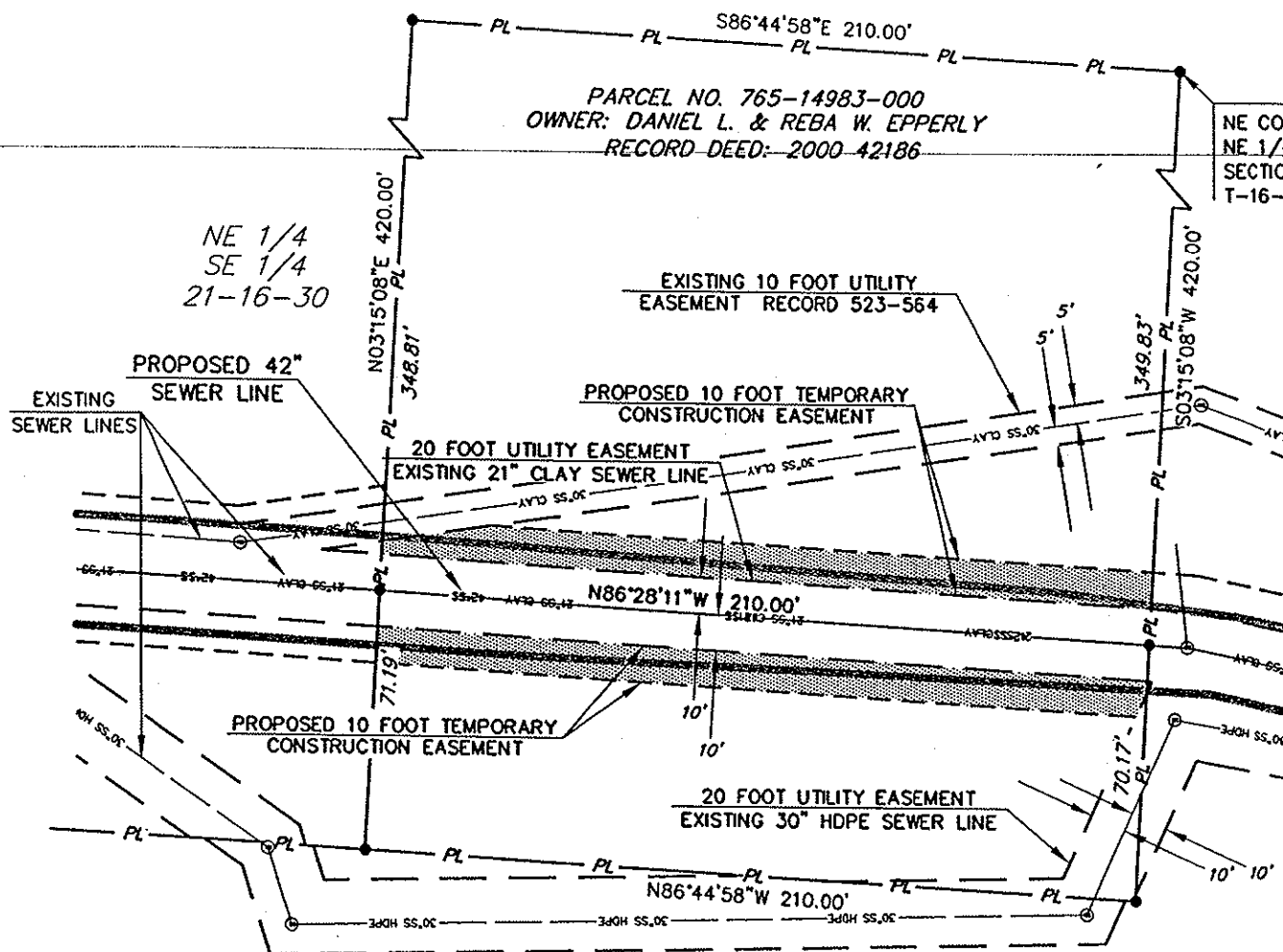
STATE OF ARKANSAS)
)
COUNTY OF _____) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Daniel L. Epperly and Reba W. Epperly, husband and wife**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that **they** had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2006.

Notary Public

MY COMMISSION EXPIRES:



GRAPHIC SCALE



BEARINGS BASED ON
CITY MONUMENTS 1-21 & F-11

(IN FEET)
1 inch = 50 ft.

THIS EXHIBIT A IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED TEMPORARY CONSTRUCTION EASEMENT	4,098	0.09

LEGEND

— PL — PL —	APPROXIMATE TRENCH LIMITS
— — — —	EXISTING PROPERTY LINE
— — — —	EXISTING EASEMENT LINE
— — — —	PROPOSED T.C.E. LINE

J:\Projects\2002\0296-3000 FAY WW - Design\Design\Drawings\Phase 3\Acquisition\FWVVRW4-5.dwg

GARVER ENGINEERS

"Engineers Since 1919"

3810 FRONT STREET-SUITE 10, FAYETTEVILLE, ARKANSAS 72703

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www.garverengineers.com

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS



LINE 4 - TRACT#5
EXHIBIT A

GARVER PROJECT | CONTRACT
0296-3000 | EL-3

DATE DECEMBER 23, 2004 REV.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

2-Sep-08
City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Improv Proj
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain land owned by Otis J. Parker Estate; located at Parcel No. 765-15165-000, located within SE-22-16-30. Location 2 on attached list and map.

\$ 400.00

Cost of this request

\$ 46,262,358

Category / Project Budget

Wastewater System Imp Project

Program Category / Project Name

4520.9520.5308.02

Account Number

\$ 27,801,066

Funds Used to Date

Water and Wastewater

Program / Project Category Name

02133-0305

Project Number

\$ 18,461,292

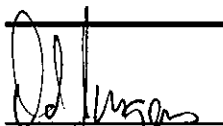
Remaining Balance

Water/Sewer

Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☐


Department Director

15 Aug 08
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____


City Attorney

8/20/08
Date

Received in City Clerk's Office

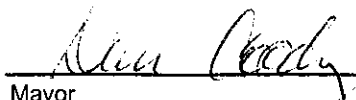
ENTERED
8/15/08
057

Paula A. Beckm
Finance and Internal Service Director

8-20-08
Date

Received in Mayor's Office

ENTERED
8/20/08
JB


Mayor

8/20/08
Date

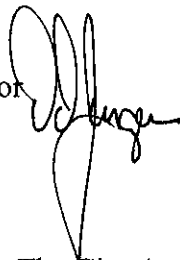
Comments:

City Council Meeting of 2 September 2008

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee



Date: August 15, 2008

Subject: Approval of Three Resolutions Authorizing The City Attorney to Seek Condemnation and Possession of Certain Lands Required for WSIP EL-3

RECOMMENDATION

Staff recommends approval of Three resolutions authorizing the city attorney to seek condemnation and possession of certain lands required for WSIP EL-3 owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. 18 were required; 13 have been acquired and 1 was eliminated. The owners of the remaining tracts have all been contacted via mail, telephone, and in person, except for the Parker estate, from which we have had no contact and are not sure of a correct address. Owners of the remaining tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process in August.

DISCUSSION

Negotiations are still underway with several of the owners, but the timing is such that we must proceed with the condemnation process in the event the negotiations do not succeed. Details of each parcel are below.

- (1) Parker Estate. No contact, previous owner deceased.
- (2) Epperly. One owner (Epperly) disputes the easement for the existing 80 year old sewer line and wants more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for permanent WSIP easements, based on appraisals. In this case, we are only obtaining a temporary construction easement, as we are replacing the existing line in place.
- (3) Littlefield Oil. Aaron Littlefield stated he would send easement prior to 22 August.
- (4) Ed Hurley (not included in packet) will drop off signed document prior to 18 August.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are shown on each individual Staff Review Form. Funds are available in the WSIP budget.

Attachments: List of Potential Condemnations
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY HERBERT G. PARKER, BEING AN HEIR AT LAW OF OTIS J. PARKER, DECEASED.

WHEREAS, the City of Fayetteville and Herbert G. Parker, being an heir at law of Otis J. Parker, deceased, have been unable to agree on a fair price for the property owned by Herbert G. Parker, that is needed for a temporary construction easement across Parcel No.765-15165-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin the installation of the EL-3 WSIP sewer line.

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 authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel No. 765-15165-000 and owned by Herbert G. Parker, being an heir at law of Otis J. Parker, deceased, that is needed for the installation of the EL-3 WSIP sewer line, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

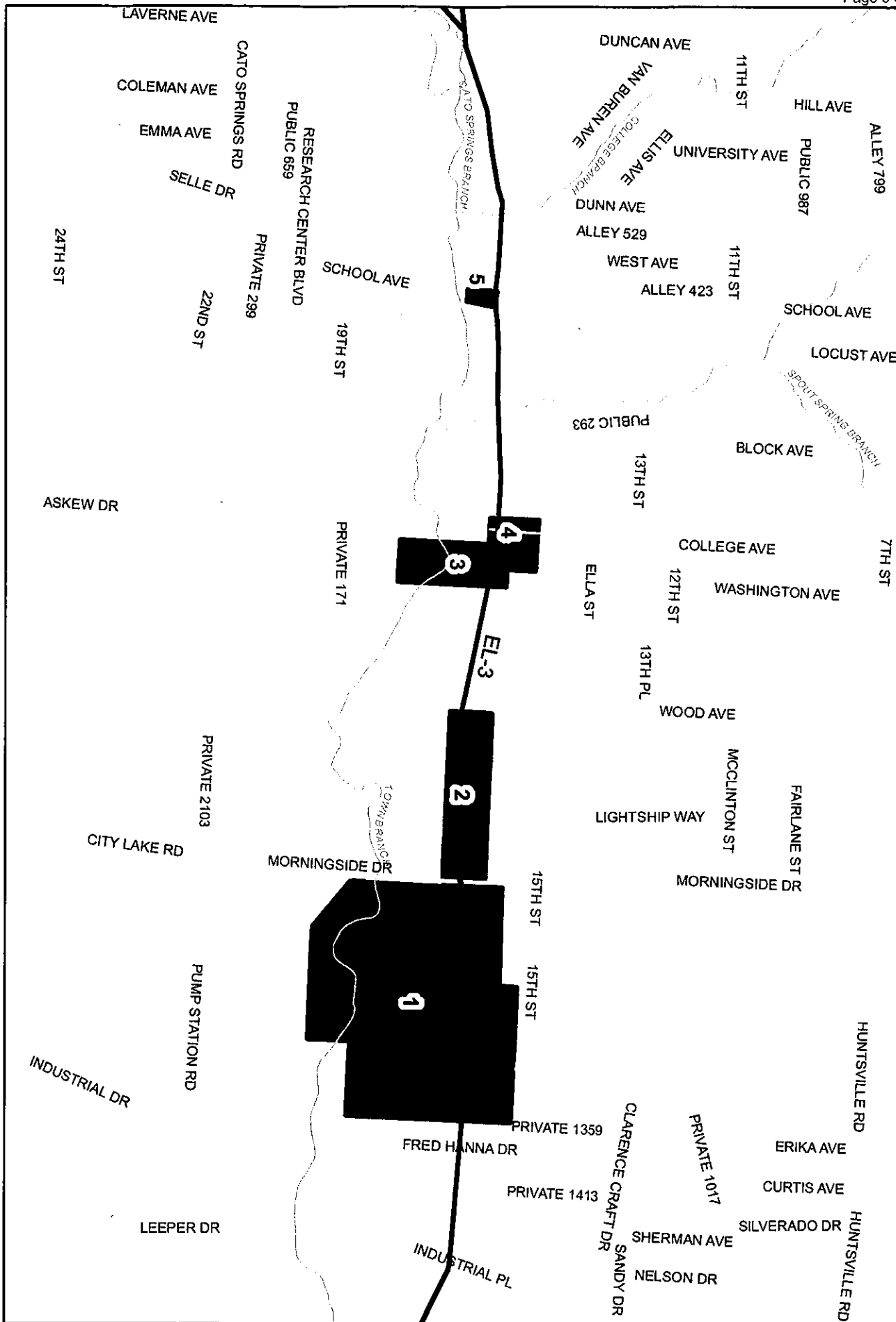
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

WSIP East Line Easement Condemnation List

Map Reference	Description
2.	EL3 – Tract 3 Owner: Herbert G. Parker, being an heir at law of Otis J. Parker, deceased Temporary Construction Easement across: Parcel No. 765-15165-000 Located within NE-SW-22-16-30 Offer Amount: \$260.00 (TCE only: 2812 sq. ft.)
4.	EL3 – Tract 5 Owner: Daniel L. Epperly and Reba W. Epperly, husband and wife Temporary Construction Easements across: Parcel No. 765-14983-000 Located within NE-SE-21-16-30 Offer Amount: \$1,025.00 (TCE north: 2006 sq. ft., TCE south: 2092 sq. ft.; total: 4098 sq. ft.)
5.	EL3 – Tract 7 Owner: Littlefield Investment Co. Permanent Easement across: Parcel No. 765-14998-000 Located within NW-SE-21-16-30 Offer Amount: \$5,400.00 (PE only: 2160 sq. ft.)



**WSIP East Line Work
EL-3 Condemnation Map**



CASE HISTORY
Otis J. Parker Estate
EL3 (Line 4) – Tract 3

12/9/2006	Date of appraisal by Mark Risk, the Real Estate Consultants for an appraisal of the Hanna-Moore property. Used that land value (\$40,000/acre) x 10% to calculate rental value of TCE. 2,812 square feet of Temporary Construction Easement at \$4,000/acre for a total offer of \$260.00.
1/8/2007	Date of offer letter. Packet containing letter, easement document, drawing, and vendor form mailed on 1/12/2007. Offer amount as calculated above.
4/4/2007	Date of reminder letter, urging a response.
8/3/2007	Date of notification letter, giving deadline of August 31, 2007 for response.
7/1/2008	As of this date, no response to any of the mailings. Current owner apparently inherited property and lives in Florida. Turned over to the City Attorney's office for potential condemnation.



THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION

August 3, 2007

Otis J. Parker Estate
c/o Herbert G. Parker
3510 Tullamore Lane
Tallahassee, FL 32308

RE: Project No. 02133
Wastewater Improvements Project
EL3 (Line 4) – Town Branch to Happy Hollow
Tract 3
Notification Letter

Dear Mr. Parker:

As you are now aware, the City of Fayetteville is constructing a new wastewater treatment plant on the west side of town as well as new gravity sewer lines, pump stations, and force mains associated with both the new plant and the existing east side treatment plant.

The City of Fayetteville needs to move forward with this project; the primary obstacle to final approval of the project, enabling bidding of the work, is the finalization of easement acquisition.

On January 12, 2007, a packet of information was mailed to you regarding the acquisition of easement across your property. Then on April 4, 2007, a reminder letter was mailed along with a resubmittal of the proposed easement(s). The City of Fayetteville has yet to receive a response to either mailing.

In the absence of further negotiations and receipt of signed documents, a deadline for closure of these acquisitions has been established. If we have not heard from you nor received a signed easement document and vendor form by August 31, 2007, the file will be turned over to the City Attorney's office and procedures will be started to obtain possession through the courts, as based on the original offer.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or I can be reached at (479) 575-8330.

Sincerely,

A handwritten signature in dark ink, appearing to read "David Jurgens".

David Jurgens, P.E.

Water and Wastewater Director

DJ/jsg



THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION

April 4, 2007

Otis J. Parker Estate
c/o Herbert G. Parker
3510 Tullamore Lane
Tallahassee, FL 32308

RE: Project No. 02133
Wastewater Improvements Project
EL3 (Line 4) – Town Branch to Happy Hollow
Tract 3
Reminder Letter

Dear Mr. Parker:

The City of Fayetteville sent you a letter dated January 8, 2007 regarding the wastewater improvement project. Your property will be affected by these improvements. Enclosed with this letter were drawings of your specific property depicting the area affected by the improvements, as well as the accompanying documents. If you did not receive this packet of information please contact me immediately at 479-444-3407.

The City of Fayetteville has had no reply from you or a representative of you on this matter. Construction for this project is scheduled to begin in February 2008 and the City of Fayetteville would like to have all easements acquired well before construction begins.

If you have any questions or concerns about the information sent to you, please do not hesitate to contact me. A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact me at (479) 444-3407, Holly Jones at (479) 444-3414, or Kem Wimberly at (479) 444-3415. If you do not have any questions or concerns and elect to accept our offer, please execute the accompanying documents (easement and vendor form) and return them to the City of Fayetteville. The documents must be executed by all parties with current ownership interests in the particular property and notarized.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Goddard", written in a cursive style.

Jill Goddard
Land Agent

/jsg



THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION

January 8, 2007

Otis J. Parker Estate
c/o Herbert G. Parker
3510 Tullamore Lane
Tallahassee, FL 32308

RE: Project No. 02133
Wastewater Improvements Project
EL3 (Line 4) – Town Branch to Happy Hollow
Tract 3
Offer Letter

Dear Mr. Parker:

The City of Fayetteville is currently in the process of replacing and expanding the wastewater treatment facility on the east side of Fayetteville, as well as constructing a new treatment facility on the west side of town. These activities are anticipated to meet the requirements of our growing city over the next twenty to twenty-five years. As part of this improvement, the water and wastewater collection and transmission facilities must be modified and expanded at the same time. The City needs to install a 42" gravity flow sewer line within a 58" steel encasement across your property to accomplish these much needed improvements. This new line will be located within the existing easement. As noted on the attached diagram, our consulting engineers are asking for a 10 foot wide temporary construction easement for a little extra working room. The temporary construction and grading easement shall terminate when the project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

The City of Fayetteville hereby offers **\$260.00** for the rental of the area within the temporary construction easement (2,812 square feet). This amount is based on 10% of fee simple land value (or 10% x \$40,000/acre). Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated area required for the proposed easement.

Should you elect to accept this offer, the *Temporary Construction Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the document if you will advise our office accordingly. Upon receipt of the easement, a check will be requested and you will be paid the amount indicated in this offer letter.

A copy of the *Temporary Construction Easement* is included for your records. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or I can be reached at (479) 575-8330.

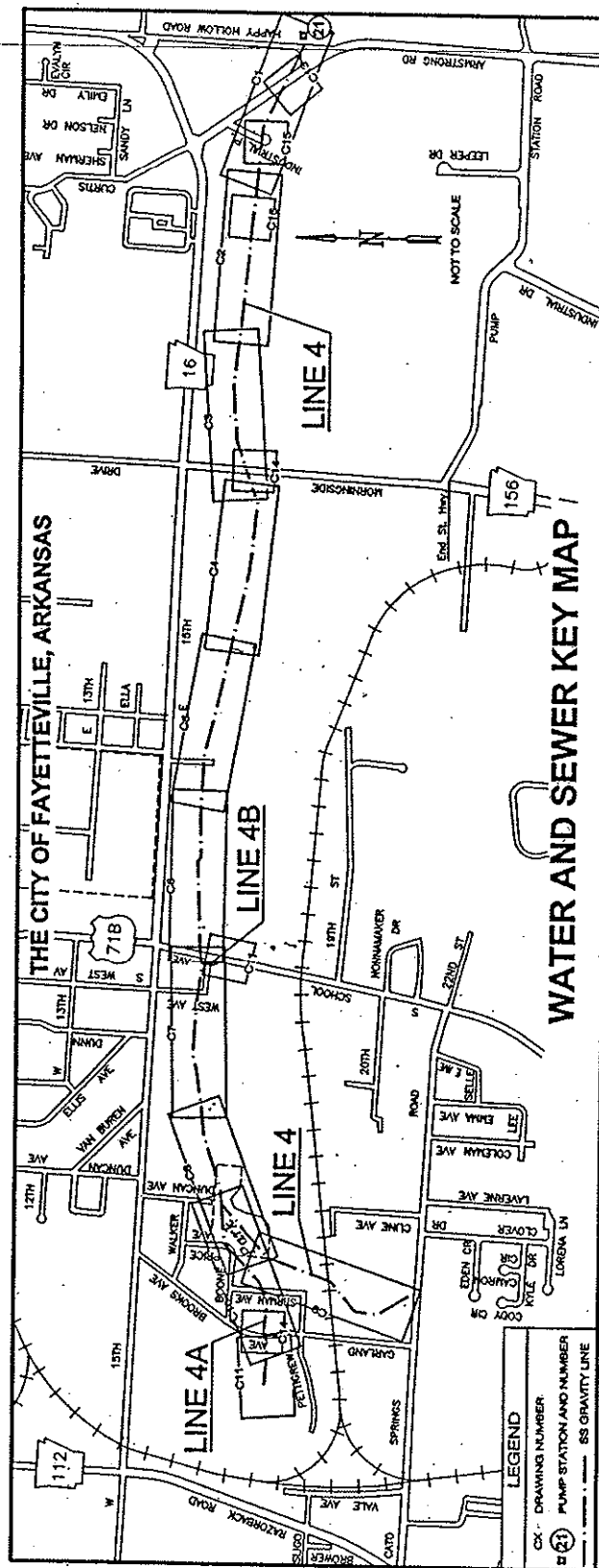
Sincerely,

David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg
Enclosures
113 West Mountain 72701 479-575-8206
FAX 479-575-8202

East Wastewater Collection System Improvements

Line 4 Improvements
Contract Number EL-3



TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT Herbert G. Parker, being an heir at law of Otis J. Parker, deceased, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for construction of a water line, to-wit:

PROPERTY DESCRIPTION: (Deed Book 458/Page 30)

South half of the North half of the Northeast quarter of the Southwest quarter, Section 22, Township 16 North, Range 30 West, containing 10 acres, more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A temporary construction easement, being 10 feet of equal and uniform width, running parallel with and adjacent to a portion of the South line of an existing permanent utility easement as described in Record 523-568, containing 2,812 square feet (0.06 acres), more or less, as shown on Exhibit A. The sidelines of said easement shall be lengthened or shortened to terminate on the deed line of the above described property on the West side and the West right-of-way line of Morningside Drive on the East side.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2006.

Herbert J. Parker

TEMPORARY CONSTRUCTION EASEMENT
Herbert J. Parker
Page 2 of 2

ACKNOWLEDGMENT

STATE OF ARKANSAS

)

COUNTY OF

)

ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Herbert J. Parker, being an heir at law of Otis J. Parker, deceased**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that **they** had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2006.

Notary Public

MY COMMISSION EXPIRES:

PARCEL NO. 765-15165-000
OWNER: OTIS J. PARKER
RECORD DEED: 458 30

EXISTING 20 FOOT UTILITY
EASEMENT RECORD 1139-256

EXISTING
SEWER LINES

PROPOSED 42"
SEWER LINE

PROPOSED 10 FOOT TEMPORARY
CONSTRUCTION EASEMENT

EXISTING 25 FOOT UTILITY
EASEMENT RECORD 523-568

MORNINGSIDE DRIVE

NE 1/4
SW 1/4
22-16-30



BEARINGS BASED ON
CITY MONUMENTS I-21 & F-11

GRAPHIC SCALE



(IN FEET)
1 inch = 50 ft.

AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED TEMPORARY CONSTRUCTION EASEMENT	2,812	0.06

LEGEND

- PL — PL — APPROXIMATE TRENCH LIMITS
- — — — — EXISTING PROPERTY LINE
- — — — — EXISTING RIGHT OF WAY LINE
- — — — — EXISTING EASEMENT LINE
- - - - - PROPOSED T.C.E. LINE

THIS EXHIBIT A IS A SKETCH DESCRIPTIVE ONLY OF
THE SIZE, SHAPE AND LOCATION OF THE PROPOSED
EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR
SURVEY OF THE GRANTOR'S PROPERTY.

J:\Projects\2002\0296-3000 FAY WW - Design\Design\Drawings\Phase 3\Acquisition\FWVVRW4-3.dwg

GARVER ENGINEERS

"Engineers Since 1919"

3810 FRONT STREET- SUITE 10, FAYETTEVILLE, ARKANSAS 72703

PHONE: (479) 627-9100. FAX: (479) 627-9101

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FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS



LINE 4 - TRACT#3
EXHIBIT A

GARVER PROJECT 0296-3000	CONTRACT EL-3
DATE OCTOBER 23, 2006	REV.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

2-Sep-08
City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Improv Proj
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Littlefield Investment Co., located at Parcel No. 765-14998-000, located within SE-21-16-30. Location 5 on attached list and map.

\$ 5,540.00
Cost of this request

\$ 46,262,358
Category / Project Budget

Wastewater System Imp Project
Program Category / Project Name

4520.9520.5310.00
Account Number

\$ 27,801,066
Funds Used to Date

Water and Wastewater
Program / Project Category Name

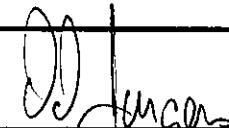
02133-0305
Project Number

\$ 18,461,292
Remaining Balance

Water/Sewer
Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☐


Department Director

15 Aug 08
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____


City Attorney

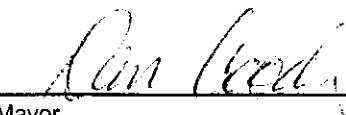
8/20/08
Date

Paul A. Bach
Finance and Internal Service Director

8-20-08
Date

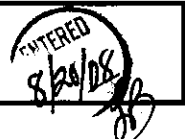
Received in City Clerk's Office




Mayor

8/20/08
Date

Received in Mayor's Office



Comments:



City Council Meeting of 2 September 2008

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee

A handwritten signature in black ink, appearing to read "D. Jurgens".

Date: August 15, 2008

Subject: Approval of Three Resolutions Authorizing The City Attorney to Seek Condemnation and Possession of Certain Lands Required for WSIP EL-3

RECOMMENDATION

Staff recommends approval of Three resolutions authorizing the city attorney to seek condemnation and possession of certain lands required for WSIP EL-3 owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. 18 were required; 13 have been acquired and 1 was eliminated. The owners of the remaining tracts have all been contacted via mail, telephone, and in person, except for the Parker estate, from which we have had no contact and are not sure of a correct address. Owners of the remaining tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process in August.

DISCUSSION

Negotiations are still underway with several of the owners, but the timing is such that we must proceed with the condemnation process in the event the negotiations do not succeed. Details of each parcel are below.

- (1) Parker Estate. No contact, previous owner deceased.
- (2) Epperly. One owner (Epperly) disputes the easement for the existing 80 year old sewer line and wants more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for permanent WSIP easements, based on appraisals. In this case, we are only obtaining a temporary construction easement, as we are replacing the existing line in place.
- (3) Littlefield Oil. Aaron Littlefield stated he would send easement prior to 22 August.
- (4) Ed Hurley (not included in packet) will drop off signed document prior to 18 August.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are shown on each individual Staff Review Form. Funds are available in the WSIP budget.

Attachments: List of Potential Condemnations
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY LITTLEFIELD INVESTMENT COMPANY.

WHEREAS, the City of Fayetteville and Littlefield Investment Company
have been unable to agree on a fair price for the property owned by Littlefield
Investment Company that is needed for a permanent utility easement across
Parcel No.765-14998-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this
property promptly to begin the installation of the EL-3 WSIP sewer line.

**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 authorizes the City Attorney to file suit to seek court ordered possession
of property located on Parcel No. 765-14998-000 and owned by the Littlefield
Investment Company that is needed for the installation of the EL-3 WSIP sewer
line, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

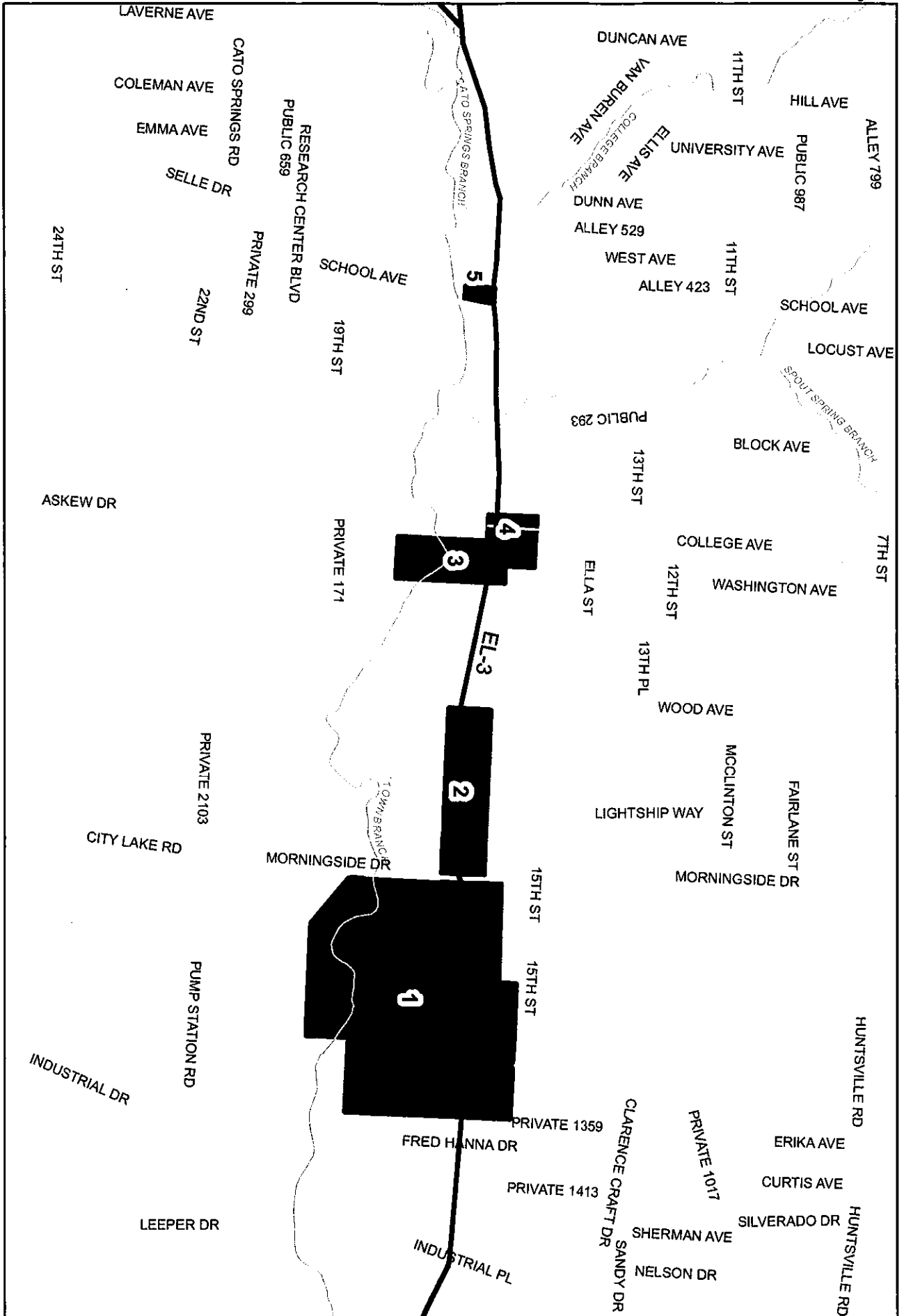
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

WSIP East Line Easement Condemnation List

Map Reference	Description
2.	EL3 – Tract 3 Owner: Herbert G. Parker, being an heir at law of Otis J. Parker, deceased Temporary Construction Easement across: Parcel No. 765-15165-000 Located within NE-SW-22-16-30 Offer Amount: \$260.00 (TCE only: 2812 sq. ft.)
4.	EL3 – Tract 5 Owner: Daniel L. Epperly and Reba W. Epperly, husband and wife Temporary Construction Easements across: Parcel No. 765-14983-000 Located within NE-SE-21-16-30 Offer Amount: \$1,025.00 (TCE north: 2006 sq. ft., TCE south: 2092 sq. ft.; total: 4098 sq. ft.)
5.	EL3 – Tract 7 Owner: Littlefield Investment Co. Permanent Easement across: Parcel No. 765-14998-000 Located within NW-SE-21-16-30 Offer Amount: \$5,400.00 (PE only: 2160 sq. ft.)



**WSIP East Line Work
EL-3 Condemnation Map**



CASE HISTORY

Littlefield Investment Company
EL3 (Line 4) – Tract 3

12/9/2006	Date of appraisal by Mark Risk, the Real Estate Consultants for this property. 2,160 square feet of Permanent Easement at \$2.50/s.f. for a total offer of \$5,400.00.
1/8/2007	Date of offer letter. Packet containing letter, easement document, drawing, and vendor form mailed on 1/12/2007. Offer amount based on above appraisal.
4/4/2007	Date of reminder letter, urging a response.
8/3/2007	Date of notification letter, giving deadline of August 31, 2007 for response.
1/24/2008	As of this date, no response to any of the mailings. (Have not had a problem with this property owner on any other project in the past.) Turned over to the City Attorney's office for potential condemnation.
6/23/2008	Peggy Bell spoke to Dolly Harrison about the easement issue. Dolly left messages with Brad Arterbury (479-462-1082), Aaron Littlefield (479-675-6914) or Jerald Baker (479-462-2431) to call Peggy.
6/24/2008	Peggy Bell called Dolly and she said she had left Peggy's phone number off the return message, and would leave word with all three again. She said to give them 24 hours to return the call.
6/26/2008	Peggy had not heard from anyone at the company.
6/27/2008	Lori Johnson spoke to Aaron Littlefield about the easement. He vaguely remembered something about it, but was unclear on details. Lori emailed him the initial easement letter and a map of the location.
7/8/2008	Lori spoke with Aaron to see if he had read her email. He had not but said he would do so 'tonight or tomorrow'.
7/11/2008	Lori emailed Aaron a reminder which included the easement information again.
7/31/2008	Aaron has made no contact with Lori.



THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION

January 8, 2007

Littlefield Investment Company
Attn: Aaron Littlefield
P.O. Box 180129
Fort Smith, AR 72918

RE: Project No. 02133
Wastewater Improvements Project
EL3 (Line 4) – Town Branch to Happy Hollow
Tract 7
Offer Letter

Dear Mr. Littlefield:

The City of Fayetteville is currently in the process of replacing and expanding the wastewater treatment facility on the east side of Fayetteville, as well as constructing a new treatment facility on the west side of town. These activities are anticipated to meet the requirements of our growing city over the next twenty to twenty-five years. As part of this improvement, the water and wastewater collection and transmission facilities must be modified and expanded at the same time. The City needs to install a 36" gravity flow sewer line within a 48" steel encasement on your property to accomplish these much needed improvements. As noted on the attached diagram, our consulting engineers are asking for a 15 foot wide permanent easement.

The City of Fayetteville hereby offers **\$5,400.00** for the rights associated with the permanent easement (2,160 square feet). The permanent easement amount is based on \$2.50/sq. ft. (fee simple land value). Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated area required for the proposed easement.

Should you elect to accept this offer, the *Water/Sewer Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the document if you will advise our office accordingly. Upon receipt of the easement, a check will be requested and you will be paid the amount indicated in this offer letter.

A copy of the *Water/Sewer Easement* is included for your records. We can provide a copy of the recorded easement upon your request and at the appropriate time. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or I can be reached at (479) 575-8330.

Sincerely,


David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg
Enclosures



THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION

August 3, 2007

Littlefield Investment Company
Attn: Aaron Littlefield
P.O. Box 180129
Fort Smith, AR 72918

RE: Project No. 02133
Wastewater Improvements Project
EL3 (Line 4) – Town Branch to Happy Hollow
Tract 7
Notification Letter

Dear Mr. Littlefield:

As you are now aware, the City of Fayetteville is constructing a new wastewater treatment plant on the west side of town as well as new gravity sewer lines, pump stations, and force mains associated with both the new plant and the existing east side treatment plant.

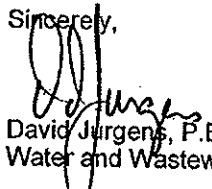
The City of Fayetteville needs to move forward with this project; the primary obstacle to final approval of the project, enabling bidding of the work, is the finalization of easement acquisition.

On January 12, 2007, a packet of information was mailed to you regarding the acquisition of easement across your property. Then on April 4, 2007, a reminder letter was mailed along with a resubmittal of the proposed easement(s). The City of Fayetteville has yet to receive a response to either mailing.

In the absence of further negotiations and receipt of signed documents, a deadline for closure of these acquisitions has been established. If we have not heard from you nor received a signed easement document and vendor form by August 31, 2007, the file will be turned over to the City Attorney's office and procedures will be started to obtain possession through the courts, as based on the original offer.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or I can be reached at (479) 575-8330.

Sincerely,


David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg



THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION

April 4, 2007

Littlefield Investment Company
Attn: Aaron Littlefield
P.O. Box 180129
Fort Smith, AR 72918

RE: Project No. 02133
Wastewater Improvements Project
EL3 (Line 4) – Town Branch to Happy Hollow
Tract 7
Reminder Letter

Dear Mr. Littlefield:

The City of Fayetteville sent you a letter dated January 8, 2007 regarding the wastewater improvement project. Your property will be affected by these improvements. Enclosed with this letter were drawings of your specific property depicting the area affected by the improvements, as well as the accompanying documents. If you did not receive this packet of information please contact me immediately at 479-444-3407.

The City of Fayetteville has had no reply from you or a representative of you on this matter. Construction for this project is scheduled to begin in February 2008 and the City of Fayetteville would like to have all easements acquired well before construction begins.

If you have any questions or concerns about the information sent to you, please do not hesitate to contact me. A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact me at (479) 444-3407, Holly Jones at (479) 444-3414, or Kern Wimberly at (479) 444-3415. If you do not have any questions or concerns and elect to accept our offer, please execute the accompanying documents (easement and vendor form) and return them to the City of Fayetteville. The documents must be executed by all parties with current ownership interests in the particular property and notarized.

Sincerely,

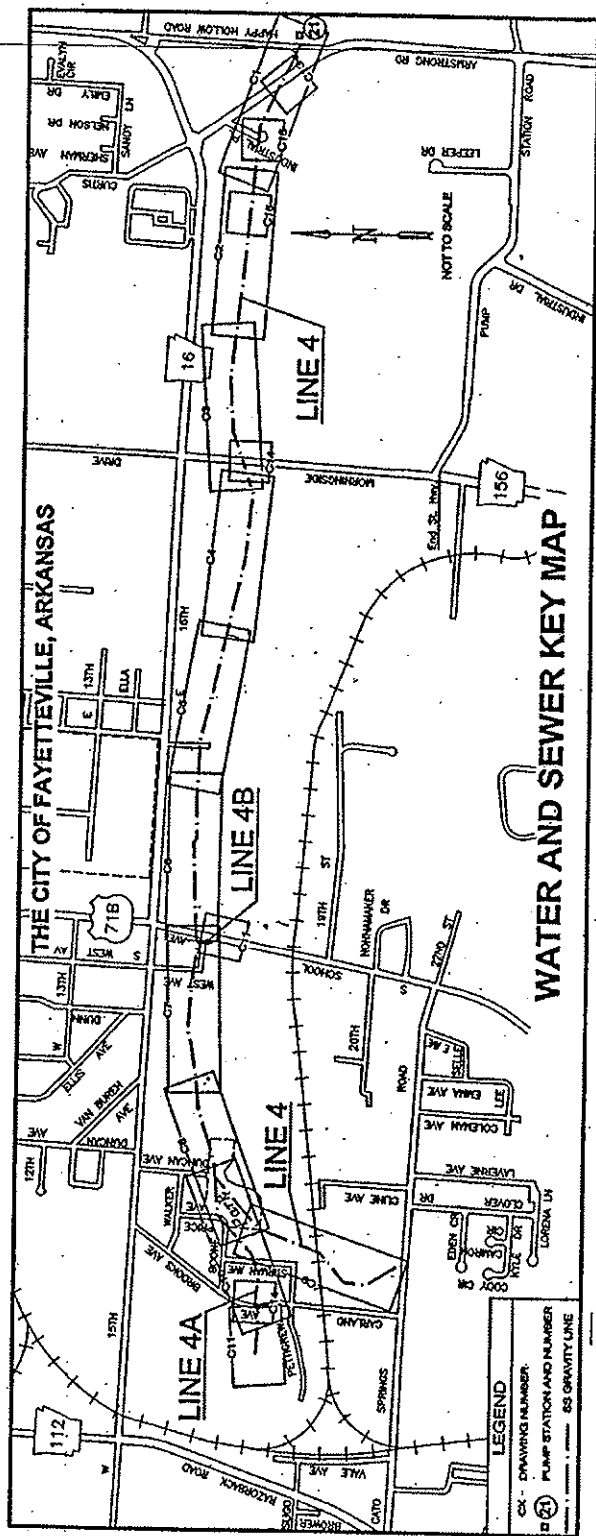
A handwritten signature in dark ink, appearing to read "Bill Goddard".

Bill Goddard
Land Agent

/jsjg

East Wastewater Collection System Improvements

Line 4 Improvements
Contract Number EL-3



Parcel #765-14998-000
WSIP-EL 4 Tract #E-4-7

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT Littlefield Investment Co., an Arkansas Corporation, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref: 2004-00039772)

Part of the NW1/4 of the SE1/4 of Section 21 in Township 16 North, of Range 30 West, being more particularly described as follows, to-wit: Beginning at a point which is 673.78 feet West and 480.78 feet South of the Northeast corner of said forty acre tract and running thence South 228 feet, thence East 90.62 feet, more or less, to the West right-of-way line of U.S. Highway No. 71, thence North 7 degrees 29 minutes East 229.95 feet to a point due East of the point of beginning, thence West 121 feet, more or less, to the point of beginning, containing .55 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

A permanent easement beginning at the Northwest corner of the property hereinabove described; thence with the West property line S 02°44'46" W 133.80 feet; thence leaving said West line, S 55°04'13" E 66.69 feet; thence N 34°55'47" E 15.00 feet; thence N 55°04'13" W 64.15 feet; thence N 01°49'55" E 122.47 feet; thence N 87°15'14" W 8.18 feet, to the Point of Beginning, containing 2,160 square feet (0.05 acres), more or less, as shown on Exhibit A.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WATER/SEWER EASEMENT
Littlefield Investment Co.
Page 2 of 2

WITNESS the execution hereof on this the _____ day of _____, 2006.

LITTLEFIELD INVESTMENT CO.

By: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

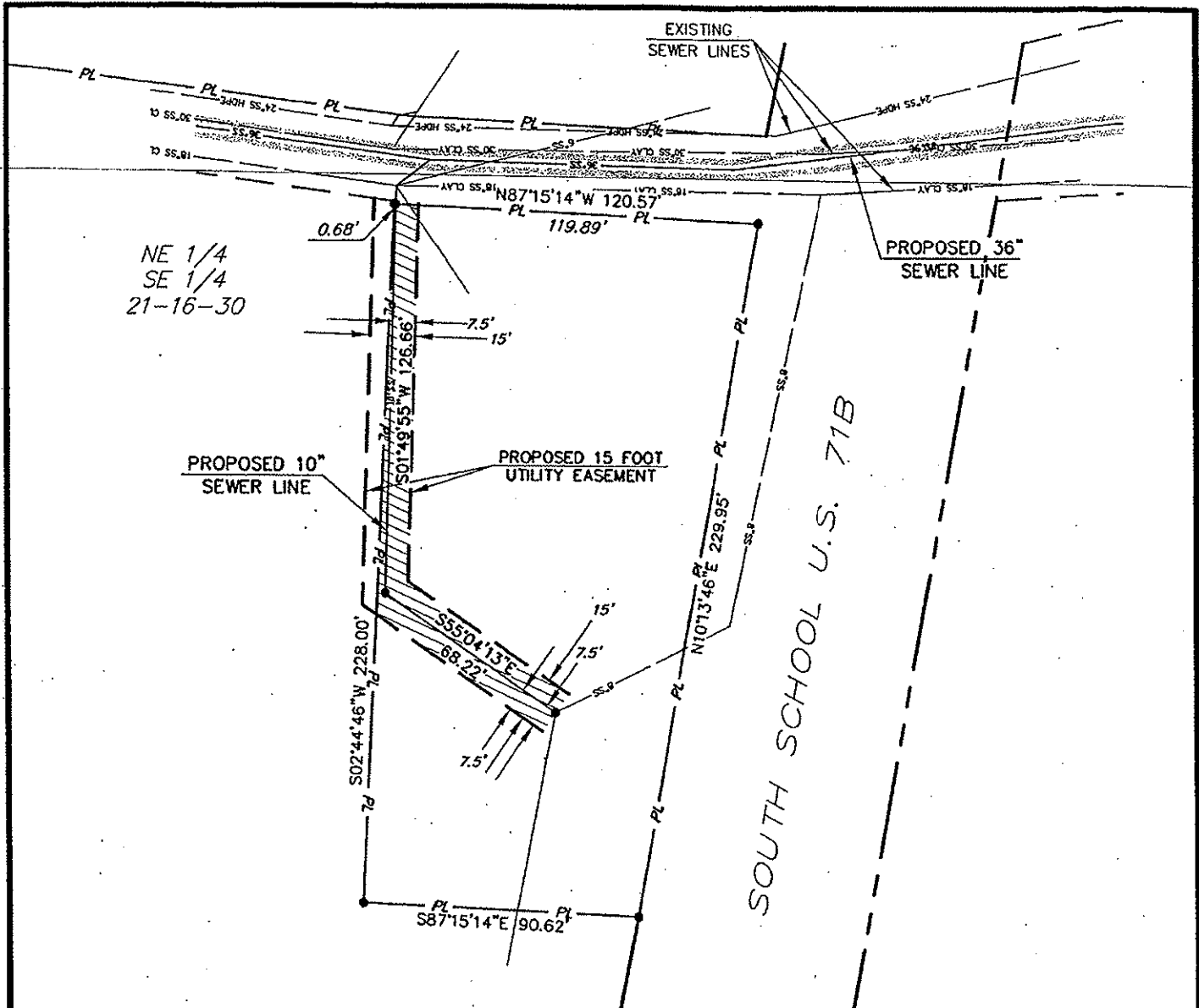
} ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of **Littlefield Investment Co., an Arkansas Corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2006.

MY COMMISSION EXPIRES:

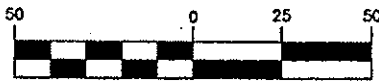
Notary Public



PARCEL NO. 765-14998-000
 OWNER: MITCHELL OIL COMPANY, INC.
 RECORD DEED: 99 86487



GRAPHIC SCALE



BEARINGS BASED ON
 CITY MONUMENTS I-21 & F-11

(IN FEET)
 1 inch = 50 ft.

AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED UTILITY EASEMENT	2,160	0.05

LEGEND

PL	PL	APPROXIMATE TRENCH LIMITS
---	---	EXISTING PROPERTY LINE
---	---	EXISTING RIGHT OF WAY LINE
---	---	EXISTING EASEMENT LINE
---	---	PROPOSED EASEMENT LINE

THIS EXHIBIT A IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

J:\Projects\2002\0296-3000 FAY WW - Design\Design\Drawings\Phase 3\Acquisition\FWWVRW4-7.dwg

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3810 FRONT STREET- SUITE 10, FAYETTEVILLE, ARKANSAS 72703
 PHONE: (479) 527-9100 FAX: (479) 527-8101
 www.garverengineers.com

FAYETTEVILLE
 THE CITY OF FAYETTEVILLE, ARKANSAS



LINE 4 - TRACT#7
 EXHIBIT A

GARVER PROJECT 0296-3000	CONTRACT EL-3
DATE DECEMBER 10, 2004	REV.

APPRAISAL REPORT
City of Fayetteville
Complete Summary Appraisal Report
As of the 9th Day of December 2006

PROJECT Wastewater Treatment Plant
LINE # East Line 4
TRACT # 7
COUNTY Washington
PARCEL # 765-14998-000
LOCATION 1645 S. School Street, Fayetteville
FEE OWNER Littlefield Investment Company, and Arkansas Corporation
ADDRESS PO Box 180129, Fort smith, AR 72918
ESTATE APPRAISED Fee Simple
AREA OF WHOLE 23,958 ± Square Feet (Subject to a legal Survey)

TOTAL AREA OF PERMANENT EASEMENT: 2,160 ± SF or 0.05 ± Acre
(Drawing attached)

TEMPORARY CONSTRUCTION EASEMENT (T.C.E.): 0 ± SF or .0 ± Acres
(Drawing attached)

ESTIMATED FAIR MARKET VALUE OF THE PROPERTY:

	Before	After
Land	\$ 60,000	\$ 54,600
Improvements	\$ 32,850*	\$ 32,850*
Total	\$ 92,850	\$ 87,450

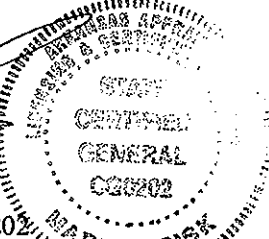
FMV PERMANENT EASEMENT ACQUISITION \$5,400 As of 9th day of December 2006

ALLOCATION OF FAIR MARKET VALUE OF TAKINGS:

Permanent Easement-	2,160 SF	@	\$2.50/SF	= \$5,400
Landscaping:	Not Applicable			= \$ 0**
Total All Takings-				= \$5,400
Damages or Benefits:	None			\$ 0
			Total Compensation	\$5,400

TOTAL JUST COMPENSATION-SAY \$5,400


Mark E. Risk GAA
State Certified
General Appraiser #CG0202




Jeanne V. Cunningham
State Registered
Residential Appraiser #SR2467

* Improvements value per Washington County Assessor's office.

** Assumes no removal or damage to existing landscaping/fencing. Any site improvements in the acquisition area will be moved or replaced.

CERTIFICATE OF APPRAISER

I hereby certify:

That I have personally inspected the property herein appraised, that I have made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented by the photographs and data contained in said appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed therein are based is correct. That the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.

That I understand that such appraisal may be used in connection with litigation concerning the permanent acquisition of easements in connection with the West Side Wastewater Treatment Plant project. This project is to be performed by the City of Fayetteville. The project has been initiated by the City of Fayetteville.

That such appraisal has been made in conformity with the appropriate City laws, regulations, and policies and procedures applicable to appraisal of right of ways and easements for such purposes; that in appraising the value before acquisition, no consideration has been given to increases or decreases in Fair Market Value caused by the public improvement; and that to the best of my knowledge no portion of the value assigned to such property consists of items which are not compensable under the established law of said City.

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein.

That I have no direct or indirect, present or contemplated future personal interest in such property, and no personal interest or bias with respect to the parties involved, or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the client, and I will not do so until so authorized by said client, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That my analyses, opinions, and conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice and no one provided significant professional assistance to the persons signing this report.

That in my opinion the just compensation for the acquisition as of the 9TH day of December 2006 is \$5,400 based upon my independent appraisal and the exercise of my professional judgment.

12/30/06

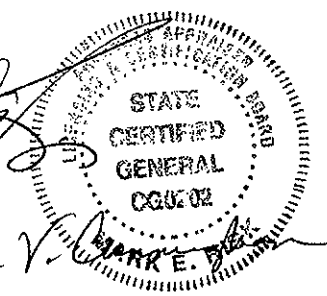
Date

12/30/06

Date

Signature

Signature



JOB

East Side Wastewater Treatment Plant Project
East Line 4- Tract #7

City of Fayetteville Staff Review Form

D. 1
Cloud Gehshan Associates
Page 1 of 14City Council Agenda Items
and
Contracts, Leases or Agreements

9/2/2008

City Council Meeting Date
Agenda Items Only

Karen Minkel

Submitted By

Long Range Planning

Division

Operations

Department

Action Required:

Resolution to waive competitive bidding for a wayfinding and signage study and allocate \$20,000 to match funds allocated by the Advertising and Promotion Commission.

\$ 20,000.00

Cost of this request

\$ 506,006.00

Category / Project Budget

Contract Services
Wayfinding Study

Program Category / Project Name

1010.6600

Account Number

\$ 224,514.00

Funds Used to Date

Miscellaneous

Program / Project Category Name

08063.1

Project Number

\$ 281,492.00

Remaining Balance

Economic Development/

Wilson Springs

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

Date

8-15-08

Previous Ordinance or Resolution #

City Attorney

Date

8/19/08

Original Contract Date:

Original Contract Number:

Finance and Internal Service Director

Date

8-20-08

Mayor

Date

8/20/08

Received in City
Clerk's Office

8-15-08

Received in
Mayor's Office

8/20/08

Comments:

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: August 13, 2008

Subject: Resolution to waive competitive bidding for a wayfinding and signage study and allocate \$20,000 to match funds allocated by the Advertising and Promotion Commission.

RECOMMENDATION

Staff recommends approval of a resolution to waive competitive bidding for a wayfinding and signage study and allocate \$20,000 to match funds allocated by the Advertising and Promotion Commission.

BACKGROUND

The University of Arkansas began its wayfinding and signage study in 2005 when the wayfinding system was designed as part of the Campus Transportation Plan. UA began discussing the design phase with the larger community in March 2007 in order for regional entities to consider if and how signage could be visually consistent across Northwest Arkansas. Cloud Gehshan is the lead consultant for the design phase and has completed graphic standards and placement guidelines for the University. A sampling of the signs proposed for the UA is attached.

The Advertising and Promotion Commission approved \$20,000 for a Fayetteville wayfinding and signage study, contingent upon a match from the City Council, at its August 11, 2008 meeting.

DISCUSSION

Staff recommends waiving competitive bidding for this study and selecting Cloud Gehshan as the lead consultant for the following reasons:

- 1) Cloud Gehshan will ensure that Fayetteville's signage is compatible and complementary to the UA's signage;
- 2) Utilizing the design templates developed for the UA results in a cost savings to the City; and
- 3) The Advertising and Promotion Commission approved funds for a study with the University of Arkansas.

Cloud Gehshan prepared a scope of services, which is attached to this report. Their efforts will result in 3 sizes of vehicular directional signs and some pedestrian directional

signs for downtown. Construction documents would be prepared based on details developed for the UA. Two meetings with the consultants are included within the scope of work.

BUDGET IMPACT

The budget request is for \$18,000 to fund the scope of work and up to \$2,000 for travel expenses. A budget adjustment has been prepared; the funds for this project would be taken out of the Wilson Springs Economic Development fund.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A PROPOSAL FROM CLOUD GEHSHAN ASSOCIATES IN AN AMOUNT NOT TO EXCEED \$20,000.00 FOR A SIGNAGE AND WAYFINDING STUDY; AND APPROVING A BUDGET ADJUSTMENT.

WHEREAS, Cloud Gehshan Associates has completed signage graphic standards and placement guidelines for the University of Arkansas; and;

WHEREAS, the City of Fayetteville seeks to ensure that its signage is compatible with that adopted by the University, and;

WHEREAS, by making use of the design templates already prepared for the University, the cost to the City of Fayetteville would be greatly reduced.

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 finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, waives the requirements of formal competitive bidding and approves a proposal from Cloud Gehshan Associates in an amount not to exceed \$20,000.00 for a signage and wayfinding study. A copy of the proposal, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$20,000.00.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

D. 1
Cloud Gehshan Associates
Page 5 of 14

Budget Year 2008	Department: General Government Division: Miscellaneous Program: Miscellaneous	Date Requested 8/5/2008	Adjustment Number
--------------------------------	---	---------------------------------------	-------------------

Project or Item Added/Increased: \$20,000 is requested in the Contract Services account.	Project or Item Deleted/Reduced: Use of Designated Fund Balance is proposed.
---	---

Justification of this Increase: The increase is necessary to fund a wayfinding study with the University of Arkansas.	Justification of this Decrease: Currently, Designated Unreserved Fund Balance has a balance of \$1,132,759. Sufficient funding remains to comply with city policies.
--	---

Increase Budget							
Account Name	Account Number				Amount	Project Number	
Contract Services	1010	6600	5315	00	20,000	08063	1

Decrease Budget							
Account Name	Account Number				Amount	Project Number	
Use Of Designated Fnd Bal	1010	0001	4999	98	20,000	08063	1

Approval Signatures		Budget & Research Use Only	
Requested By <i>Yamen Minkal</i>	Date <i>8/14/08</i>	Type: A B C <u>D</u> E	
Budget Director <i>[Signature]</i>	Date <i>8-5-08</i>	General Ledger Date	
Department Director <i>[Signature]</i>	Date <i>8-20-08</i>	Approval Date	Initial Date
Finance Director <i>Paul A. Baker</i>	Date <i>8-20-08</i>	Posted to General Ledger	Initial Date
Mayor <i>[Signature]</i>	Date <i>8/20/08</i>	Posted to Project Accounting	Initial Date



CLOUD GEHSAN ASSOCIATES

Design Consultants

400 Market Street
Suite 300
Philadelphia, PA 19106

TEL 215 829 9414

20 August 2008

Karen Minkel
Interim Director of Long Range Planning
City of Fayetteville
125 West Mountain Street
Fayetteville AR 72701

PROPOSAL FOR SERVICES (REVISED DRAFT)

Dear Karen

We are pleased to submit this preliminary (draft) proposal to the City of Fayetteville for the design of signage and wayfinding for the City of Fayetteville, Arkansas.

PROJECT DESCRIPTION

We will design the following:

- 3 sizes of vehicular directional signs.
- pedestrian directional sign for the downtown
- pedestrian map (diagrammatic)
- parking regulatory sign for downtown

Design for all sign types will be based directly on the signs designed for the University of Arkansas; we will use the same panel sizes, message layouts and fonts but will customize the panel and post colors for Fayetteville. We will also study the addition of graphic elements if necessary to achieve a unique appearance.

The following phases are included: programming, schematic design and design development. Construction documents will be prepared based on details developed earlier for the University. Bid assistance and implementation supervision are not included at this time.

We will prepare sign location plans and coordinating message schedules for the vehicular directional signs. Location plans included with this proposal will be limited to key areas such as the NW Arkansas Mall area, downtown and the square and Dickson Street. We require that a representative of the City accompany us on 2 site tours to establish sign locations and messages.

We have included 2 meetings; one for the initial kickoff/programming meeting and one to show schematic design and draft sign location plan. Based on your input, we will prepare design development drawings and a final sign location plan/message schedule; this will be transmitted to you electronically and discussed in a phone conference.

FEES AND METHODS OF PAYMENT

The design fees for the project are listed on the attached spreadsheet. The design fees are based on hourly rates of \$165, \$140, \$125 and \$95. Reimbursable expenses are in addition to the fees listed and will be billed at cost. Possible reimbursable expenses anticipated with this project include photocopies, computer prints, mockups, digital photos, expressage, travel and postage.



CLOUD GEHSAN ASSOCIATES

Design Consultants

Upon acceptance of this proposal, we request a purchase order or written notice-to-proceed. Fees will be billed on a monthly basis, along with reimbursables, on a percent-complete basis. Payment is due within 30 days.

CLIENT RESPONSIBILITIES

- The appointment of one representative with full authority to provide or obtain any necessary information and approvals that may be required by the designer; coordination of the decision-making process with parties other than the designer.
- Provision of applicable sign codes and ordinances; negotiations with government agencies to allow the signage being created as part of this project; application for sign permits or variances. (CGA to supply all materials requested for such discussions or applications)
- Timely provision of information and materials requested by designers such as current site plans, artwork for relevant logos or wordmarks, base maps, planning data or drawings of relevant, in-progress projects.
- Timely communication of design, administrative or operational decisions if they affect the project.

REVISIONS AND ADDITIONAL SERVICES

The fee listed is based upon the time estimated to complete the services specified in the agreement during normal working hours. Any revisions or additions to the services described in this agreement shall be billed as additional services plus any specifically related costs.

Such additional services shall include, but shall not be limited to, additional sign types, bid assistance or implementation supervision, custom icons or symbols, any changes in completed or in-progress work made after approval has been given for a specific stage of work, additional meetings not listed, etc. This includes changes made for any reason, including revisions to the program, changes requested by government agencies or other factors beyond CGA's control.

TERMS AND CONDITIONS

If the project is suspended for more than one month or abandoned, the designers shall be compensated for services performed to receipt of written notice from the client of such suspension or abandonment. The designers reserve the right to charge a restart fee and re-evaluate fees quoted if the project is resumed after such a lapse.

If this agreement meets with your understanding and approval, please sign both copies and return one to us. This will constitute your acceptance of stated terms and conditions. We welcome the opportunity to provide graphic design assistance to City of Fayetteville and look forward to working on this exciting project.

Sincerely

Virginia Gehshan

City of Fayetteville

date



CLOUD GEHSHAN ASSOCIATES

Design Consultants

CITY OF FAYETTEVILLE

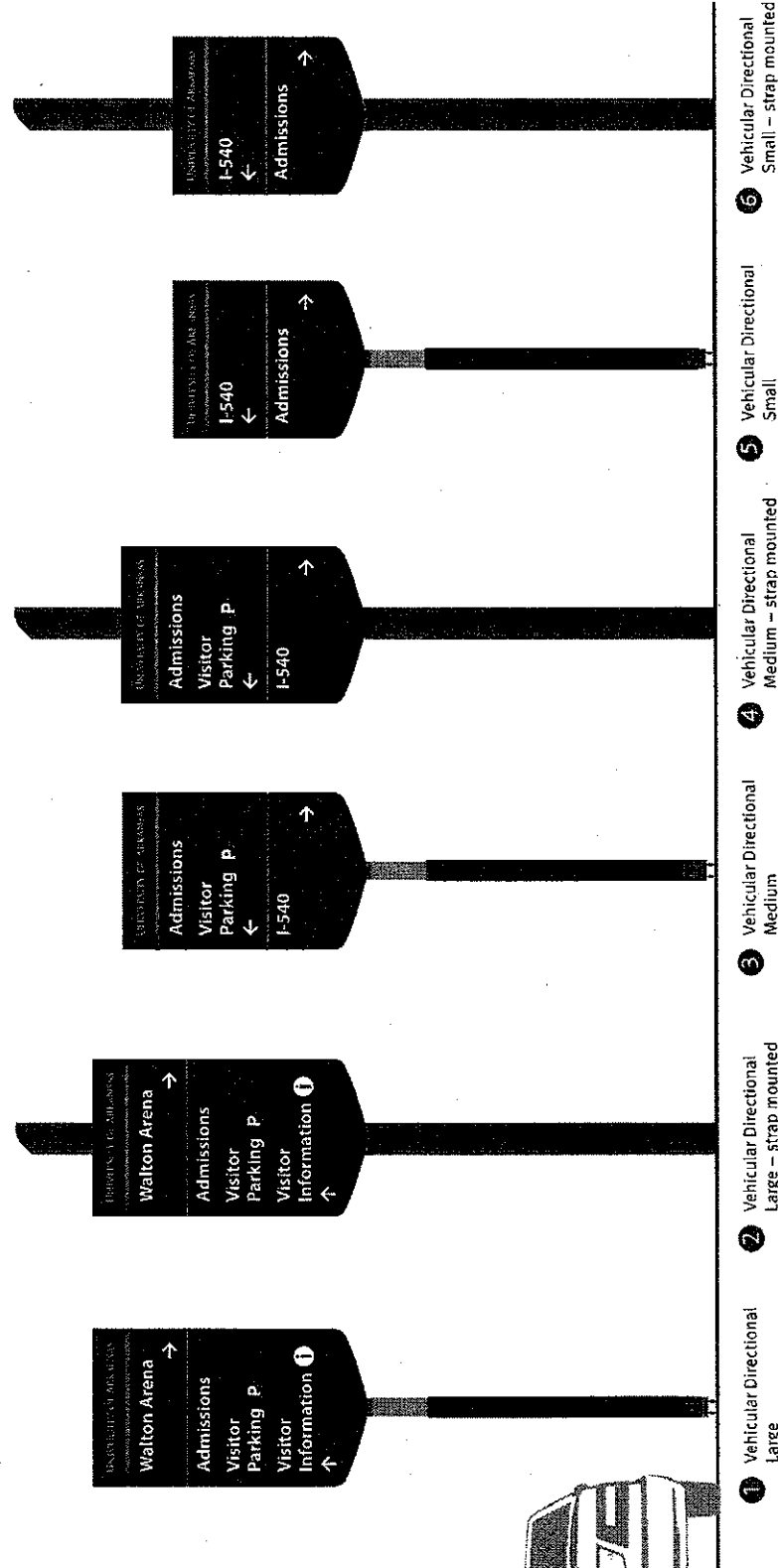
Signage and wayfinding
Design fees and expenses - revised draft
8.20.08

Tasks	CGA	comments
1 Programming	\$4,000	1 meeting
2 Schematic design	8,000	1 meeting
3 Messages and sign locations-draft	6,500	(same as SD meeting)
4 Design development	7,500	phone mtg
5 Messages and sign locations-final	5,000	phone mtg
6 Construction documents (limited)	3,500	
7 Implementation assistance*	0	
Subtotal	\$34,500	
Reimbursable Expenses (approximate)	1,500	
Travel Expenses (approximate)	4,000	
Total	\$40,000	

* not included in this phase

Vehicular Signage Overview

Vehicular Signage Overview

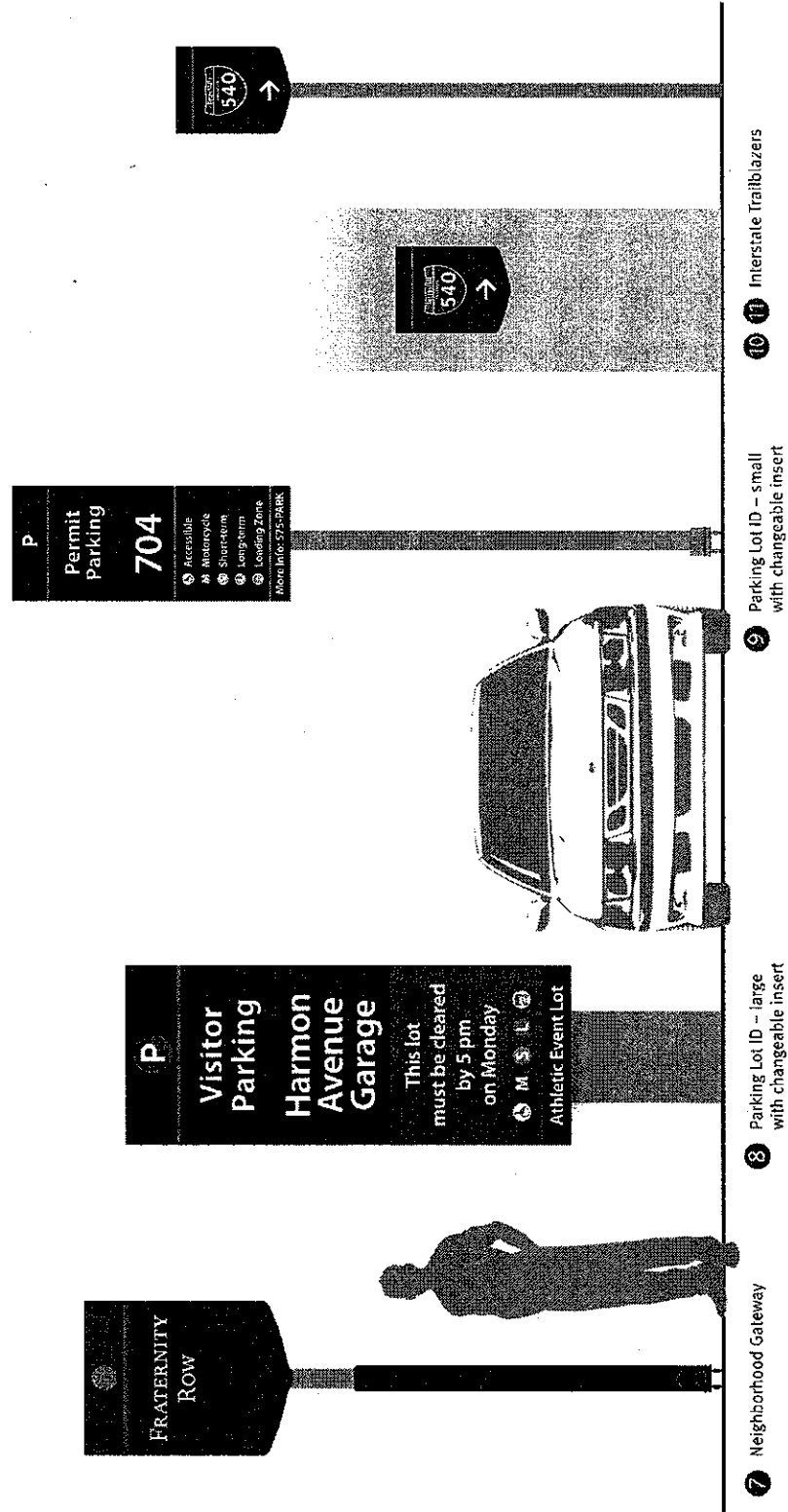


THIS DRAWING REPRESENTS DESIGN INTENT ONLY.
FABRICATOR WILL BE RESPONSIBLE TO VERIFY ALL
CONDITIONS IN FIELD PRIOR TO SHOP DRAWINGS

Client/Project	University of Arkansas Signage and Wayfinding Program	Page No.	714802.6
Date	6.24.08	Scale	N/A
© 2008 Cloud Gehshan Associates			

Vehicular Signage Overview

Vehicular Signage Overview



- 7 Neighborhood Gateway
- 8 Parking Lot ID - large with changeable insert
- 9 Parking Lot ID - small with changeable insert
- 10 Interstate Trailblazers

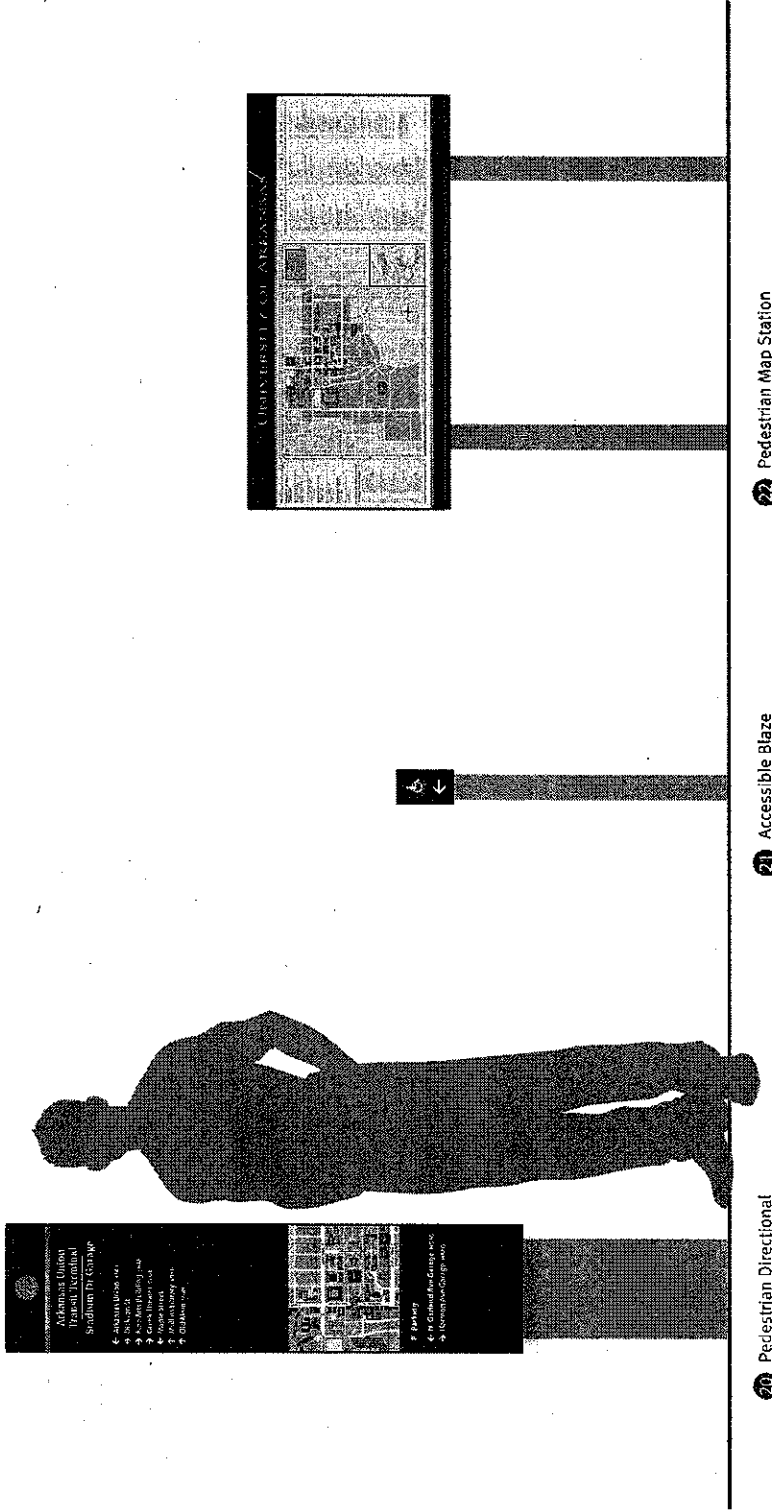
THIS DRAWING REPRESENTS DESIGN INTENT ONLY. FABRICATOR WILL BE RESPONSIBLE TO VERIFY ALL CONDITIONS IN FIELD PRIOR TO SHOP DRAWINGS

Client/Project	University of Arkansas Signage and Wayfinding Program	Project No.	714802.6
Date	4/24/08	Scale	N/A

2.3 OVERVIEW DRAWINGS

Pedestrian Signage Overview

Pedestrian Signage Overview



20 Pedestrian Directional

21 Accessible Blaze

22 Pedestrian Map Station

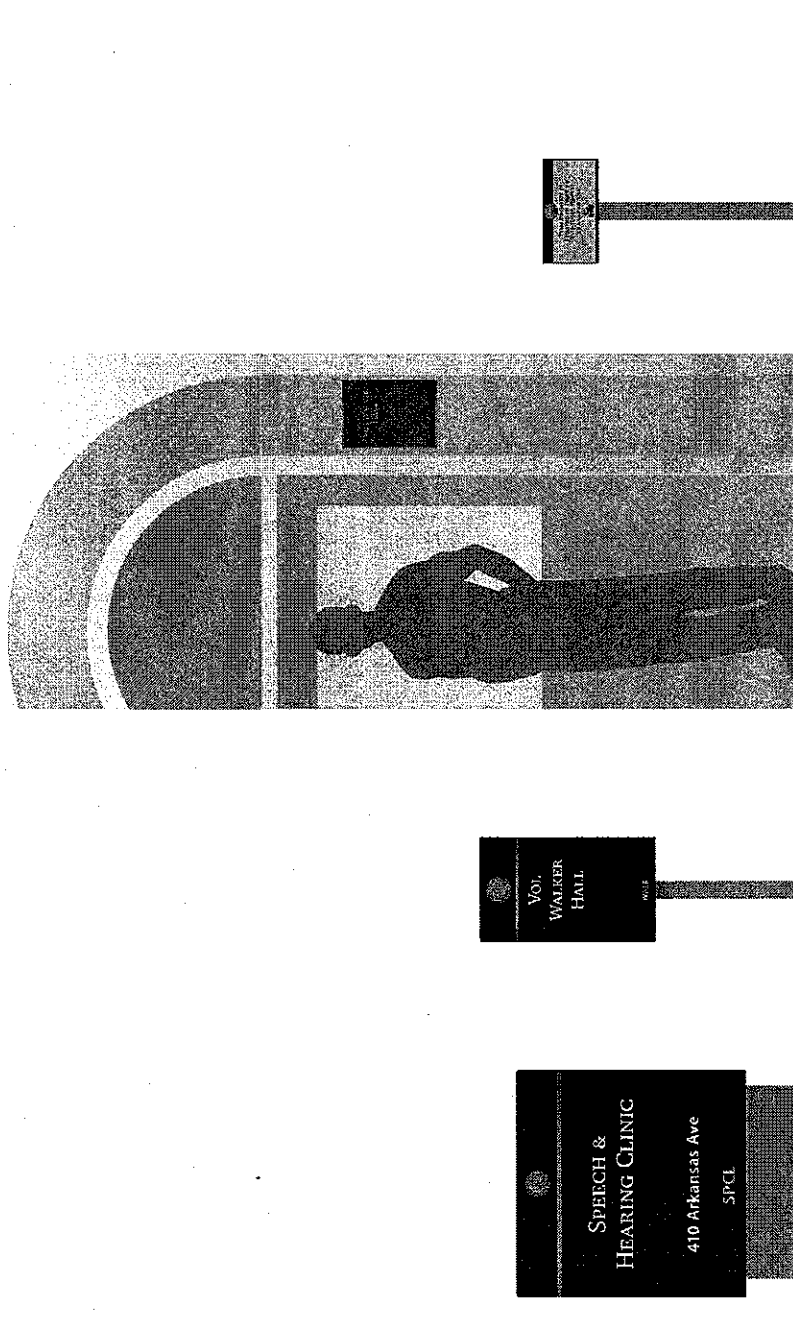
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FABRICATOR WILL BE RESPONSIBLE TO VERIFY ALL
CONDITIONS IN FIELD PRIOR TO SHOP DRAWINGS

Client/Project	University of Arkansas Signage and Wayfinding Program	Project No.	714802.6
Date	4/24/08	Scale	N/A

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Building ID Signage Overview

Building ID Signage Overview



30 Building ID – large

31 Building ID – small

32 Building ID – wall-mounted

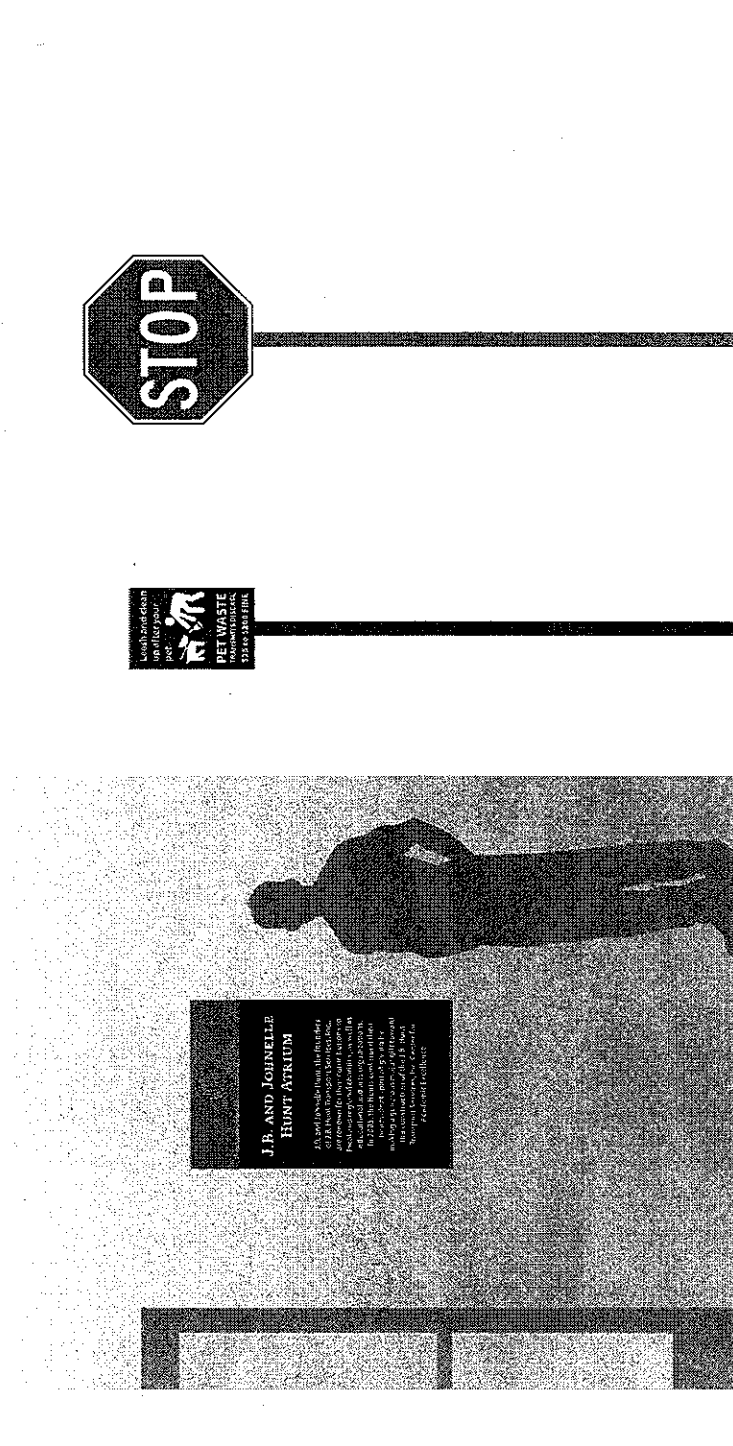
40 Small Information Sign

THIS DRAWING REPRESENTS DESIGN INTENT ONLY.
FABRICATOR WILL BE RESPONSIBLE TO VERIFY ALL
CONDITIONS IN FIELD PRIOR TO SHOP DRAWINGS

Client/Project:	University of Arkansas Signage and Wayfinding Program	Project No.:	714802.6
Date:	6/24/08	Scale:	N/A
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Additional Signage Overview

Additional Signage Overview



41 Donor Recognition

42 Regulatory

43 Specification for
Painting Back & Post of
Regulatory Signs

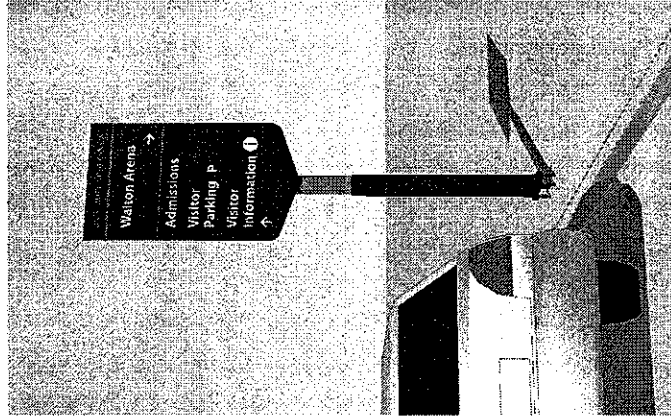
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CONDITIONS IN FIELD PRIOR TO SHOP DRAWINGS

Client/Project	University of Arkansas Signage and Wayfinding Program	Project No.	714802.6
Date	4/24/08	Scale	N/A
© 2008 Cloud Gehshan Associates			

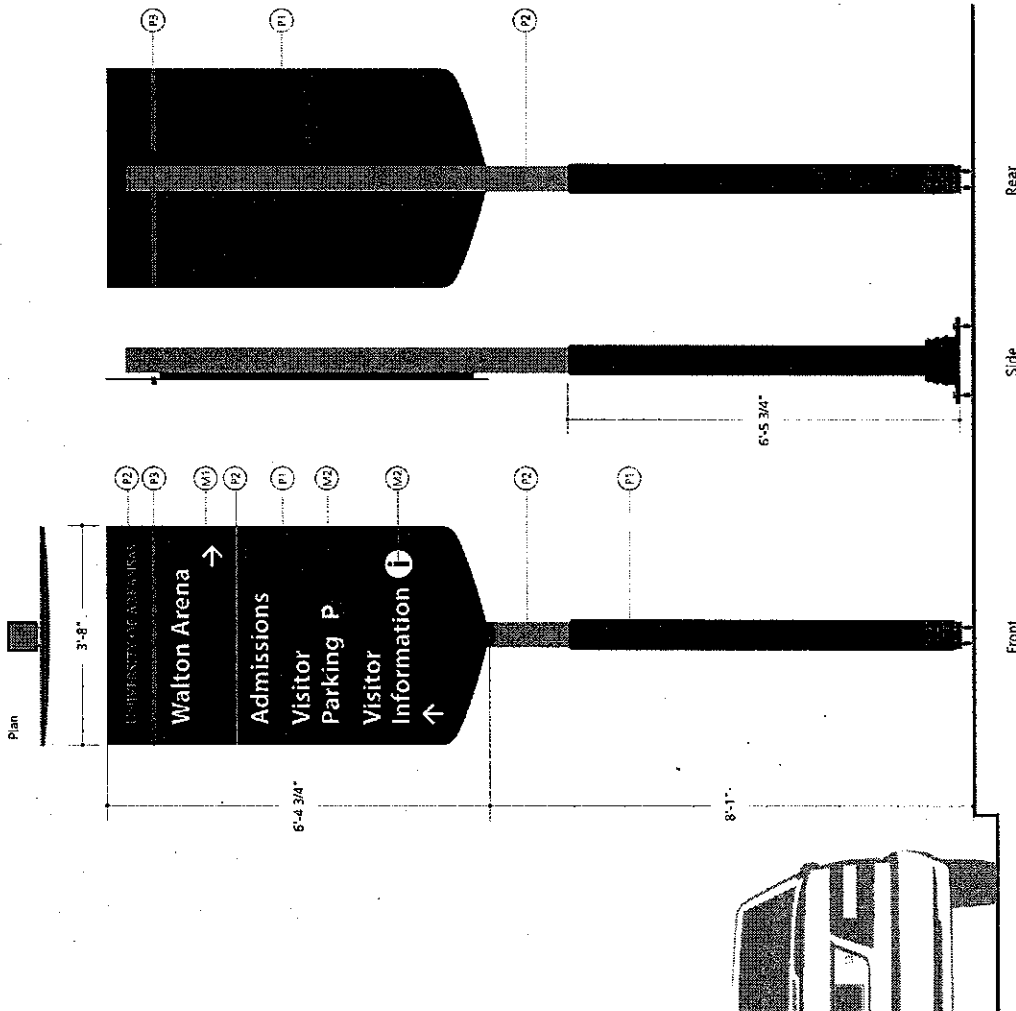
2.6 ELEVATION DRAWINGS

Sign Type 1

Vehicular Directional – large – with post
Single-faced



2 Contextual sketch
n.t.s.



1 Elevations ST1
scale: 1/2" = 1'-0"

THIS DRAWING REPRESENTS DESIGN INTENT ONLY.
FABRICATOR WILL BE RESPONSIBLE TO VERIFY ALL
CONDITIONS IN FIELD PRIOR TO SHOP DRAWINGS

Client/Project	University of Arkansas Signage and Wayfinding Program	Project No.	714802.6
Date	4.24.08	Scale	N/A

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AGENDA REQUEST

FOR: COUNCIL MEETING OF SEPTEMBER 2, 2008

FROM:

ALDERMAN BOBBY FERRELL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend The Code Of Fayetteville To Establish The Procedures For The Use Of Funds Budgeted For The In-House Street Overlay Projects

APPROVED FOR AGENDA:

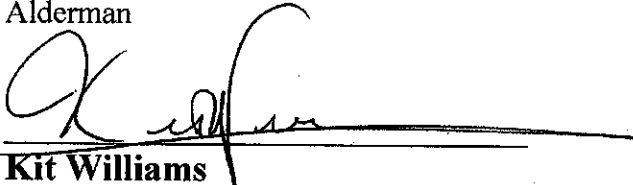


Bobby Ferrell

Alderman

8-19-08

Date



Kit Williams

City Attorney (as to form)

Aug 19, 2008

Date

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND THE CODE OF FAYETTEVILLE
TO ESTABLISH THE PROCEDURES FOR THE USE OF FUNDS
BUDGETED FOR THE IN-HOUSE STREET OVERLAY PROJECTS**

WHEREAS, the Transportation Department reviews the need for street overlays (including curb and gutter work) in the latter part of each year and presents a recommended list of sections of streets for overlays or other construction to the Street Committee; and

WHEREAS, the Street Committee discusses these proposed projects, plus any other street sections that might need to be considered and votes approval of the final list; and

WHEREAS, the Street Committee desires that the final street overlay list of approved projects (including curb and gutter work) should be presented to the City Council for its approval by Resolution; and

WHEREAS, if the administration desires any additional street overlay projects or additional curb and gutter projects during the year, it should present such project or projects to the Street Committee for approval and seek an amendment to the authorizing Resolution prior to expending funds for such additional project or projects.

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 amends Chapter 33 **Departments, Boards, Commissions and Authorities** of Title III of the Code of Fayetteville by enacting a new Article XVII entitled **Transportation Division** as shown below:

"ARTICLE XVII TRANSPORTATION DIVISION

"33.301 Establishment

"The Transportation Division (formerly known as the Street Department) has long been established in Fayetteville to maintain and improve city streets, curbs, gutters and sidewalks and to perform related services for our citizens. The Transportation Division works under the supervision of the Mayor and the budgetary authorization of the City Council.

"33.302 City Overlay Program

"(a) In the early 1990s, the City began its in-house overlay program with a stated goal to pave every City street for which public right-of-way existed. Later, the overlay program also began milling and overlaying various important, but deteriorating city streets.

"(b) In the early 2000s, the Mayor and City Council enlarged the overlay program to maintain and overlay city streets on a regular and rotating basis so that city streets would not deteriorate to such an extent that a full reconstruction would be necessary.

"(c) The procedure to determine which city streets will be funded to be overlaid and/or have curb and gutter work shall be as follows:

"(1) The Transportation Division shall report to the City Council Street Committee by November 10th of each year the results of that year's overlay program and propose a recommended list of sections of streets to be overlaid (and any planned curb or gutter work).

"(2) The Street Committee can propose additions or deletions to this list and will recommend it to the City Council.

"(3) The City Council after consideration and any amendments shall approve by Resolution the approved overlay, curb and gutter program and shall appropriate in its budget sufficient funds for the raw materials to overlay and construct such program.

"(4) If the administration wishes to amend the overlay, curb and gutter program during the construction year to add an additional project, it shall request the Street Committee to approve such additional project and City Council to amend the Resolution with any possibly necessary budget adjustment to allow any such addition to the program."

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

AGENDA REQUEST

FOR: COUNCIL MEETING OF SEPTEMBER 2, 2008

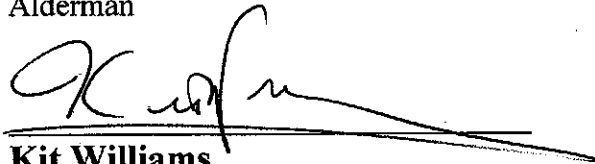
FROM:
ALDERMAN ADELLA GRAY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO AMEND SECTION 174.03 (H) NON-COMMERCIAL
SIGNS OF THE UNIFIED DEVELOPMENT CODE TO ALLOW PROPERTY
OWNERS TO POST A SMALL POLITICAL SIGN FOR EACH CANDIDATE UP TO
SIXTY DAYS BEFORE AN ELECTION

APPROVED FOR AGENDA:

Adella Gray
Alderman



Kit Williams
City Attorney (as to form)

Date

8-20-08

Date

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND SECTION 174.03 (H) NON-COMMERCIAL
SIGNS OF THE UNIFIED DEVELOPMENT CODE TO ALLOW PROPERTY
OWNERS TO POST A SMALL POLITICAL SIGN FOR EACH CANDIDATE UP TO
SIXTY DAYS BEFORE AN ELECTION**

WHEREAS, during the sixty period preceding a general or primary election, property owners should be allowed to post a political sign for each candidate that the property owner supports.

**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 amends Section 174.03(H) of the Unified Development Code by enacting a new subsection (3) as shown below:

“(3) All districts. In addition to the noncommercial sign allowed above, sixty (60) days prior to a general or primary election, a property owner may display one political sign (not to exceed eight square feet) for each candidate, referendum or initiative issue the property owner wishes to support. All such signs, except those relating to a candidate in a run-off election, shall be removed within three (3) days of the general or primary election. All remaining political signs except the sign allowed in subsection (1) shall be removed within three (3) days of the run-off election.”

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

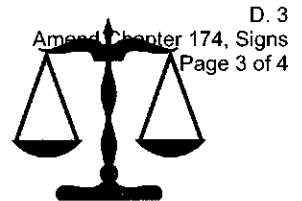
SONDRA E. SMITH, City Clerk/Treasurer

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

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

CC: **Jeremy Pate, Director of Current Planning**

FROM: **Kit Williams, City Attorney**

A handwritten signature in black ink, appearing to read "Kit Williams", written over a horizontal line.

DATE: **August 18, 2008**

RE: **Allowing more than two political signs on a residential or commercial lot during the period of sixty days before the election**

Several citizens complained that the sign ordinance's allowance of one small (8 square foot) political sign and one large (32 square foot) political sign on a residential lot unnecessarily restricts their desire to show support for numerous candidates. I believe this limitation was to prevent a "cluttered" appearance and to support the sign ordinance's purpose of protecting Fayetteville's beauty. (Relevant sign ordinance section attached.)

However, if the City Council wishes to allow more political expression during the last two months of an election (which is when the larger 32 square foot signs are allowed), I have drafted a possible addition to §174.03 (H) *Non-Commercial Signs*. This would add subsection (3) and allow the owner of lots in all districts (residential, commercial, industrial, etc.) the right to post not only the one small sign {subsection (1)}, and the one large sign {§(J)(1)(b)}, but basically as many small signs **as candidates for office that the owner wants to support**.

This is purely a **policy** decision that you may want to consider (or not). If the City Council wanted to amend subsection (H) to allow more campaign signs, this amendment could be passed at the September 2nd City Council meeting with an emergency clause and so be in effect on September 5, 2008 (60 days before the election).

As a policy rather than legal issue, I will not present this possible amendment unless sponsored by an elected policy maker (alderman or mayor). If anyone believes such an amendment makes sense, outweighs the potential cluttered or litter problems, and wishes to sponsor this legislation, please let me know so I can draft the enacting ordinance and emergency clause.

TITLE XV UNIFIED DEVELOPMENT CODE

complying with certain applicable provisions of this chapter. The exemptions shall apply to the requirement for a sign permit. No sign permit shall be required for the erection of the following signs which are hereby authorized to be erected in compliance with the listed conditions:

- (A) *Professional name plates.* Professional name plates erected flat on walls of building and not exceeding four (4) square feet of display surface area.
- (B) *Building construction signs.* One on-site building construction sign on each construction site in any zoning district, provided that maximum display surface area shall be eight (8) square feet or less in R zoning districts; 32 square feet or less in other zoning districts.
- (C) *Real estate signs.* On a lot in any district, there may be erected one on-site unanimated real estate sign while the lot is for sale. Provided further, such signs shall be limited to wall signs, freestanding signs or platform signs; and freestanding signs or platform signs shall be set back a minimum of 10 feet from the street. Real Estate signs shall be removed within 72 hours following the closing (sale) of the property on which it is located. The permitted illumination and maximum display surface area for a real estate sign shall be as follows:

District	Permitted Illumination	Area (Sq. Ft.)
RA	Nonilluminated	32
R, R-O	Nonilluminated	8
P-1, C and I	Illuminated	32

- (D) *Home occupation signs.* Home occupation signs erected flat against the wall and not exceeding three (3) square feet.
- (E) *Memorial signs, name signs.* Memorial signs or tables, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.
- (F) *Traffic signs, etc.* Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary, emergency or nonadvertising signs as may be approved by the City Council.
- (G) *Posting bills, repainting signs.* Posting of bills on signs, repainting of signs, or the changing of letters or numbers on signs designed for changeable lettering or numbering which were legally erected and maintained for such purposes.

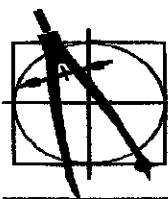
(H) *Non-Commercial Signs.* Non-Commercial signs that do not advertise a product or service for profit or for a business purpose, do not propose a commercial transaction nor relate primarily to economic interests are permitted to be placed on private property in any zoned district subject to the following conditions:

- (1) *Districts where signs not otherwise permitted.* In districts where signs are not otherwise permitted, one political or religious non-commercial sign may be erected subject to the same limitations of real estate signs.
- (2) *Districts where signs are permitted.* In districts where signs are otherwise permitted, non-commercial signs may be placed over or substituted for the permitted commercial sign.

(I) *Time and temperature displays.* Time and temperature displays without advertising matter, may change their illuminated time and temperature displays as often as reasonably necessary to provide accurate and convenient information to observers without being considered to be in violation of §174.08 B. Fluctuating Illumination.

(J) *Banners.* Public event, special sales event, and election campaign banners (not to exceed 3' x 30') and large election campaign signs (not to exceed 32 square feet) may be installed under the following terms and conditions:

- (1) *Election campaign banners and large signs.*
- (a) *Residential zones including Neighborhood Conservation, R-O, R-A and R-PZD.* In addition to the non-commercial sign allowed in subsection (H), the owner of a residentially zoned parcel may install one large election campaign sign of up to 32 square feet no more than sixty days prior to (and to be removed within three days following) the election to which the sign applies.
- (b) *All other zones.* The owner of a parcel may install one election campaign sign of up to 32 square feet no more than sixty days prior to (and to be removed within three days following) the election to which the sign applies. If the parcel has more than 100 feet of frontage on a street, the owner may install one large campaign sign per hundred feet of frontage and may substitute and install an election campaign banner for an allowed special sales event banner no more than two weeks prior to (and to be



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.

July 17, 2008

City of Fayetteville – City Council
113 W. Mountain Street
Fayetteville, AR 72701

RECEIVED

JUL 17 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

RE: AMBERWOOD PLACE PZD

Dear Council Members,

On behalf of our client, JRJBCS, LLC, we would like to appeal the July 14, 2008 Planning Commission decision to deny R-PZD 08-2965. We are requesting that this item be put on the August 5, 2008 City Council Agenda.

Amberwood Place is being presented as a land use and zoning conceptual PZD. This project is located just south of Dot Tipton Road, east of Double Springs and west of 54th Street. This property was annexed into the city of Fayetteville last year, by the developer, with the encouragement of some the ward alderman who also had concerns and showed strong interest in the need for affordable housing in this area. This project has three planning areas as follows;

Planning Area #1: Single family, 102 units, 19.87 acres, 5.13 units/acre,
Planning Area #2: Single family, 41 units, 9.12 acres, 4.50 units/ acre
Planning Area #3: Single family, 39 units, 10.99 acres, 3.55 units/ acre
Total single family = 182 units on 39.98 acres; 4.55 units/acre

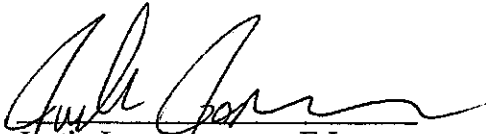
The current zoning is R-A and the surrounding zoning is RSF-1 and RSF-2 to the south with RSF-4 and RMF-6 due north..

This project was presented at the July 14, 2008 Planning Commission meeting and denied with only one vote for it. It seemed the Planning Commission in general liked the project layout and idea but were a little uneasy about the density and timing of the project. The general comments from the surrounding property owners that spoke at the meeting were about the side setbacks in planning area 3, which was simply a misprint in the PZD booklet, and the size of some of the homes in planning area 3. The developers are more than willing to work with the property owners on these issues and plan to be in contact with them before the August 5th meeting. The planning staff recommended denial of this project sighting that it doesn't meet all the goals of the City 2025 Plan. We however, feel that it does meet many of the goals and could be a very desirable and valuable project for this area now and in the future. We would like to stress that the developers build out date for this project could be up to 8 years with the first Planning Area being completed in the next 2-3 years. The driving force behind this project is creating attainable housing

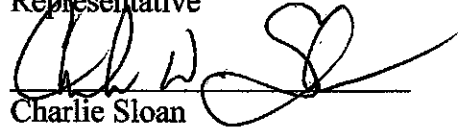
without losing focus on the City 2025 Plan and creating an isolated pocket of smaller homes.

Please contact us if you have any questions or would like more information regarding this project.

Sincerely,


Justin Lee Jorgensen, E.I.

Representative



Charlie Sloan

Developer/Owner



City Council Meeting of August 5, 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 *JP*

Date: July 16, 2008

Subject: Residential Planned Zoning District for Amberwood Place (R-PZD 08-2965)

RECOMMENDATION

Planning Staff and Planning Commission recommend denial of an ordinance creating a Residential Planned Zoning District (R-PZD) for Amberwood Place, based on the findings that the proposed zoning is not consistent with the land use planning objectives, principles, and policies established by the City Council with the adoption of City Plan 2025 to make infill and revitalization our highest priority, and to discourage suburban sprawl; and finding that the proposed zoning is not compatible with surrounding existing agricultural and rural residential land uses and zoning.

BACKGROUND

The subject property, zoned R-A, Residential Agricultural, is located south and east of Double Springs Road on the south side of Dot Tipton Road. If City Council overturns the Planning Commission decision to deny, this action will establish a unique zoning district for a single-use project on approximately 39.98 acres. The proposal consists of 182 single family dwelling units and an overall density of 4.55 units/acre. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission.

DISCUSSION

The Planning Commission voted 6-1-0 (Commissioner Kennedy voting 'No') to deny this request on July 14, 2008. The Planning Commission stated agreement with staff findings that the project does not comply with main goals and policies of City Plan 2025 to discourage suburban sprawl, and that the relatively high density proposed is not compatible with surrounding rural residential and agricultural land uses.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 08-2965, AMBERWOOD PLACE, LOCATED SOUTH AND EAST OF DOUBLE SPRINGS AND DOT TIPTON ROAD; CONTAINING APPROXIMATELY 39.98 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 R-A, Residential Agricultural to R-PZD 08-2965 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 day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

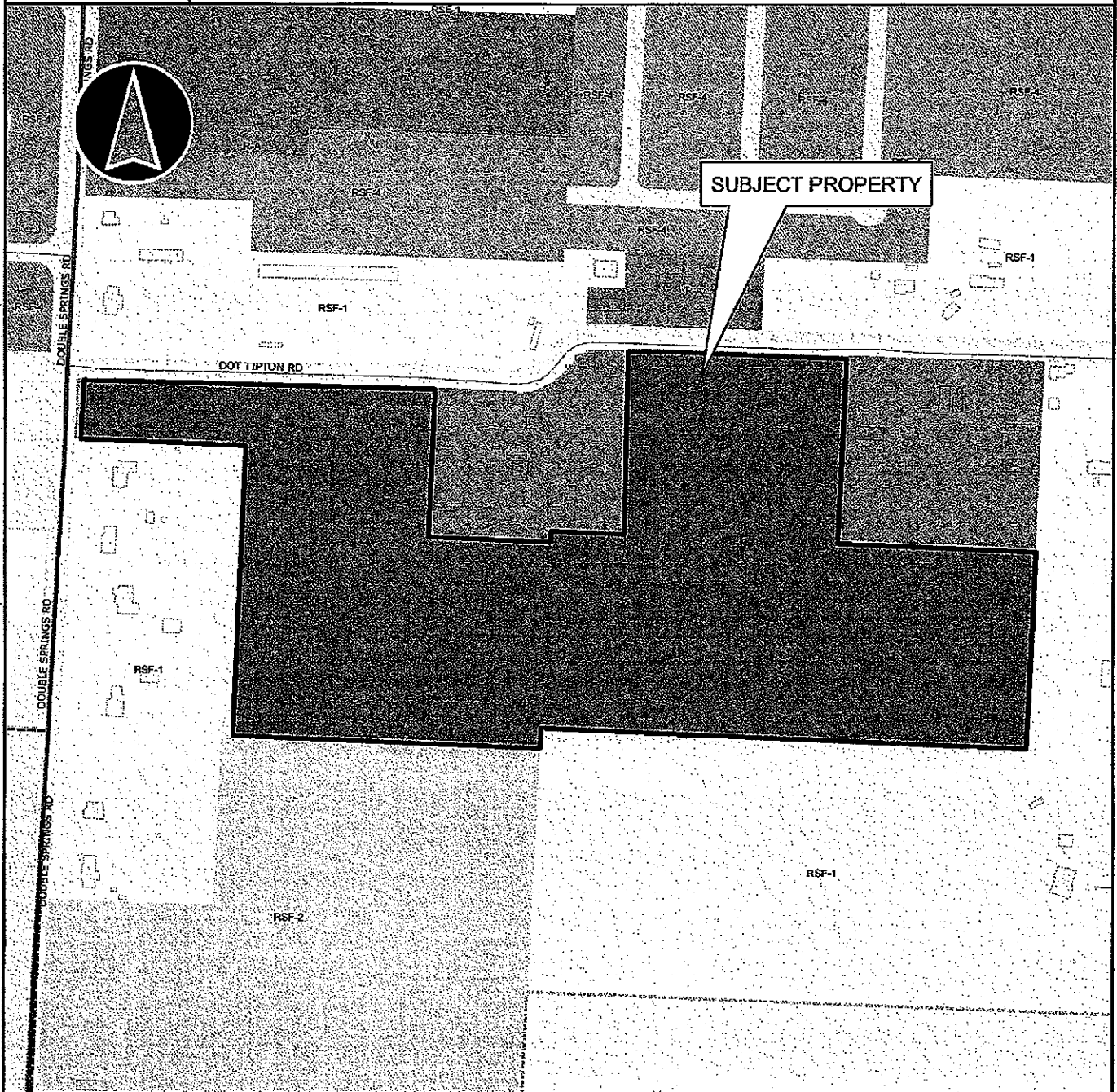
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

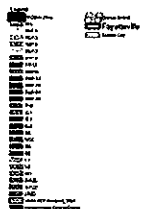
RPZD08-2965

Close Up View

AMBERWOOD PLACE



Overview



0 175 350 700 1,050 1,400 Feet

EXHIBIT "B"
R-PZD 08-2965

PART OF THE SE1/4 OF THE NE1/4 OF SECTION 15 AND PART OF THE SW1/4 OF THE NW1/4 OF SECTION 14 ALL IN T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF SAID SE1/4, NE1/4 THENCE S89°46'03"W 825.57 FEET, THENCE N00°01'18"W 788.63 FEET, THENCE S89°52'44"W 448.54 FEET, THENCE N00°29'58"E 159.86 FEET, THENCE N88°55'29"E 947.20 FEET, THENCE S00°02'16"E 401.26 FEET, THENCE N89°57'44"E 328.25 FEET, THENCE N00°15'06"E 30.31 FEET, THENCE N89°56'37"E 196.61 FEET, THENCE N01°15'52"W 496.68 FEET, THENCE N87°12'01"E 84.38 FEET, THENCE N89°42'27"E 514.78 FEET, THENCE S00°07'57"W 502.35 FEET, THENCE N89°53'47"E 537.01 FEET, THENCE S00°11'49"W 536.03 FEET, THENCE S89°54'10"W 1320.92 FEET, THENCE S00°28'05"W 55.08 FEET TO THE P.O.B.; CONTAINING 39.98 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 1 of 4

Conditions of Approval for R-PZD 08-2965 (Amberwood Place)

1. The applicant shall be responsible for the following street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*
 - a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
 - b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*
2. Determination of adequate connectivity. Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 3.5 acres of dedicated greenspace with several pedestrian trails to be constructed by the developer. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line.
 - a. *To improve pedestrian connectivity and provide a more meaningful linkage of greenspace, staff recommends that the greenbelt be extended all the way to the southern property line to provide the opportunity for the greenbelt to be connected to the south.*
 - b. *Staff recommends an additional street stub-out be provided to the west in the vicinity of lots 12/13, to break up the approximately 1,000-foot block length between the north and south property lines on the westernmost street and another in the vicinity of lots 78/79 to provide a neighborhood connection to the tract or Dot Tipton Road surrounded on three sides by the proposed development.*
3. This project is required to go through preliminary plat review and approval prior to construction.
4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.
5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 2 of 4

Project Phasing Amberwood Place R-PZD

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
7. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.
8. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.
12. 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.
13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.
14. Street trees shall be provided along public streets pursuant to city codes at the time of development.
15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot along the perimeter of the property.
16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval for the lots surrounding the greenspace.
17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 3 of 4

18. Plat/booklet revisions:

- a. Pg. 9. Remove reference to Lot 16 from (D).
- b. Pg. 9. Section D and E. Reduce to 7,000 sq. ft.
- c. Planning Areas 1-3. Staff recommends consistent maximum building area of 30% for all planning areas.
- d. Pg. 21. Item 17. PA #2. Change '100 SF' to '1,700 SF'

19. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:

- A full tree inventory of all significant trees;
- Canopy calculations including existing canopy, preserved canopy and removed canopy;
- A site analysis report; and
- A survey of the location of significant trees and those directly affected by the development.

20. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.

21. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

22. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

Standard Conditions of Approval:

23. 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).

24. 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.

25. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

26. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 4 of 4

27. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.

28. Prior to the issuance of a building 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. Separate easement plat for this project that shall include 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.



Planning Commission Meeting
July 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: July 7, 2008 Updated July 16, 2008

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.
Planner: Andrew Garner

Findings:

Property: The subject property contains 39.98 acres, located southeast of the intersection of Double Springs/Dot Tipton Roads. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission. The immediately adjacent surrounding land use and zoning are listed in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Agricultural/rural residential	RSF-1; R-A
South	Agricultural/Dunnerstock Windsor Subdivision (not developed)	RSF-1; RSF-2
East	Agricultural/rural residential	RSF-1
West	Single family residential	Washington County Planning Area (1 unit/acre)

Proposal: The request is for rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 182 detached single family dwellings in three planning areas. Planning Area 1 is on the east side of the property and has 102 lots that are approximately 45' x 100' with a density of 5.13 units/acre. Planning Area 2 is in the middle of the property and has 41 lots that are approximately 60' x 100' with a density of 4.50 units/acre.

Planning Area 3 is on the west side of the property and will have 39 lots that are approximately 70' wide with a density of 3.55 units/acre. The development proposes 3.5 acres of public pedestrian trails and greenspace throughout the development to be built by the developer. The overall proposed density for the project is 4.55 units/acre.

If the PZD is approved as proposed the project would be required to go through subdivision/preliminary plat approval prior to development.

Access: Three access points to the site are provided from Dot Tipton Road to the north. Two street stub-outs are provided to the south and a street stub-out is also provided to the east. Vehicular access to the 182 single family residences is provided as follows:

- 84 lots - front loaded individual curb cuts
- 54 lots - front loaded shared driveways
- 44 lots - rear loaded off of alleys

Adjacent Master Street Plan Streets: Double Springs Road (Minor Arterial), Dot Tipton Road (Local).

Right-of-way to be dedicated: 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.

Connectivity: Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is proposed to the existing rural residential lots to the west. These lots are approximately two acre in size. The project proposes internal pedestrian connectivity with sidewalks on both sides of the streets and pedestrian trails in approximately 3.5 acres of dedicated greenspace. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line. *A potential improvement for future pedestrian connectivity would be to extend the greenbelt all the way to the southern property line to provide the opportunity for a greenbelt linkage to the south. Potential improvements to street connectivity include additional street stub-outs to the west in the vicinity of lots 12-14, to break up the block length between the north and south property lines and allow connectivity for future infill to the west, and to the 'out-parcel' along Dot Tipton Road that is surrounded on three sides by the proposed development, near lots 78/79.*

Parking: Parking is provided in attached and detached garages for all of the single family homes. 138 homes will have front-loaded garages, and 44 of the homes will have alley-loaded garages. 98 homes will have garages in the rear of the homes, and 84 homes will have garages in the front of the homes.

Phasing: Four phases are planned for Amberwood Place over the next several years as listed below and provided in the PZD Booklet. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. A one-year extension may be permitted, subject to Planning Commission approval.

**Project Phasing
Amberwood Place R-PZD**

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

Water & Sewer: Water and sewer lines would be extended to serve the development.

Parks: The developer has met with City Parks staff and anticipates donating off-site land in lieu of payment of parks fees. This project will be required to go through Park Recreation Advisory Board prior to preliminary plat submittal.

Solid Waste Service: Solid waste service will be provided with standard curbside carts for each home as typical of single family residential development.

Tree Preservation: This development will be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development. Tree canopy minimum of 25% shall be required.

Public Comment: City staff has received a phone call from an adjacent property owner opposed to the project citing concerns that the proposed density is too high and is not compatible with surrounding farms and rural-residential uses. He also discussed concerns with runoff issues. Staff also received several public comments opposed to other RSF-4 rezoning in this immediate vicinity. The applicant has also presented the project at a Street Committee and Ward 4 meeting to area residents, most specifically to discuss cost-sharing the improvements to Dot Tipton Road.

Recommendation: Finding that the proposed rezoning and development approval does not meet most of the primary goals of the Planned Zoning District ordinance and policies adopted within the City Plan 2025 as noted herein, and primarily based on the compatibility/density of the development pattern in an area under-served by adequate infrastructure and service to support such a density, staff recommends denial of **R-PZD 08-2965**.

Should the Planning Commission forward this project to the City Council with a recommendation for approval, staff recommends the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street

improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*

- a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
 - b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*
2. Planning Commission determination of adequate connectivity. Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 3.5 acres of dedicated greenspace with several pedestrian trails to be constructed by the developer. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line.
 - a. *To improve pedestrian connectivity and provide a more meaningful linkage of greenspace, staff recommends that the greenbelt be extended all the way to the southern property line to provide the opportunity for the greenbelt to be connected to the south.*
 - b. *Staff recommends an additional street stub-out be provided to the west in the vicinity of lots 12/13, to break up the approximately 1,000-foot block length between the north and south property lines on the westernmost street and another in the vicinity of lots 78/79 to provide a neighborhood connection to the tract or Dot Tipton Road surrounded on three sides by the proposed development.*
3. This project is required to go through preliminary plat review and approval prior to construction.
4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.
5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

**Project Phasing
Amberwood Place R-PZD**

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6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
7. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.
8. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.
12. 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.
13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.
14. Street trees shall be provided along public streets pursuant to city codes at the time of development.
15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot along the perimeter of the property.
16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval for the lots surrounding the greenspace.
17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

18. Plat/booklet revisions:

- a. Pg. 9. Remove reference to Lot 16 from (D).
- b. Pg. 9. Section D and E. Reduce to 7,000 sq. ft.
- c. Planning Areas 1-3. Staff recommends consistent maximum building area of 30% for all planning areas.
- d. Pg. 21. Item 17. PA #2. Change '100 SF' to '1,700 SF'

19. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:

- A full tree inventory of all significant trees;
- Canopy calculations including existing canopy, preserved canopy and removed canopy;
- A site analysis report; and
- A survey of the location of significant trees and those directly affected by the development.

20. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.

21. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

22. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

Standard Conditions of Approval:

23. 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).

24. 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.

25. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

26. Street lights shall be installed adjacent to all public and private streets (not alleys), with a

separation of no greater than 300 feet.

27. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.

28. Prior to the issuance of a building 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. Separate easement plat for this project that shall include 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.

Planning Commission Action:

☐ Tabled ☐ Forwarded to C.C. (recommendation for approval) ☒ Denied

Motion: Myres

Second: Graves

Vote: 6-1-0 (Kennedy voting 'No')

Meeting Date: July 14, 2008

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 08-2965 (Amberwood Place at Fayetteville)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds that much of this application is in conflict with the criterion and policies established in City Plan 2025. The applicant conducted pre-application meetings with City Planning staff, who advised the applicant against a development of this type of density in this area at this time. Some of the issues discussed with the applicant in pre-application and at the technical plat review meetings included concerns that this development with a density 4.55 units/acre is not compatible with surrounding rural-residential/low density land uses. Staff also advised the applicant of the relatively recent zoning denial by the Planning Commission of adjacent property, to RSF-4. Staff has also discussed that this type of subdivision encourages suburban sprawl in an area without adequate infrastructure or non-residential services or employment centers in the vicinity. Traffic concerns already being discussed on surrounding roads, particularly Wedington, will likely be exacerbated, and the attainable housing element of the project is jeopardized due to the requirement of every resident to drive miles for any good or service.

Staff has concerns that this development does not meet several of the primary Goals of City Plan 2025, is incompatible with surrounding land uses as a re-zoning request, and is not served by adequate public services as discussed in the bulleted points below:

- **Goal 1: Infill and revitalization highest priority:** This site is a green field development on the west side of Fayetteville, surrounded by large rural residential lots and agricultural land. The project is not considered infill or revitalization.
- **Goal 2: Discourage suburban sprawl:** As discussed in City Plan 2025, sprawl makes people solely dependent upon the automobile to get from here to there, increasing traffic congestion. Based on the input from the community throughout the planning process, it is apparent Fayetteville residents want to maintain a high quality of life and support increased growth in the center of the city, or assess where services are provided, and limit growth on the edges of the city. The proposed development, while using a higher density development pattern, is not near urban service centers, and is solely auto-dependent, thereby placing a greater burden on not only adjacent streets, but others in the area. Development at the proposed density in this area may be appropriate at a later date; however, at this time, it is not supported by adequate levels of infrastructure or services. Examples of density and lot size of this nature currently in the city are the Washington/Willow, Wilson Park, and Ruppel Row neighborhoods, which contain high levels of connectivity and close proximity to

high-capacity streets, commercial services and goods.

- **Goal 3: Make traditional town form the standard:** This goal encourages a variety of uses, not just houses, to make a neighborhood. This goal encourages development with the provision of places to live and work in the same area with less daily vehicle trips on surrounding streets. While this development varies the size of lot/house, it does not contribute to or gain from a surrounding neighborhood of mixed uses at this time.
- **Goal 6: Creating attainable housing:** This plan aspires to this goal, which is a very positive aspect of this plan. However, attainable houses should not exist in isolation. Traditional, mixed-income neighborhoods should result in pedestrian-friendly environments, enabling households to save on transportation costs, which can affect their ability to obtain housing. By locating this project far from goods and services and the potential for jobs, additional burden, time, and expense is created for a future homebuyer to supply travel to and from the development for daily needs. Many case studies have proved that a mixed-use environment with these amenities is the only desirable and successful way to create attainable housing, as opposed to many failed projects that aspired to do so in single-use areas.
- **This area is planned for Residential Neighborhood Areas on City Plan 2025.** These areas are predominantly residential in land use, which is consistent with the uses proposed with Amberwood Place. This zone encourages traditional neighborhood development; developments should have a strong sense of connectivity where appropriate. New residential areas should be sited where they are accessible to roadways, alternative transportation nodes, community amenities, schools and infrastructure and retail goods and services. Staff has concerns that this development, while attempting to meet one of the City's goals to provide "attainable housing", is being located in an area that severely lacks infrastructure and services at a sufficient level to serve the future residents. There are no nearby services that can serve the planned neighborhood, thus requiring a greater density of residents to drive for common, daily needs.
- **Harmonious relationship/degree of compatibility with adjacent land uses.** Staff finds the surrounding land uses to be large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location, while perhaps desirable nearer to higher density areas with services and adequate infrastructure, is very much out of place with the surrounding rural character of the area.
- **Demands on public facilities.** The proposed density, at this time, will create a greater burden on existing infrastructure in the area; currently the site is accessed by way of gravel roads or recently paved county roads. Future residents will likely demand improvement of streets in the area by the City, at a level that is not viable at this time.
- **Permitted/Conditional Uses.** Staff finds the proposed single family residential land use is appropriate.

In summary, staff finds the proposal does not meet the goals of the City's adopted Future Land Use Plan to a degree that is appropriate for a rezoning approval as proposed.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: As discussed in Finding No. 1 above, the application has been reviewed and found to be inconsistent with several of the applicable City policies. The application has been submitted in accordance with all statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer, in order to function at acceptable levels. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. The Fayetteville Police Department has stated that the development could increase traffic danger and congestion and would place an undesirable load on police services. As discussed in Finding No. 1 this site is accessed by way of gravel roads or recently paved county roads. This development proposes to contribute \$150,000 for the City to pave Dot Tipton Road. In order for staff to find that the project would not adversely impact public facilities in the area, many more improvements than are recommended here would have to occur. However, staff does not find that this particular developer should bear the burden of all of those expenses, based on typical rational nexus calculations. This is ultimately one reason why staff has recommended denial of the application, finding that at this time, the project is not appropriate for the area.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: As discussed in Finding No. 1, the surrounding land uses are large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location, while perhaps desirable nearer to higher density areas with services and adequate infrastructure, is very much out of place and thus incompatible with the surrounding rural character of the area.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The 39.98-acre property is a generally level, undeveloped pasture with minimum tree canopy. The intended land use, while incompatible with surrounding land uses, could be suitable on the subject property at some time in the future, when adequate services have been extended and are available to this area.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed development, which will allow for the construction of 182

dwelling units, will have a significant impact on surrounding infrastructure, all of which is substandard. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that while the surrounding roads would likely still be congested and inconvenient, the proposed development would not create a traffic danger. Staff does find that due to the number of units proposed in a low density agricultural/rural residential area, a burden on the existing road network would be created.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. The Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments and design standards offered by the applicant. As discussed under Findings No. 1 and No. 4, staff finds that the proposal will not achieve a high level of compatibility with adjacent properties. Staff finds that the overall density of 4.55 units/acre is not appropriate when surrounded by rural-residential/agricultural land uses. Density within a project under a PZD is to be determined on the basis of the density of surrounding development, urban development goals, and the impact of a given density on the site and adjacent property. The City's urban development goals encourage a variety and mixture of densities within neighborhoods. However, the density of development must be supported with adequate infrastructure and services in order to create a viable, functioning neighborhood that contributes to the City as opposed to a separate "island" of development that is auto-

dependent for all goods and services. Staff finds this proposal to be located well away from supporting goods and services, and may adversely impact the character of surrounding low density residential and agricultural uses.

The site does not have any significant natural features to be incorporated into the subdivision, although approximately 3.5 acres of greenspace and pedestrian trails are provided. The developer also proposes to have all perimeter lots plant two trees in the backyard to help provide some vegetative screening around this subdivision.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: No screening is proposed or required for this single family subdivision. Approximately 54% of the proposed lots (98 out of 182 lots) have garages at the rear of the homes to help create a pedestrian oriented streetscape and an attractive public realm. This development proposes 3.5 acres of landscaped greenspace and pedestrian trails and two trees planted in the backyard of each perimeter lot. A landscape plan showing street tree plantings, the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the

planned zoning development and to adjacent areas.

- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of two main public streets leading into the central portion of the project where the streets are slowed down by traffic circles and a north-south greenbelt crossing the streets. The lots in Planning Area 1 are accessed off of alleys or shared driveways with the garages in the rear of the homes. The lots in Planning Areas 2 and 3 are accessed directly off of the street with individual curb cuts and garages in the front of the homes. The street system provides a hierarchy of circulation that encourages an efficient flow of traffic. The external street system consists of two access roads, Double Springs Road, a minor arterial, and Dot Tipton Road, a local street, that is substandard and in need of improvements.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the single family residential uses shall apply. Two garage parking spaces are provided for each home.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The applicant proposes that each lot on the perimeter of the project plant two trees in the backyard of the homes. The project will comply with all open space requirements.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of preliminary plat to ensure compliance. In general the Master Development Plan provides for sidewalks along public streets, and interior pedestrian trails in the designated greenspace lots.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided adjacent to all public streets at a separation of no greater than 300 feet.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for

such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The proposed project proposes public streets and alleys that comply with the adopted development standards.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development to comply with Chapter 167 of the UDC. The site has little existing tree canopy which should be incorporated into the design as much as possible.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Not applicable. All proposed structures are single-family residential.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
 - (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any

additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
 - (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.

- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal does not meet some of the primary goals of the City Plan 2025, and the overall urban development goals of the City as discussed in Staff Finding No. 1. The proposed PZD provides a mix of lot and house sizes, rather than the typical RSF-4 single family lot size. The proposed development pattern is consistent with several of the goals of the PZD ordinance, Chapter 161, including providing a variety of housing types and providing usable and suitably located open space areas. However, an average density of 4.5 units/acre is not compatible with the surrounding rural residential/agricultural properties, with the lack of goods and services, schools or other amenities typically associated with urban development form. Development of surrounding properties, which could provide a higher level of compatibility with the Amberwood Place PZD, may require several years or even decades to occur. Furthermore, core public services, including schools, jobs and commercial services are not readily available to this area and are at least two miles away. Ultimately, the residents of the development will continue to be auto-dependent due to the current isolated location of the property.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 08-2965, with three (3) unique Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

- (1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:
 - (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.

- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending denial of this application, finding the proposed PZD does not meet the intent of the PZD ordinance and City Plan 2025 as noted above. Staff finds that the higher density single family land uses within the development do not consider abutting parcels of land. A harmonious relationship with surrounding properties does not exist, and will result in land use incompatibility, traffic congestion and inconvenience for existing and future residents, and encourage suburban sprawl and leap-frog development.

- (2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The residential uses on this property will be at least fifty-one percent of the gross floor area within the development.

(F) *Bulk and area regulations*

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

- (a) The densities of surrounding development;
- (b) the densities allowed under the current zoning;
- (c) the urban development goals and other policies of the city's General Plan;
- (d) the topography and character of the natural environment; and
- (e) the impact of a given density on the specific site and adjacent properties.

FINDING: The subject property is adjacent to large undeveloped agricultural lands with sparsely located single-family homes. The property is zoned R-A, Residential Agricultural, which would permit one dwelling unit per two acres, resulting in a maximum of 20 dwelling units on 39.98 acres. The applicants are requesting 182 dwelling units, a density of approximately 4.5 units per acre. While this is not a normally high density in much of the developed City, and in general the City's development goals and policies do support the development pattern proposed by Amberwood Place in a designated Residential Neighborhood Area, the density of the development is not appropriate in the rural landscape that it is proposed. Staff has communicated to the applicant that this project may be appropriate in other Residential Neighborhood Areas that have an adequate level of services and infrastructure for development.

- (2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

FINDING: Lot area minimums vary from 4,500 – 7,700 square feet, a little smaller than standard single family zoning districts; setbacks are not varied and are consistent with the RSF-8 zoning district setbacks. This project would provide for some variety in the size and mass of residential homes over this 39.98 acre subdivision with homes varying from 1,000 – 1,700 square feet. The structures are generally oriented to the street with 15-foot front setbacks, with the smaller lots in Planning Area 1 accessed off of either shared drives or alleys.

- (3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are a maximum of 45-feet, consistent with the height requirements of the surrounding zoning.

- (4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The proposed lot coverage varies from 25-30% compared with 40-50% lot coverage allowed under typical single family zoning. This indicates more greenspace on the lots than in a typical subdivision.

***Required Findings for Rezoning Request.**

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: Please reference findings under compliance with Planned Zoning District ordinance and Future Land Use Plan. As discussed in these previous findings, this project can be characterized as suburban sprawl as it: 1) is located on the fringe of an urbanized area; 2) "leap frogs" over large, undeveloped properties; 3) is auto-dependent due to isolation from core public services; 4) and is developed before necessary infrastructure improvements are made. Ultimately, the development is inconsistent with land use planning principles and policies to a degree that would not support the rezoning.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The subject property is just within the limits of the City and is adjacent to large agricultural and rural residential properties. Rezoning the property for 182 residential dwellings is not justifiable or needed at this time. The development will "leap frog" over and around many acres of undeveloped farmland and low density rural residential land uses, and will exacerbate the traffic congestion in the area. Improvements to Dot Tipton and Double Springs roads will facilitate future development in the area, including agricultural and rural residential land in the vicinity. Currently though, the development is too early based on existing infrastructure and inconsistent with the goals and policies adopted by the City Council for rezoning applications.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Staff finds this proposal will likely increase traffic congestion and inconvenience, without several improvements to surrounding infrastructure. The Fayetteville

Police Department has commented that this project may create an appreciable increase in traffic danger and congestion, although a traffic study has not been completed. Overall, the area has a lack of infrastructure or services to serve a high density suburban development pattern, as proposed. With the minimum of improvements recommended by staff, an appreciable increase in traffic danger would not likely occur. This project is several miles away from public services and employment centers, and would therefore contribute to congestion on main arterials, particularly to Wedington Drive.

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: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists to a great extent, and that the 182 residential units proposed would create additional demand on public services. The applicants have noted in the project booklet that water and sewer services are being constructed to serve the subject development. Therefore, an undesirable load on water and sewer services is not expected.

Engineering: Public water is located adjacent to the site. There is an 8-inch water main along Double Springs Road and one located through this site.

Sanitary sewer is available to the site. There is an 8-inch sewer main through the site as well as a newly installed lift station. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Dot Tipton Road and Double Springs Road. Dot Tipton is an unimproved two lane gravel city street, with pavement near the intersection of Double Springs Road. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20-foot wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

Standard improvements and requirements for drainage will be required for the development.

Police: It is the opinion of the Fayetteville Police Department that this R-PZD would substantially alter the population density, and would create an appreciable or undesirable increase in the load on police services. This R-PZD will possibly create an appreciable increase in traffic danger and congestion.

Fire: This property will be covered by Engine 7 located at 835 North Ruppel Road. It is 2.3 miles from the station with an anticipated response time of 7 minutes. The Fire Department anticipates 32 (20 EMS-12 Fire/other) calls for service each year once the development is completed and maximum build out has occurred. The Fire Department does not feel this development will affect calls for service or response time.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: As discussed in the findings throughout this report, staff recommends denial of the requested R-PZD 08-2965, finding the proposal inconsistent with several adopted goals and policies of the City Plan 2025; finding the project encourages suburban sprawl in an area without adequate public services and infrastructure and incompatible with surrounding agricultural and rural residential land uses.



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701
Phone (479) 575-8365 Fax (479) 575-0471

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: June 3, 2008
Re: April 9, 2008 Zoning Review

PZD 08-2965: Planned Zoning District (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located at S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.

It is 2.3 miles from the station with an anticipated response time of 6.0 minutes to the beginning of the development and 7.0 minutes to the western edge.

The Fire Department anticipates 32 (20 EMS – 12 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 – 18 months, after the development is started, before maximum build-out occurs.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

RZN 08-2968: Rezoning (LAZENBY, 557): Submitted by DAVE JORGENSEN for property located at 3390 W. 6TH ST., NE CORNER OF HWY 62W & OLD FARMINGTON RD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.49 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

It is 1.3 miles from the station with an anticipated response time of 4.0 minutes to the beginning of the development. We do not figure calls for service on this type of development but typically this will not affect our response times.

RZN 08-2971: Rezoning (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGHLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE RD., 15TH STREET AND S. SCHOOL AVE. 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), MSC, Main Street Center (19.94 acres) and P-1, Institutional (47.91 acres).

The fire department does not anticipate any additional calls for service or reduced response times on rezoning these properties to the proposed re-zonings.

If you have any questions please feel free to contact me.

ENGINEERING COMMENTS

PZD 08-2965: Planned Zoning District (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located at S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units. Planner: Andrew Garner

Public water is available to the property. There is an 8" water main along Double Springs Rd; and one located running through this site.

Sanitary sewer is available to the site. There is an 8" sewer main through the site as well as a newly installed lift station. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Dot Tipton Rd. and Double Springs Rd.. Dot Tipton is currently an unimproved two lane gravel city street. Double Springs Rd. is currently an unimproved two lane paved city street. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

RZN 08-2968: Rezoning (LAZENBY, 557): Submitted by DAVE JORGENSEN for property located at 3390 W. 6TH ST., NE CORNER OF HWY 62W & OLD FARMINGTON RD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.49 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial. Planner: Dara Sanders

Public water is available to the property. There is an 8" water main along across Old Farmington Road on the west side of this property.

Sanitary sewer is available to the site. There is an 8" sewer main along the north property line of this parcel. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Old Farmington Rd. and Sixth Street. Sixth Street is currently an improved five lane paved state highway. Old Farmington Rd. is an unimproved two lane city street. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Date 4/7/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **PZD 08-2965: (Amberwood Place 474 / 475): Submitted by Dave Jorgensen** for property located at S & E of Double Springs Road and Dot Tipton Road, would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 39.98 acres.

It is the opinion of the Fayetteville Police Department that this PZD will substantially alter the population density, and will possibly create an appreciable or undesirable increase in the load on police services. This PZD will possibly create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



PC Meeting of June 9, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3472

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: June 3, 2008

ITEM #: C-PZD 08-2965-: Planned Zoning District (Amberwood Place)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
 - A full tree inventory of all significant trees;
 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
2. The site has little existing canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

LANDSCAPE REGULATIONS

1. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.



PC Meeting of July 14, 2008

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3472

THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: July 8, 2008

ITEM #: R-PZD 08-2965-: Planned Zoning District (Amberwood Place)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
 - A full tree inventory of all significant trees;
 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
2. The site has little existing canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
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1. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.

**PLANNING COMMISSION MEETING MINUTES
JULY 14, 2008**

AMBERWOOD PLACE R-PZD 08-2965

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.

Andrew Garner, Senior Planner, gave the staff report, describing surrounding properties, which is surrounded by rural, residential, and agricultural land uses. Dot Tipton along northern border of site is a partially paved and gravel road. Infrastructure for a now-abandoned subdivision to the south has been installed, but the development has been abandoned for some time. There have been rezoning applications for an adjacent site to RSF-4, which have been previously denied by the Planning Commission. The applicant is proposing rezoning and land use approval for a RPZD with 182 SF dwellings, overall density is 4.55 du/acre, 3 planning areas consist of different densities. PA 1 on east side with 102 lots that are 45'x100', PA 2 in the middle with 60'x100' ft lots, PA 3 has 39 lots, 79 feet wide. Access proposed is at three points from Dot Tipton to the north, two street stub-outs are provided to the south, and a street stub-out is provided to the east. Staff recommends additional connectivity to the west. Staff has received public comment from adjacent property owners opposed to the project, citing concerns with density and property not being compatible with surrounding rural residential uses. Staff finds that much of the application is in conflict with the goals and policies established with City Plan 2025. In addition, staff finds that the proposed density of 4.55 units/acre is not compatible with surrounding rural residential and low-density zoning. Staff has concern that this subdivision encourages suburban sprawl in an area without adequate infrastructure. City Plan 2025 discourages growth on the edges of the City. Development may be appropriate at a later date, when infrastructure is available. Staff does not recommend the rezoning as proposed, but instead recommends denial of the application.

Justin Jorgensen, applicant, described project. In 2006, when this was annexed, developer Charlie Sloan was encouraged by City Council to build attainable housing in the area. The applicant has worked with Water and Sewer Department to install a new pump station west of the detention pond, along with new water line, so there is already water and sewer within the subdivision. Goal of project was attainable housing. The applicant also wanted to create a traditional town form by focusing on goals of City Plan 2025. He cannot say this is the best example of infill, but it is within 1.6 miles of school and Boys and Girls Club, ½ mile from RSF-4. In time, the development will fit in to where it is at. Probably is not the ideal project for City Plan 2025, but in time it will fit in.

Public Comment:

Dave Yeomans, neighbor, stated he lives in corner house, affected in two sides by the subdivision. Built home in 1991. Many nearby homeowners, including owners of two-acre tracts adjacent to Double Springs Rd., are frustrated by the notification procedures. There is a lot of opposition to this. Homeowners will not accept anything less than what is built in Silverthorne Subdivision – 100x100' lots, big houses. Have worked hard for a nice home, find

myself fighting for that value. He does not have a problem with attainable housing, but this is not the area for it. He discussed concerns adjacent to property and a more ideal land-use arrangement for the area.

Maurice Rankin, neighbor, lives at 105 N. Double Springs Rd, directly across road from proposed development. She is concerned with Planning Area 3 on the property (west side). Cherishes the area for its view, but the proposal for 5' side setback allowances will destroy view of area – they will be looking at nothing but roofs and walls. City has received a number of awards, don't think any of them had to do with looking at roofs and houses, but instead involved the presence of greenspace.

No more public comment was received.

Commissioner Myres stated that a lot of what she likes about the site is the way it is laid out, but this density is not appropriate at this time and place. Stretching it a bit to consider it infill. Do not agree with this development and therefore will not support approval.

Commissioner Graves stated he will have to agree with Commissioner Myres. Typically he is supportive of development, voted in support of a number of the projects these developers have done on this side of the town, but I don't think I've seen any of them where it was proposed to drop something so dense in the middle of agricultural, one-acre, and two-acre property. May just be a matter of time when this is a typical zoning request, but it is not infill at this time since it is at the edge of the City, and surrounded by lower density property. Cannot support.

Commissioner Kennedy asked about building minimum differences throughout the phases of the development.

Jorgensen stated that PA 1 will be a 1200-1300 SF home, then moving up into PA 3 into 1700 SF homes

Commissioner Kennedy asked if 2400-2500 SF homes were completely out of the question.

Jorgensen stated that they were.

Commissioner Trumbo stated that the Planning Commission is seeing dense developments come through on the outskirts of town and are bringing up the word "sprawl" quite a bit, certainly wouldn't consider this project infill, but if we let it develop as RSF-4 or RSF-2, it will in turn down the road be all sprawl. I agree that at this time it is possibly too soon for this project, but I'm getting to the point where I need a better definition of sprawl just to clarify, if we are going to approve RSF-4 in 25 years it will be sprawl. Another issue is the traffic coming back east and west, other than Wedington, you're going to have to go to Farmington. There is Persimmon, but it is not developed all the way, it's a very small street. To have a lot more traffic on that road going to the school and the Boys and Girls club might be considered dangerous, and it might be too much traffic, so I would imagine most of these folks are going to come down Persimmon instead of going to Wedington. If Persimmon were built out to a wider degree I

Planning Commission

July 14, 2008

Page 11 of 12

might be more in support of this project.

Commissioner Winston stated he would encourage more mixed use. One of the problems we're seeing is that it's all housing, with no infrastructure to support daily needs. There is a lot of potential for the site, and something creative can happen. Would like to see something with more mixed use.

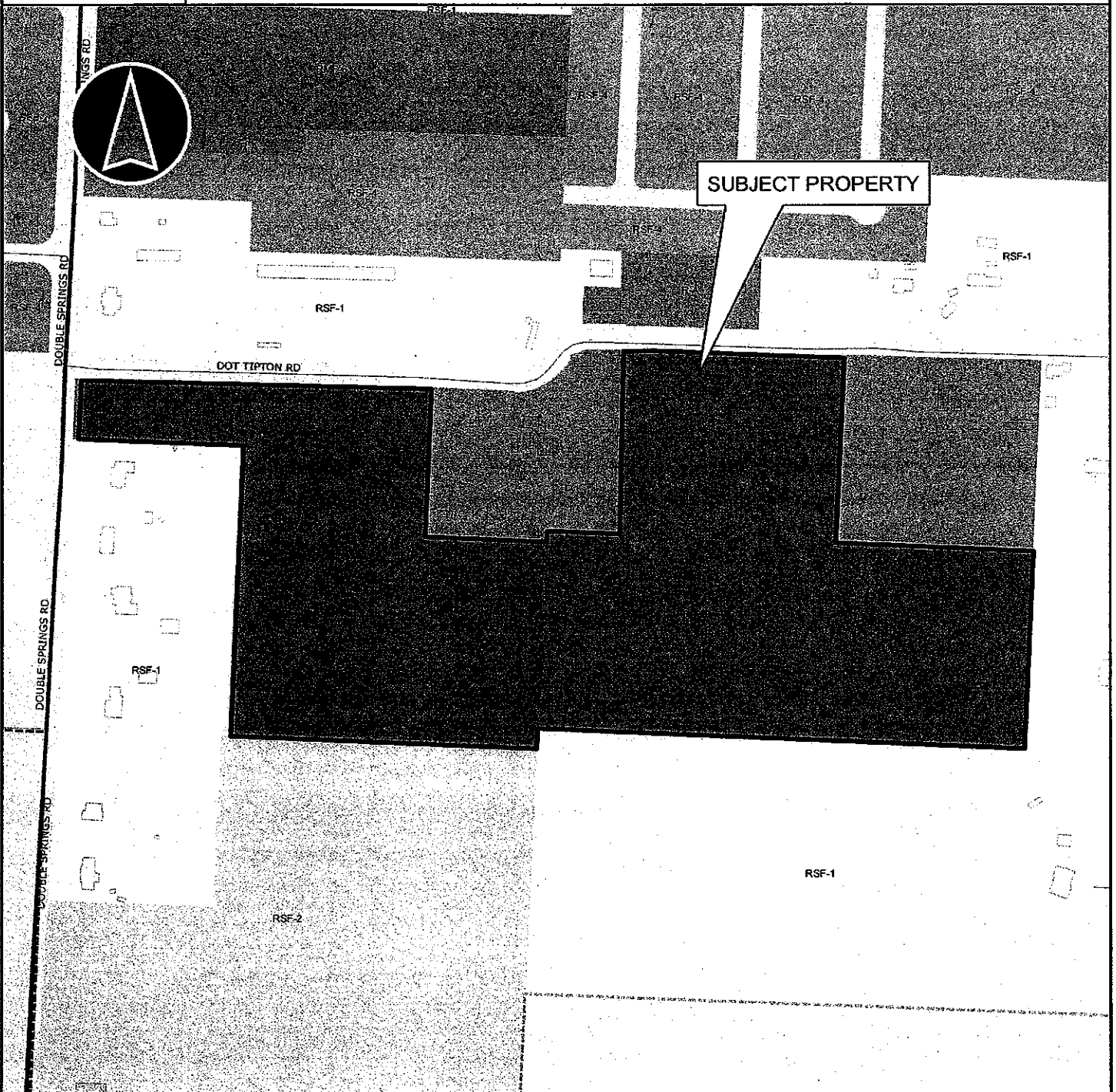
Motion:

Commissioner Myres made a motion to deny the request. **Commissioner Graves** seconded the motion. **Upon roll call the motion passed with a vote of 6-1-0, with Commissioner Kennedy voting no.**

RPZD08-2965

AMBERWOOD PLACE

Close Up View



Overview

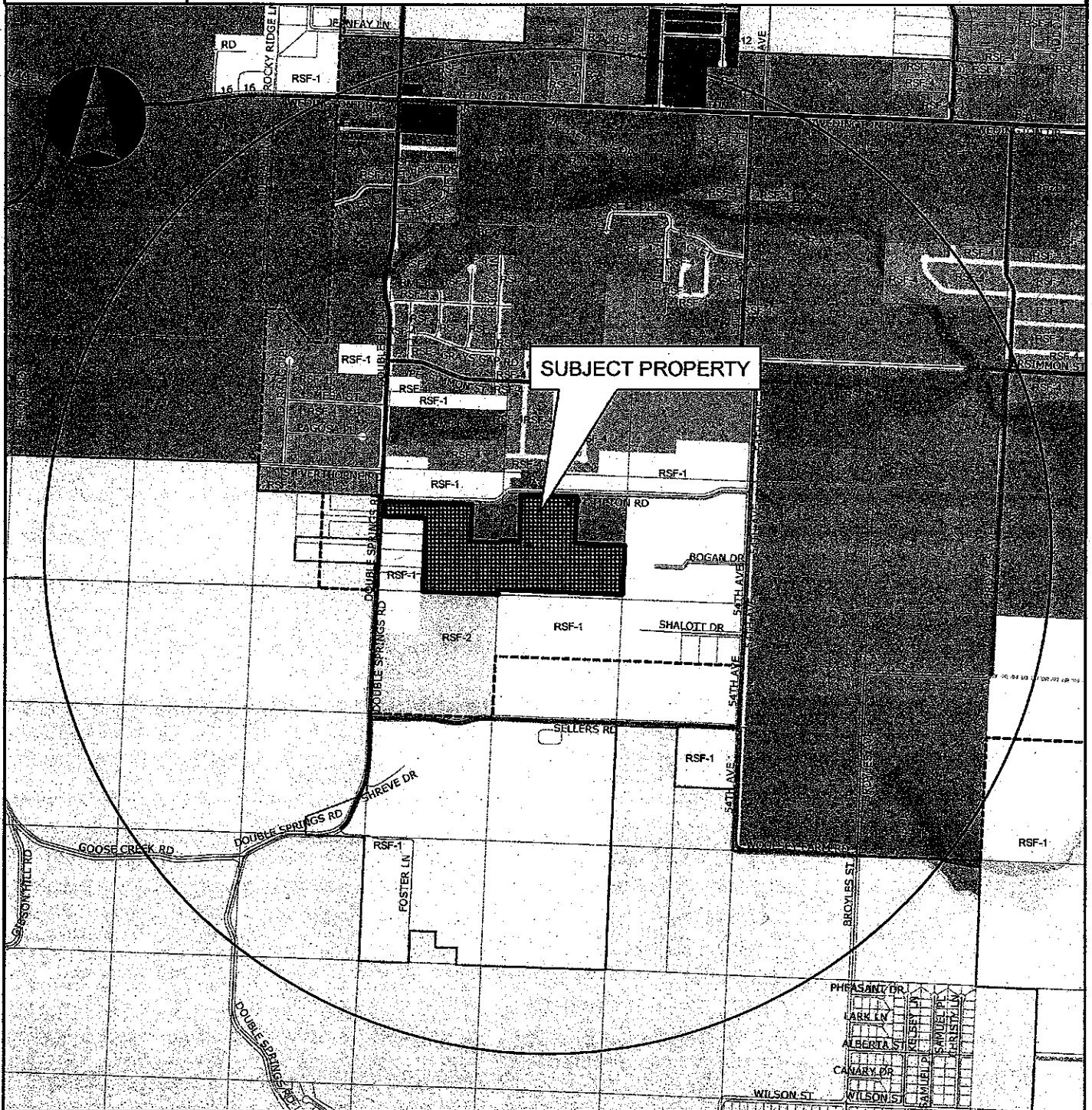


0 175 350 700 1,050 1,400 Feet

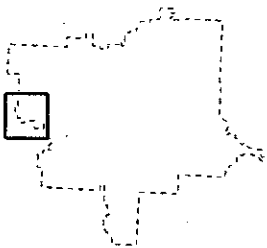
RPZD08-2965

AMBERWOOD PLACE

One Mile View



Overview



Legend

Subject Property

RPZD08-2965

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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
September 2, 2008**

A meeting of the Fayetteville City Council will be held on September 2, 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:

Agenda Additions:

A. Consent:

1. Approval of the August 19, 2008 City Council meeting minutes.
2. **Bid # 08-54 Hill Electric, Inc:** A resolution awarding Bid # 08-54 and approving a contract with Hill Electric, Inc. in the amount of \$139,875.00 for the installation of street lighting along College Avenue from Rock Street to Maple Street; and approving a 10% project contingency in the amount of \$13,988.00.

3. **2008-2009 Justice Assistance Grant:** A resolution accepting 2008-2009 Justice Assistance Grant (JAG) for federal and state funding in the amount of \$164,306.00 and \$32,818.00 respectively, for the primary funding source of the 4th Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$46,560.00.
4. **State and Federal Forfeiture:** A resolution approving a budget adjustment to recognize Federal Forfeiture Revenue in the amount of \$59,133.00, and State Forfeiture Revenue in the amount of \$21,237.00 for Police Department use only.

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 left on the Second Reading and was tabled indefinitely at the October 2, 2007 City Council meeting. This ordinance was left on the Second Reading and tabled to the September 2, 2008 City Council meeting at the July 1, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

3. **Raze and Removal at 402 E. Center Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Tiffany R. Major located at 402 E. Center Street in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$4,945.00. *This resolution was tabled at the August 19, 2008 City Council meeting to the September 2, 2008 City Council meeting.*
4. **ANX 08-3036 (Fayetteville Farmington Land Swap):** An ordinance simultaneously detaching territory from the City of Farmington and annexing said territory into the City of Fayetteville, pursuant to A.C.A §14-40-2101. *This ordinance was left on the Second Reading at the August 19, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

C. Public Hearing:

1. **Epperly Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel and Reba Epperly.
2. **Parker Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Herbert G. Parker, being an heir at law of Otis J. Parker, deceased.

3. **Littlefield Investment Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Littlefield Investment Company.

D. New Business:

- Remove* 1. **Cloud Gehshan Associates:** An ordinance waiving the requirements of formal competitive bidding and approving a proposal from Cloud Gehshan Associates in an amount not to exceed \$20,000.00 for a signage and wayfinding study; and approving a budget adjustment.
- 1 - 2. **Amend Chapter 33, Departments, Boards, Commissions and Authorities:** An ordinance to amend the Code of Fayetteville to establish the procedures for the use of funds budgeted for the in-house street overlay projects.
- 2 - 3. **Amend Chapter 174, Signs:** An ordinance to amend section 174.03 (H) Non-Commercial Signs of the Unified Development Code to allow property owners to post a small political sign for each candidate up to sixty days before an election.
- 3 - 4. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

Announcements:

1. City Council Tour: *NONE* *(Holiday)* ~~September 1, 2008~~

Adjournment:

- NB* 4. *Center Street Drainage*
- NB* 5. *Per - Erik*
- (Need info. from Ron Petrie. He will not have the information until late Thursday.)*

Pre Agenda Session 8/20/08

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
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City Council Meeting
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Presentations, Reports and Discussion Items:

- Remove* ① Presentation on the status of the Recycling Study currently under way by R. W. Beck given by Brian Pugh, Waste Reduction Coordinator.

Agenda Additions:

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move
NB

3. **Cloud Gehshan Associates:** An ordinance waiving the requirements of formal competitive bidding and approving a proposal from Cloud Gehshan Associates in an amount not to exceed \$20,000.00 for a signage and wayfinding study; and approving a budget adjustment.

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State Federal

5. **Forfeiture Revenue:** A resolution approving a budget adjustment to recognize Federal Forfeiture Revenue in the amount of \$59,133.00, and State Forfeiture Revenue in the amount of \$21,237.00 for Police Department use only.

remove
add at
agenda session

6. **Per-Erik Persson Grant:** Ray Boudreaux Walk on?

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals:

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3. **Littlefield Investment Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Littlefield Investment Company.

D. New Business:

1. **Amend Chapter 33, Departments, Boards, Commissions and Authorities:** An ordinance to amend the Code of Fayetteville to establish the procedures for the use of funds budgeted for the in-house street overlay projects.
2. **Amend Chapter 174, Signs:** An ordinance to amend section 174.03 (H) Non-Commercial Signs of the Unified Development Code to allow property owners to post a small political ^{ask ket - sign} for each candidate up to sixty days before an election.
3. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

Announcements:

1. **City Council Tour: September 1, 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 read 'Kit Williams', written over a horizontal line.

DATE: **September 3, 2008**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of September 2, 2008**

1. **Bid #08-54 Hill Electric, Inc.:** A resolution awarding Bid #08-54 and approving a contract with Hill Electric, Inc. in the amount of \$139,875.00 for the installation of street lighting along College Avenue from Rock Street to Maple Street; and approving a 10% project contingency in the amount of \$13,988.00;
2. **2008-2009 Justice Assistance Grant:** A resolution accepting 2008-2008 Justice Assistance Grant (JAG) for Federal and state funding in the amount of \$164,306.00 and \$32,818.00 respectively, for the primary funding source of the 4th Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$46,560.00;
3. **State and Federal Forfeiture:** A resolution approving a budget adjustment to recognize Federal Forfeiture Revenue in the amount of \$59,133.00 and State Forfeiture Revenue in the amount of \$21,237.00 for Police Department use only;
4. **Raze & Removal at 402 E. Center Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Tiffany R. Major located at 402 E. Center Street in the City of Fayetteville, Arkansas and approving a budget adjustment in the amount of \$4,945.00;
5. **ANX 08-3036:** An ordinance simultaneously detaching territory from the City of Farmington and annexing said territory into the City of Fayetteville, pursuant to A.C.A. §14-40-2101;

6. **Parker Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Herbert G. Parker, being an Heir at Law of Otis J. Parker, deceased;
7. **Littlefield Investment Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Littlefield Investment Company;
8. **Amendment to Chapter 33 Departments, Boards, Commissions & Authorities:** An ordinance to amend the Code of Fayetteville to establish the procedures for the use of funds budgeted for the In-House Street Overlay Projects;
9. **Amendment to Chapter 174 Signs:** An ordinance to amend §174.03(H) *Non-Commercial Signs* of the Unified Development Code to allow property owners to post a small political sign for each candidate up to sixty days before an election;
10. **Center Street Drainage Contract:** An ordinance to waive competitive bidding and to award a construction contract in the amount of \$43,315.00 plus a \$5,000.00 project contingency to Sweetser Construction, Inc. to replace the existing drainage structure under Center Street and completely repair the street and appurtenances;
11. **Per-Erik Persson Contract:** A resolution approving a contract with Per-Erik Persson, an agent for the Swedish-American Business South Central, LLC, in an amount not to exceed \$13,125.00 to recruit Swedish companies to locate in the City of Fayetteville.

P

From: Gary Dumas
To: Amber Wood; Sondra Smith
Date: 8/13/2008 2:02 PM
Subject: Presentation at the Council Meeting of September 2

CC: Brian Pugh; Carrol Hill; Dan Coody; Dan Coody
Status of the Recycling Study currently underway by R W Beck. Presentation by Brian Pugh, Waste Reduction Coordinator.

Gary Dumas
Director of Operations
City of Fayetteville
479-575-8330

City Clerk - Amberwood Appeal

From: "Richard P. Osborne" <RPO@RPOLaw.com>
To: "Fayetteville City Clerk" <city_clerk@ci.fayetteville.ar.us>
Date: 8/28/2008 4:52 PM
Subject: Amberwood Appeal
CC: "Charles W. Sloan" <sloanconst@sbcglobal.net>

Ms. Sondra Smith
Fayetteville City Clerk
By E-Mail

Re: *Amberwood Appeal*

Dear Sondra:

Thanks for the telephone conference today. Since I am not able to attend the City Council meeting on Tuesday, September 2, or the next one after that, please continue the Amberwood Appeal Hearing to the first meeting in October.

Thanks.

Rick

Richard P. Osborne, Attorney
26 East Center Street
Fayetteville, AR 72701

Office 479-521-5555
Fax 479-444-0000

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CITY CLERK'S OFFICE

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NORTHWEST ARKANSAS EDITION

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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

September 1, 2008

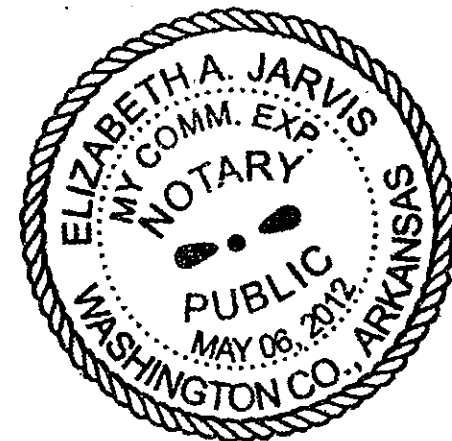
Publication Charge : \$179.35

Subscribed and sworn to before me
This 3 day of September, 2008.

Notary Public Elizabeth A. Jarvis

My Commission Expires: May 6, 2012

Do not pay from Affidavit, an invoice will be sent



**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
SEPTEMBER 2, 2008**



A meeting of the Fayetteville City Council will be held on September 2, 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:

Agenda Additions:

A. Consent:

1. Approval of the August 19, 2008 City Council meeting minutes.
2. **Bid # 08-54 Hill Electric, Inc.:** A resolution awarding Bid # 08-54 and approving a contract with Hill Electric, Inc. in the amount of \$139,875.00 for the installation of street lighting along College Avenue from Rock Street to Maple Street; and approving a 10% project contingency in the amount of \$13,988.00.
3. **2008-2009 Justice Assistance Grant:** A resolution accepting 2008-2009 Justice Assistance Grant (JAG) for federal and state funding in the amount of \$164,306.00 and \$32,818.00 respectively, for the primary funding source of the 4th Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$46,560.00.
4. **State and Federal Forfeiture:** A resolution approving a budget adjustment to recognize Federal Forfeiture Revenue in the amount of \$59,133.00, and State Forfeiture Revenue in the amount of \$21,237.00 for Police Department use only.

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 left on the Second Reading and was tabled indefinitely at the October 2, 2007 City Council meeting. This ordinance was left on the Second Reading and tabled to the September 2, 2008 City Council meeting at the July 1, 2008 City Council meeting. This ordinance was left on the Second Reading.*
3. **Raze and Removal at 402 E. Center Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Tiffany R. Major located at 402 E. Center Street in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$4,945.00. *This resolution was tabled at the August 19, 2008 City Council meeting to the September 2, 2008 City Council meeting.*
4. **ANX 08-3036 (Fayetteville Farmington Land Swap):** An ordinance simultaneously detaching territory from the City of Farmington and annexing said territory into the City of Fayetteville, pursuant to A.C.A. §14-40-2101. *This ordinance was left on the Second Reading at the August 19, 2008 City Council meeting. This ordinance was left on the Second Reading.*

C. Public Hearing:

1. **Epperly Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel and Reba Epperly.
2. **Parker Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Herbert G. Parker, being an heir at law of Otis J. Parker, deceased.
3. **Littlefield Investment Company Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Littlefield Investment Company.

D. New Business:

1. **Amend Chapter 33, Departments, Boards, Commissions and Authorities:** An ordinance to amend the Code of Fayetteville to establish the procedures for the use of funds budgeted for the in-house street overlay projects.
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Announcements:

1. **City Council Tour:** None

Adjournment: