

Aldermen

Mayor Lioneld Jordan
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 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

Final Agenda City of Fayetteville Arkansas City Council Meeting May 4, 2010

A meeting of the Fayetteville City Council will be held on May 4, 2010 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. Re-approval of the March 16, 2010 City Council meeting minutes. **APPROVED**
Approval of the April 20, 2010 City Council meeting minutes. **APPROVED**
2. **Dean Crowder Construction, Inc.:** A resolution awarding Bid #10-23 and approving a contract with Dean Crowder Construction, Inc. in the amount of \$4,963,386.00 for construction of biosolids management solar dryers, WSIP Subproject Bio-1, and approval of a \$150,000.00 contingency.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 75-10

3. **Williams Tractor, Inc. Bid #10-22:** A resolution awarding Bid #10-22 and approving the purchase of one (1) four-wheel drive New Holland T6050 Plus diesel tractor from Williams Tractor, Inc. in the net amount of \$39,191.00 after trade-in, for use by the Fayetteville Executive Airport-Drake Field.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 76-10

B. Unfinished Business:

1. **Capital Improvement Plan:** A resolution adopting the 2010-2014 five year Capital Improvement Plan. *This resolution was tabled at the April 20, 2010 City Council meeting to the May 4, 2010 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 77-10

C. New Business:

1. **VAC 10-3539 (Laura McKinnon):** An ordinance approving VAC 10-3539 submitted by Jorgensen and Associates for property located along the eastern property line of 740 Lollar Lane to vacate a portion of a 15-foot alley that runs from College Avenue to the subject property, a total of 1,875 square feet.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5318

2. **VAC 10-3540 (First State Bank of NWA):** An ordinance approving VAC 10-3540 submitted by First State Bank of Northwest Arkansas for property located at 2292 North Covington Park Boulevard to vacate utility easement, a total of 33 square feet.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5319

3. **Amend Chapter 72 (Nonconsensual Towing):** An ordinance to amend Chapter 72 Parking Regulations of the Fayetteville Code to enact regulations for nonconsensual towing of vehicles within the Entertainment District Parking Zone.

THIS ORDINANCE WAS LEFT ON THE FIRST READING.

4. **Amend Chapter 72 (§72.18 Residential Parking Permit):** An ordinance to amend Chapter 72 Parking Regulations by enacting §72.18 Residential Parking Permit Program for Entertainment District Parking Zone.

THIS ORDINANCE WAS LEFT ON THE FIRST READING.

5. **Amend Chapter 72 (Electronic Payment Station Program):** An ordinance to amend Article III Parking Meters of Chapter 72 Parking Regulations by changing its name and adding provisions for an electronic payment station program for paid parking lots and paid on-street parking and for other reasons.

THIS ORDINANCE WAS LEFT ON THE FIRST READING.

6. **Amend Chapter 72 (§72.99 Penalties):** An ordinance to amend Article III Parking Meters and Electronic Payment Stations of Chapter 72 Parking Regulations by amending §72.99 Penalties.

THIS ORDINANCE WAS LEFT ON THE FIRST READING.

7. **The Parking Consultants, Inc.:** A resolution to authorize negotiations with Amano McGann for the lease/purchase of up to 19 electronic pay stations and 3 gated parking lot systems with digital pay stations and other equipment needed if the City Council approves paid parking lots and on-street parking spaces in the Entertainment District Parking Zone.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 78-10

8. **Parking Program Personnel:** A resolution approving a budget adjustment in the amount of \$498,542.00 for the implementation and funding of the parking program in the Entertainment District Parking Zone and approving the addition of 2.5 full-time equivalent positions in the Parking Management Division for the 2010 budget.

THIS ITEM WAS TABLED TO MAY 18, 2010 CITY COUNCIL MEETING

Announcements:

Mayor's Town Hall Meeting – Ridgeview Baptist Church – 1850 Huntsville Road – Monday, May 3, 2010 at 7:00 p.m.

Adjournment: 9:50 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard before the City Council. If you wish to address the City Council on an agenda item please queue behind the podium when the Chair asks for public comment. Once the chair recognizes you, go to the podium and give your name and address. Address your comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate elected official, staff member or others for response. Please keep your comments brief, to the point and relevant to the agenda item being considered so that everyone has a chance to speak.

Interpreters or TDD for hearing impaired are available for all City Council meetings, a 72 hour advance notice is required. For further information or to request an interpreter, please call 575-8330.

As a courtesy please turn off all cell phones and pagers.

A copy of the City Council agenda is available at accessfayetteville.org or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.

City Council Meeting:

May 4, 2010

Adjourn: 9:50 P.M.

Subject:	Roll				
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Jordan	✓			

9-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Lewis				
	Gray				
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Jordan				

Subject:	Consent				
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Cook			
<u>Minutes</u> <u>Approved</u> 75-10 + 76-10	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	absent during the vote			
	Ferrell	✓			
	Lucas	✓			
	Mayor Jordan				

7-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Lewis				
	Gray				
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Jordan				

Subject:	Capital Improvement Plan				
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Thiel			
B. 1 Unfinished Business <u>passed</u> 77-10	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Jordan				

8-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Lewis				
	Gray				
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Jordan				

Subject:		VAC 10-3539 (Laura McKinnon)			
Motion To:					
Motion By:					
Seconded:					
C. 1 New Business <u>passed</u> 5318	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:		VAC 10-3540 (First State Bank of NWA)			
Motion To:					
Motion By:					
Seconded:					
C. 2 New Business <u>passed</u> 5319	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Jordan				

8-0

8-0

8-0

Subject:	Amend Chapter 72 (Nonconsensual Towing)				
Motion To:					
Motion By:					
Seconded:					
C. 3 New Business <i>Left on the First Reading</i>	Lewis				
	Gray				
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Jordan				

Subject:	Amend Chapter 72 (§72.18 Residential Parking Permit)				
Motion To:					
Motion By:					
Seconded:					
C. 4 New Business <i>Left on the First Reading</i>	Lewis				
	Gray				
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Jordan				

Subject:	Amend Chapter 72 (Electronic Payment Station Program)				
Motion To:					
Motion By:					
Seconded:					
C. 5 New Business <i>Left on the first reading</i>	Lewis				
	Gray				
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Jordan				

Subject:	Amend Chapter 72 (§72.99 Penalties)				
Motion To:					
Motion By:					
Seconded:					
C. 6 New Business <i>Left on the first reading</i>	Lewis				
	Gray				
	Thiel				
	Cook				
	Petty				
	Rhoads				
	Ferrell				
	Lucas				
	Mayor Jordan				

Subject:		The Parking Consultants, Inc.			
Motion To:		Approve			
Motion By:		Rhoads			
Seconded:		Thiel			
C. 7 New Business <u>Passed</u> 78-10	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Jordan				

8-0

Subject:		Parking Program Personnel			
Motion To:		Table to the May 18, 2010 City Council Meeting			
Motion By:		Ferrell			
Seconded:		Petty			
C. 8 New Business <u>Tabled to May 18, 2010</u>	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Jordan				

8-0

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal flourish extending to the right.

DATE: **May 5, 2010**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of May 4, 2010**

1. **Dean Crowder Construction, Inc.:** A resolution awarding Bid #10-23 and approving a contract with Dean Crowder Construction, Inc. in the amount of \$4,963,386.00 for construction of Biosolids Management Solar Dryers, WSIP Subproject Bio-1, and approval of \$150,000.00 contingency.
2. **Williams Tractor, Inc.:** A resolution awarding Bid #10-22 and approving the purchase of one four-wheel drive New Holland T6050 Plus Diesel Tractor from Williams Tractor, Inc. in the net amount of \$39,191.00 after trade-in, for use by the Fayetteville Executive Airport-Drake Field.
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B. Unfinished Business:

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Announcements:

Mayor's Town Hall Meeting – Ridgeview Baptist Church – 1850 Huntsville Road – Monday, May 3, 2010 at 7:00 p.m.

Adjournment:

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Final 4-23-10

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)
All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)
All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Vendor #:	16506	Vendor Name:	Dean Crowder Construction Inc.
Address:	804 SE 21st St Fayetteville, AR 72701		
City:	Bentonville	State:	AR
Requester:	David Jurgens		
Requester's Employee #:	490	Ship to code:	72712
Requester's Head Approval:	Extension: 330		
Mail Yes: ☒ No: ☐	Quoted Attached Yes: ☒ No: ☐	Inventory #	Fixed Asset #
Taxable Yes: ☒ No: ☐	Project/Subproject #	02133.0600'	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Biosolids Management - Solar Dryers Bid 10-23	1	ea	4,773,386.00	\$4,963,386.00	4520.9530.5815.00	02133.0600'		
2	"	1	"	190,000.00	\$190,000.00	4520.9520.5815.00	02133.0600'		
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: \$5,153,386.00

Tax: \$5,153,386.00

Total: \$5,153,386.00

Approvals:

Mayor: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Department Director:  _____

Budget Manager: _____

Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

Other: _____

A. 2
Dean Crowder Construction, Inc.
Page 1 of 2

Revised 11/2008

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLE III **PARKING METERS** OF CHAPTER 72 **PARKING REGULATIONS** BY CHANGING ITS NAME AND ADDING PROVISIONS FOR AN ELECTRONIC PAYMENT STATION PROGRAM FOR PAID PARKING LOTS AND PAID ON-STREET PARKING AND FOR OTHER REASONS

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 Article III **Parking Meters** of Chapter 72 **Parking Regulations** by renaming Article III **Parking Meters and Electronic Payment Stations** and adding the following definitions to §72.50 **Definitions:**

“Electronic Payment Stations’. A place where a person who has parked his vehicle in the Entertainment District Parking Zone pay parking space or lot may pay the appropriate fee for the paid park parking space.

‘Employee Parking Card.’ A card issued by the Parking Division for use only by employees of businesses operating in the Entertainment District Parking Zone which may be discounted by the Mayor up to 90% of normal parking rates for certain paid parking spaces within the Zone.

‘Entertainment District Parking Zone.’ The area depicted on the map and described on Exhibit A attached to this enacting ordinance.

‘Proximity Access Card.’ A card issued by the Parking Division for a monthly fee that allows the user to access and use gated parking lots in the Entertainment District Parking Zone on weekdays from 10:00 a.m. until 5:00 p.m.”

RESOLUTION NO. _____

A RESOLUTION TO AUTHORIZE NEGOTIATIONS WITH AMANO MCGANN FOR THE LEASE/PURCHASE OF UP TO 19 ELECTRONIC PAY STATIONS AND 3 GATED PARKING LOT SYSTEMS WITH DIGITAL PAY STATIONS AND OTHER EQUIPMENT NEEDED IF THE CITY COUNCIL APPROVES PAID PARKING LOTS AND ON-STREET PARKING SPACES IN THE ENTERTAINMENT DISTRICT PARKING ZONE

WHEREAS, if the City Council desires to institute a paid parking lot and paid on-street parking program for the Entertainment District Parking Zone, City Staff has recommended using software, 19 electronic pay stations and 3 Gated Parking Lot Systems with Digital Pay Stations sold by Amano McGann; and

WHEREAS, since the list price of such equipment is \$841,000.00, staff would like the authority to use its parking consultant to negotiate with Amano McGann in an attempt to bring the best possible contract price to the City Council for its consideration and decision.

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 negotiations with Amano McGann for needed parking equipment contingent upon passage by the City Council of the ordinances instituting paid parking lots and paid on-street parking in the Entertainment District Parking Zone, and authorizes the use of its parking consultant in such negotiations with the express condition that the City Council shall make the final decision on any proposed lease or contract and will carefully consider whether sufficient grounds exist to waive competitive bidding for such a large contract.

PASSED and APPROVED this 4th day of May, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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**City of Fayetteville Arkansas
City Council Meeting Minutes
March 16, 2010**

A meeting of the Fayetteville City Council was held on March 16, 2010 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

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

ABSENT: Alderman Gray

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Nominating Committee Report:

Alderman Cook read the Nominating Committee Report.

Alderman Petty questioned why there was not a copy of the full application for the A & P Commission applicant.

Alderman Thiel stated that probably was not the applicant's fault but that is probably what the A & P Commission provided.

Mayor Jordan: We will look into that. We really don't have an answer right now.

Alderman Petty: Thank you Mayor.

Marilyn Heifner: He filled out the regular application form and I turned that into the City Clerk.

Alderman Petty: I saw that but it said a resume was attached and there wasn't one.

Marilyn Heifner: That was my mistake. There wasn't a resume it was just the application.

Alderman Petty: In looking over the application, Brandon for the reason you wanted to serve, you said to accomplish proposed ideas and that was pretty much the extent of the application. It would just be helpful when we are reviewing candidates to have more information than that.

Alderman Ferrell moved to approve the Nominating Committee Report. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Agenda Additions: None

Consent:

Approval of the March 2, 2010 City Council meeting minutes.

Approved

Preferred Office Products, Inc.: A resolution approving a contract with Preferred Office Products, Inc. for the purchase through the current state procurement contract of five copiers in the total amount of \$73,033.00.

Resolution 44-10 as recorded in the office of the City Clerk.

Goodwin & Goodwin, Inc. Bid #10-18: A resolution awarding Bid #10-18 and approving a contract with Goodwin & Goodwin, Inc. in the amount of \$433,005.00 for construction of the Broyles Avenue gravity sewer line, approving a project contingency of \$45,000.00, and approving a budget adjustment of \$478,005.00.

Resolution 45-10 as recorded in the office of the City Clerk.

Redford Construction, Inc. Bid #10-19: A resolution awarding Bid #10-19 and approving a contract with Redford Construction, Inc. in the amount of \$893,640.00 for construction of the Broyles Avenue force main sewer line, approving a project contingency of \$90,000.00, and approving a budget adjustment in the amount of \$983,640.00.

Resolution 46-10 as recorded in the office of the City Clerk.

Alderman Petty moved to approve the Consent Agenda. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Unfinished Business: None

New Business:

Amend Chapter 114.03 First Thursday Fayetteville: An ordinance to amend the Code of Fayetteville by enacting §114.03 First Thursday Fayetteville to authorize the Fayetteville Convention and Visitors Bureau to control the public parking spaces on both sides of East Street on the square and to close East Street to traffic from 4:00 p.m. until 10:00 p.m. on the first Thursday of the month.

City Attorney Kit Williams read the ordinance.

Julie McQuade, Community Outreach Coordinator briefly explained First Thursday Fayetteville. She stated after evaluating this event City staff felt like it would be more beneficial to the event if an entity such as the Convention and Visitor's Bureau, specifically that entity, were given permission to manage the event, especially since they have already have a similar ordinance for the Lights of the Ozarks.

Alderman Ferrell: I saw a lot of people there the couple of times that I was down there. It sounds like it is a pretty good deal.

Alderman Lucas moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Cook was absent during the vote. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Lewis seconded the motion. Upon roll call the motion passed 6-0. Alderman Cook was absent during the vote. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty: Julie, you said that the City was not able to provide resources if a private entity managed this event, is that right?

Julie McQuade: That was the determination with internal staff discussions when we were evaluating all the options.

Alderman Petty: So how did you justify providing resources when it was being organized by two private galleries?

Julie McQuade: It was actually being organized by City Administration and the Convention and Visitor's Bureau. We were the overseeing entities last year and then there were downtown merchants and others that assisted with the planning of it.

Alderman Petty: Kit can you clarify? Is that true that we cannot provide resources to private entities?

City Attorney Kit Williams: I think that we provide resources all the time to private citizens and other entities and we provide parking for our citizens. The Planning Department approves building permits for private entities. We can't go out and work for a private entity individually, but if a private entity comes to the City and says, I would like to see a festival or something else can you help, I don't think the City has to say no. The City Government can help its citizens and local businesses if they have an idea to do something. I don't think that it would be improper for the City to have assisted in the formation of this festival.

Alderman Petty: I just wanted to clear up the record because I think people need to know, potential organizers, that the City can provide resources whether they are a for profit or non profit entity. I think we should be there to help them.

City Attorney Kit Williams: There has to be a public purpose, but I think there clearly is a public purpose in this because it is for our citizens and to also help the economic vitality of our downtown square and the businesses around it. I think that is a good public purpose that we can devote resources to.

Alderman Lewis: I would like to commend all the volunteers that have put so many hours into developing this program to get it to the point where it could become official. I appreciate all the work that has gone into it.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Cook was absent during the vote. Alderman Gray was absent.

Alderman Lucas: I want to thank Julie McQuade. She has worked on this a long time. Several groups have worked on this and I am so happy to see it happen.

Mayor Jordan: When we got through the Fayetteville Forward a group of artists came into the office and said we have an idea. They said we will volunteer time to make sure that First Thursday works and they did. Shirley Lucas was involved in that. There were lots of volunteers. Julie did a great job. This has been successful and greater than anything that we could have imagined.

Ordinance 5307 as Recorded in the office of the City Clerk.

Amend Chapter 114.02 Farmers' Market: An ordinance to amend §114.02 Farmers' Market by allowing an extra hour of operation (until 2:00 p.m.) on Saturdays and to allow operation from 4:00 p.m. until dark during First Thursday Events.

City Attorney Kit Williams read the ordinance.

Julie McQuade: They have asked that this item be tabled.

Mayor Jordan: I would like to table this for two weeks.

City Attorney Kit Williams: We can just leave it on the first reading.

This ordinance was left on the First Reading

ADM 09-3413 Amend Title XV (Hillside/Hilltop Overlay District): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 167: Tree Preservation and Protection, Chapter 169: Grading Plan Submittal and Chapter 173: Building Regulations in order to strengthen the provisions of the Hillside/Hilltop Overlay District Regulations.

City Attorney Kit Williams read the ordinance.

Karen Minkel, Director of Strategic Planning and Internal Consulting gave a brief description of the ordinance. She stated this is more of a clarification for staff and members of the public. She stated staff recommends approval.

Alderman Lewis: Can you talk about staff time? I don't think it will add to staff time but can you clarify that?

Karen Minkel: That is correct, it would not. You would be looking for the stamp of a licensed engineer or architect.

Alderman Petty: I have a question about the process the engineers might use to sign off on a foundation, without engineering it, in a place that would not require it how would they so that? Would they look at the soil maps?

Karen Minkel: No they would be physically going to the site itself. That is one of the reasons we are proposing this because it is site specific.

Chris Brown, City Engineer stated the first step would be a site visit. You would have some test pits or something done so that you could see the soil where the foundation would be placed. An engineer can determine if there is a problem. They can see that the soil is suitable for a foundation and then sign off and say the City's standard foundation would be satisfactory. It is basically a matter of stamping the City's standard design and submitting that as part of the

permit. If they do determine that there are some iffy soils then they would do additional investigating and do a geo-technical analysis and proceed on with the full design.

Alderman Petty: In fuller detail how do they look at the soil? Do they have to do a full soil classification?

Chris Brown: You can just do a visual inspection. There are tools that can be used for on-site inspections that would not require any geo-technical analysis.

Alderman Petty: When I was talking to staff about the same intent, everywhere there are expansive clay, the main thing that was going to take staff time in developing that ordinance was, coming up with additional specifications that the City might have for places with compromised soils. This solution that we came up with here, where we have an Engineer go out and a soil classification is not really needed for exemption seems pretty elegant to me. It has me wondering if that would work, then maybe we do not need to develop those rigorous specifications, and that would reduce the amount of staff time required to develop that other ordinance.

Alderman Ferrell: With each step, from the soil testing and to whatever other action that needed to be taken, there would be an additional cost to the developer or builder wouldn't it?

Chris Brown: Yes.

Alderman Thiel: I think that has always been the argument about having engineered foundations on hillsides. We have ordinances already in place to protect the homeowner and the adjacent properties from harm that might occur if the property slides. This is one more thing in place. She explained what the Ordinance Review Committee discussed when forming the ordinance. She stated there were two members in favor and two opposed to this at that time. She stated you try to protect homeowners from making mistakes that cost them in the long run and affect other people.

Alderman Lucas: One of the things we heard from people whose homes had slid was they were buying the home suspecting that in a few years it is going to start sliding. That was one of the things we were looking at.

Alderman Lewis: Chris, the City Engineers do not go out and look at this, it is the hired engineers that look and they say you are going to need more special conditions for the foundation or not. The seal is of the engineer or architect is that correct?

Karen Minkel: That is correct. We had a lot of discussion about soils and whether you have potential for a failed foundation. I just want to mention that on our website you can look at the Hillside/Hilltop Overlay District and you can also go to the Natural Resource Conservation Services website and they have soil maps which is an additional resource that the public can use.

Fran Alexander, a citizen stated had this been in place several years ago when Mission Hills was built my mothers house would not be coming down the hill above it. She went on to speak

on how the shifting affected the area and continued to speak in favor of the ordinance. She stated soil needs to be in a whole different ordinance and I urge you to help the citizens.

Alderman Petty: Karen, I asked you to find any foundation failures that impacted other adjacent properties because I felt like we were mixing intentions. Did you ever find any failures?

Karen Minkel: We can't find anything that says conclusively that this caused this to happen partly because the Hillside/Hilltop Ordinance was enacted in 2006 and prevented some of the other contributing factors to how a foundation might fail and affect other properties. When you see the failure you can find correlations but we can't determine cause in any statistical way because we do not have all the data.

Alderman Petty: We all know erosion can create foundation failures but do you think it is likely that foundation failures create the kind of erosion that moves the street?

Chris Brown: I don't know how that would happen.

Alderman Petty: I just want to establish that this is about protecting homeowner's investments and has little to do with environmental protection. The bulk of the environmental protection ordinance that was passed in 2006 has to do with the excellent tree preservation that went into it. I just want to make sure that everyone understands that foundations are not something that causes the kind of damage that affects other properties.

Chris Brown: Typically a foundation failure does damage to the house that it's holding up. We have not seen extreme failure.

Alderman Lewis: The reason I care about this is for future homeowners who have purchased a home and lenders, realtors, and brokers are not required to talk about the foundation. This is saying please hire an engineer and look at this area because statistically it is highly likely that there maybe foundation troubles in these areas.

Alderman Ferrell: It is not a plea but a mandate right?

Alderman Lewis: We are saying that in these areas in order to have a building permit issued you need to have the engineers sign off on it.

Alderman Ferrell: I understand the intent of the ordinance. I think the City is placing itself between the property owner and the discretion of the property owner with a mandate that might or might not help property owners and or their ability to afford to build a home. It is pretty expensive to have an engineer come out and look at something.

Mayor Jordan: Karen, do you have any idea what it might cost to have something like this done?

Karen Minkel: It costs several hundred dollars to come out to your site. It could go either way. You could find out that you have poor soil and you need significant engineering work on your foundation. In that case it does cost additional money to build the home but in our view you are saving money for a failed foundation in the future. The engineer might come out and say your soil is fine and the builder might have been planning on over engineering on the hillside. That could potentially be a cost savings.

Alderman Thiel: Adella supports this. She wanted to vote on this but she is not here tonight. We have discussed this quite a bit and I would like to move forward.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty: I would like to hold it on the second reading. Based on what was said tonight, about having an engineer go out there and having that be a low cost option in certain cases where the soil is not bad, if we put that into my alternate legislation that we were looking at before, that takes away almost all the staff time that was going to go into that. I would like to talk with staff and see if we can move the overlay map forward since that would be the only remaining piece of that.

Alderman Thiel: My concern with that is you are talking about a city wide ordinance. I may support that at some point in time. The Hillside Hilltop Overlay District, just the District itself, was worked on for months. I feel like there was a lot of public input and public knowledge about what we were doing. We made compromises and we worked with them. I feel something that would affect the entire city or a large part of it needs to have a lot of public discussion. It is much more encompassing than this ordinance is. We have an established overlay district. The other idea is something that can be done totally separately and should be looked into. It is not something that can be considered in two weeks.

Alderman Petty: It is not city wide it is just where the clay soils are which is exactly what this is. The whole reason for doing this is that in our Hillside District 75% to 80% of it is clay soil. Everyone knows that clay soils are bad. Pulling a map together is not a problem and we could copy the language out of this. I don't think it would take very long to put that together as long as we do not have to do the City specifications for foundations which was going to be an intensive process.

Mayor Jordan: Karen do you think you could get that pulled together in two weeks?

Karen Minkel: If we were to use this methodology staff could draft an ordinance but I don't think we would be prepared to make a recommendation within two weeks. There is more than one issue to be looked at. What Alderman Petty is talking about is an expansive clay soils overlay district that would impact approximately 50% of the city. One of the determinations that would need to be made is the buffer that you would add to the soil data that we currently have.

Staff would also want to look at in terms of recommendation what we would be comfortable recommending for a methodology that affected 50% of the city.

Alderman Lewis: I agree with Brenda but I respect the intent that you are talking about Matthew. Looking into the soils and what is going on citywide is a good idea. That is a lot of work and it is more than just clay, it is different kinds of soils and it is going to take a lot of research. There are public meetings that need to happen on that. I would like to move forward with this but I think that is an additional project for staff that will take a significant amount of time.

Alderman Petty: Jeremy when we last spoke about this you said that you guys had decided a buffer of 10 feet around the soil borders would be appropriate. Does that recommendation stand and are you confident in it?

Jeremy Pate: Not at all, that is just one number that we have thrown out as a potential buffer. We also threw out 50 feet. It is really the fine grain versus the coarse grain of what the soils map shows us. It is a really a broad brush stroke. So determining how fuzzy that line is is certainly something we want to look at. That line can be several lots wide or a subdivision or street width wide. Understanding that is something that deserves a little more time.

Alderman Ferrell: Did you say that Adella had interest in this?

Alderman Thiel: Yes, she supports this and was actually the one that asked staff to bring this back forward.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I want to commend Alderman Thiel who has worked on this since 2005. I supported it then and I will support it now if I have to vote. I agree with Alderman Petty. I think we do need to look at the expanded soil study but right now we have the Hillside Ordinance before us and we need to vote on it and then look at the other. I promise we will look at it and bring some type of plan back.

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

Alderman Lewis: This is something that came out of Fayetteville Forward as a request.

Ordinance 5308 as Recorded in the office of the City Clerk.

Annexation of 99 Acres: A resolution to express the intention of the City Council to accept the annexation of approximately 99 acres when detached by the City of Johnson and to enter into various proposals and agreements with the City of Johnson.

City Attorney Kit Williams gave a brief description of the resolution. He stated it would be committing both cities to work together to resolve this detachment annexation issue that has been a problem for us north of the Van Asche extension. This is north of where we would build Van Asche Boulevard into the mall. That particular 99 acres would be detached from the City of Johnson and annexed into the City of Fayetteville. The City of Fayetteville and Johnson would agree to a sewer contract which we have never had with the City of Johnson. He explained the current water and sewer contract issues. He also explained the current lawsuit and what the passage of this resolution would do.

Alderman Petty: What happens if we do not approve this?

City Attorney Kit Williams: The suit will go forward. There are portions of these 99 acres that are not involved in the detachment suit so they would not be detached from the City of Johnson, but it certainly is in your power to say you do not want to provide sewer there.

Alderman Petty: I support it and I think it is a good idea.

Alderman Ferrell: If citizens or property owners in one of the cities petition the other city to be annexed today, before this is done, what is the law today?

City Attorney Kit Williams: They would not be able to detach from the city they are in unless they ask that city for essential municipal services that the other city cannot and will not supply. That is the primary reason the current landowners would be successful in detaching from Johnson and annexing into Fayetteville. If we enter into this agreement then that argument will be gone because we will now be providing sewer service to Johnson citizens and so they would not be able to use the lack of municipal services ever again to be able to involuntarily detach from Johnson. There is a provision in this that Johnson wanted that states in the future we would only do this by agreement with the Johnson City Council, which we have done with Farmington and Springdale in the past. Even without that because there would be no essential services that were not being provided they would not have a legal right detach.

Alderman Ferrell: So we have other agreements with other cities.

City Attorney Kit Williams: We have exchanged territories with Springdale and Farmington in the past through this simultaneous detachment and annexation.

Alderman Ferrell: If this is passed it will be different, than it is today, having to have permission from both municipalities.

City Attorney Kit Williams: Are you talking about a property owners leaving?

Alderman Ferrell: Yes.

City Attorney Kit Williams: It will be different than today because today they would actually have a right to leave Johnson because sewer service is not being provided. In the future they will not and we will also have a resolution saying we will not do that.

Alderman Ferrell: You are saying we have that same understanding with Farmington?

City Attorney Kit Williams: Since we provide sewer service to Farmington then no property owner there could attempt to leave without the Farmington City Council's permission. They are having the essential services provided by Farmington therefore they would not have a good legal cause to detach without Farmington's permission.

Alderman Ferrell: My primary concern was Fayetteville but it sounds like it is alright. The \$35,000 payment is a one time payment?

City Attorney Kit Williams: It is a one time payment and it should be a wash. We would be annexing in businesses that would be paying sales tax to us.

Alderman Lewis: You mentioned taxes do you mean property taxes?

City Attorney Kit Williams: If for all purposes it is brought within the City of Fayetteville.

Bob Caustrell, resident of Howard Nickell Road spoke on behalf of his Property Owners Association and stated this is a great idea but he expressed his concerns with the context. He stated my purpose here is to request that when the Master Street Plan does come up for revision that you please take our neighborhood out of the interior by-pass.

Alderman Cook: I am going to support this but I have two issues. One is obviously annexation but the other is water and sewer services. I don't like pushing our services outside the city limits. My concern is long term cost associated with the water service.

Alderman Lucas: I am in favor of this and I am hoping that you all will support this.

Alderman Lewis: I am also going to support it but the thing that has helped me support it is that we were already providing water and sewer to that area. Is that correct?

David Jurgens: That is correct.

Alderman Lewis: We are already maintaining those services in that area.

David Jurgens: That is correct, there are parts of that in the southern portion of Johnson that do not have development or water and sewer service but we have been providing water service to part of that for over 100 years.

Alderman Lewis: And we have capacity?

David Jurgens: Yes ma'am. The largest sewer line that we have in our system is there and the largest waterline that we have in our city is there as well within just a few hundred yards of the city limits.

Alderman Lewis: The zoning of this is R-A?

Jeremy Pate: Automatically when annexations come in the zoning is typically R-A.

Alderman Lewis: It's the property owners that would initiate a zoning change if that were to occur.

Jeremy Pate: That is typically the case.

Alderman Lewis: And that would have to come before the Council?

Jeremy Pate: Yes, all zoning changes must be made by the Council.

City Attorney Kit Williams: Keep in mind that for these particular land owners there was an agreement by the City Council to zone the property north of Van Asche into commercial but that would be the logical thing anyway. A Council can't totally tie the hands of another Council, but there is another one that was passed in 2008 where the City Council said we would not go forward with the Van Asche extension until the land was annexed into the city.

Don Marr: This is a resolution that means you are going to see multiple items coming before you. You will see zoning and the actual contract terms of this. This is just giving staff authorization for further detail and negotiation of the contract. Some of these items, like the \$35,000, right of way acquisition for Van Asche, and items that are in the City Attorney's memo, will come before you as additional considerations. It gives guidance that it is our intentions to proceed in those areas and that's what we're looking for related to this.

Mayor Jordan: I want to thank City Attorney Kit Williams for helping us on this. I asked him when they came to us to negotiate this and he did an excellent job.

City Attorney Kit Williams: Thanks Mayor.

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

Resolution 47-10 as recorded in the office of the City Clerk.

Amend §35.40 of the Fayetteville Code: An ordinance to amend §35.40 of the Fayetteville Code to require organizers of festivals using public property for over two days to ensure its vendors will comply with Health and Tax Laws and to publicly account for revenues received and expenses paid.

City Attorney Kit Williams read the ordinance.

Alderman Petty: There are really only two things that changed from the previous ordinance. The first one is where it said festivals lasting longer than two days, before it said Bikes Blues and BBQ. The second change is in Section F there is an addition to ask the long festivals to open their books so we can better account for tax collections and assess the economic benefit.

Alderman Lewis asked Paul how this would affect our accounting of this.

Paul Becker: All I can say is that if this passes, they will be required to report revenues and there is no way of actually auditing that. So we would have to take any report at face value. I don't know that it would audit anything. It would give information as far as revenues created but there is no way of auditing that or directly tying it back 100%.

City Attorney Kit Williams: I'd like to point out to the Council that the original ordinance involving Bikes, Blues and BBQ really came at the encouragement of Bikes, Blues and BBQ organizers and City staff. It was directed at trying to ensure that their vendors would actually be more likely to pay state sales taxes. They are not responsible for doing any thing but going around and picking up the envelopes. The state sales taxes which are paid are all private. We can't know how much it is. We can't know what's in that envelope. We felt along with Bikes, Blues and BBQ that going around every night attempting to pick up these envelopes was a way to try to better collect the sales taxes that should have been paid by the festival vendors. Bikes, Blues and BBQ worked with the city to do that and have done that now since this ordinance passed. I think they were in favor of that ordinance and worked with the city to do it. As Alderman Petty has said this basically just extends that to any other festival that would be using city property for more than two days.

Don Marr: Sharon Crosson our Parking and Telecommunications Manager who processes these special event permit requests said one suggestion that came up was the wording in these to either look at consecutive days or to talk about certain events. With it being two or more days the way that it is written currently, our question is would First Thursday fall as that, would Lights of the Ozarks fall as that, events where we have multiple days but not consecutive days in terms of some of these relationships. That's one thing we would like to discuss as a part of this ordinance as well.

Alderman Petty moved to amend the ordinance to state two consecutive days. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Alderman Ferrell: The way it's laid out it appears there are not a lot of changes, but the way I read it its kind of in codes and my perception is there is a lot more work. In this community where we are trying to welcome festivals, I think this could turn us into a ghost town of festivals if this ordinance is passed. I think consideration of this ordinance sends a negative message to potential new festivals who will have to hire a comptroller for not for profit festivals. If it is felt necessary to do any adjustment to the ordinance we currently have I think a good idea would be to get input from the festival organizers, the Visitor's Bureau, and the Chamber of Commerce

before we enact legislation or amend legislation. I think we have really tried to put our best foot forward in establishing a festival friendly community. I think the more work that is done requires more staff time and I can not support this.

Don Marr: In the effort to be all honest here, even on the Bikes Blues and BBQ, on Item C where it talks about the taxes at the end of each day's operation we have been doing that in city staff on the days that the event is receiving revenues. Even though it's a multi-day event we're not collecting items at the end of every single day. We're collecting them on Friday and Saturday of their major retail activities. So they are operating on the day they set up without staff going by and collecting envelopes. We can change that but again we might be going out and doing that and have nothing to collect.

City Attorney Kit Williams: This is how the current ordinance reads.

Don Marr: I do understand that is how it currently reads. I guess my point is that the parking lot closes prior to Bikes, Blues and BBQ and we're not collecting items because there are no sales on Monday. It's a set up day.

City Attorney Kit Williams: If that's correct and there wouldn't be any required sales and use taxes to collect and this wouldn't be effective for that. It says at the end of each day where the vendor remits all required sales and use taxes so if there are no sales then there's no Sales and use tax. You wouldn't have to do it.

Don Marr: As long as that's the clear interpretation.

Alderman Thiel: Does the Bikes, Blues, and BBQ organizer collect the tax or does the city? I understand Kit earlier say that the organizers.

City Attorney Kit Williams: They originally said they were going to do that. I'm not sure if that's what's happening now.

Alderman Thiel: I'm asking for clarification if staff has to do this then how much time staff is spending to do this.

Sharon Crosson, Parking and Telecommunications Manager: For Bikes, Blues and BBQ the organizers are collecting the tax from the vendors. That is the only festival that we have right now that has other outside vendors wanting to come in as a transit merchant. Multiple merchants do not fall under the Bikes and Blues umbrella. The first year the ordinance passed those merchants were very reluctant to turn over their state sales tax money to an event organizer that was not their event organizer. The state sales tax code from the State of Arkansas said whatever event producers they fall under, which would be in that case the City of Fayetteville, because we issue their Transit Merchant License. We decided to take city staff to collect just the extra ones that came in. We have about 50 of those. The Parking Staff is going with a uniformed Police Officer on those days to collect those taxes for those that fall outside the Bikes, Blues and BBQ vendors.

Alderman Thiel: Is that all the time? Those aren't regular hours or are they?

Sharon Crosson: On Friday they are regular hours and Saturday they are not.

Alderman Thiel: I'd be curious to know if we are actually coming out ahead on this. We don't have any way to determine.

Don Marr: Remember we're not opening the envelope. We're doing nothing more than collection and making sure they get sent to the state. So there is no way to account for that particular time versus the actual collection envelope. Some merchants who are in business on an on-going basis turn in their reported revenue with the regular reporting. So you're not even collecting those because they report them with their normal monthly or quarterly reports.

Alderman Thiel: Thank you Sharon.

Nelson Driver, Executive Director of Bikes, Blues and BBQ: We don't collect transit merchant tax. We collect Bikes Blues and BBQ vendors only. On average we have 130-150 different vendors that fall under that, out of that probably close to 50% of those already currently have an Arkansas State Sales Tax permit. They don't remit to us but directly to the state.

Steve Butler, Butler Broadcasting: I shutter the thought of having to put an accounting system together to track a charity event that is for the community that people seem to like. Does this mean if we do a two day event for Springfest we have to go through all this?

Alderman Petty: If it is more than two days.

Steven Butler: If we set up on Friday, and do a free concert on Friday, Saturday, and Sunday, then we will have to go through this rigmarole.

Alderman Petty: As it's currently written that is correct.

Steve Clark, President of Chamber of Commerce: Thank you for giving me the opportunity to appear here tonight. We recognize that the City has a right to regulate business so long as there is a rational and reasonable connection to protecting the health, safety, and welfare of the citizens of our community. With regard to this ordinance, on its face it is devoid either in specifics or in generalities as to a concern of the safety, health, or welfare of our City. There is no diminished need identified from statistical data, or empirical data, or even anecdotal data. This seems to be based on an arbitrary decision that business participating in festivals that last more than two days are going to be subject to regulation that's based on nothing other than we just chose this arbitrarily. That alone frightens business. A lot of the businesses that participate are local businesses and that arbitrariness of such an ordinance frightens them. They don't know if the next time this Council meets that there will be an ordinance offered that will either go to one day or a day and a half or some other provision that might be added.

The other thing that is a concern to businesses is it was mentioned there is not much change to the recommended language and from our prospective that is just not correct. The existing

language uses the word “should” legally, that is a word of suggestion, the proposed ordinance uses the word “shall” and that is a word of mandate. There is a great difference between a suggestion and a mandate. The “shall” not only takes what is arbitrary but that arbitrariness compelled to be applied really strikes fair in the heart of any reasonable business person. The thing that really drives home to me is that this ordinance on its face does not give an existing business person any notice of what is expected of them with standards that are easily defined. There are a number of definitions of what a day is and what festivals are. When you start looking at mandating something and commanding shall as the language rather than should you are significantly changing the level of the playing field.

This ordinance on its face ignores the Fourth Amendment rights and protections of privacy that businesses enjoy. The standard that is being imposed says these businesses will become your agents. If the festival is over two days and you are the festival organizer and that festival has businesses that function under its umbrella that festival organizer becomes the City agent to make sure these actions that are mandated are done and completed in a timely fashion. The ordinance is devoid of what a timely fashion is or any explanation of how this should be done. For most businesses there is an enough risk in doing business without asking to be someone else’s servant or agent. There is no appeal process. You are asking a business to take a risk they are not willing to take. This could open the City up to litigation. I do not believe it would be wise policy for this Council to adopt this ordinance as it is presently being offered. Its unstated presumption is that business people act illegally. I urge you to vote no on this ordinance and its consideration.

Alderman Petty: The Bikes, Blues and BBQ Board supported the ordinance that is on the books now when it came forward. I just want to make sure I understood your points correctly. Would you be in favor of repealing what is on the books now because it requires the same collects for Bikes, Blues and BBQ specifically?

Steve Clark: I would not but I didn’t come here to represent Bikes, Blue and BBQ. I came here to represent businesses. I am concerned about the mandate that makes businesses the agents of the City.

Marilyn Heifner, Fayetteville Advertising and Promotion Commission: I’ve been doing festivals since 1994. The Health Department regulates the food for any festival therefore I see that position in the ordinance as unnecessary. It is a state law for the promoter of a festival to collect the sales tax at the end of each day and to turn in a list to the state of those vendors that they have so I see no reason for that in the ordinance. I guess the elephant in the room is to turn in the revenue and expenditures. Many of the successful festivals in Fayetteville are run by non-profit agencies. There are some that are run for profit by promoters and our citizens, like softball tournaments, Lights of the Ozarks, Solar Splash, and a lot of biathlons. All of those would be affected. Sometimes I think that with the things we already have in place maybe it’s just a little too much government involvement in individual promoters business. What would be gained by this ordinance? I can’t see that there is anything to be gained except we will be running out of Fayetteville some very successful festivals that we have now. I would urge you to not pass this ordinance.

Alderman Petty: Marilyn did the A&P Commission hold a vote on this ordinance before you came to speak tonight.

Marilyn Heifner: No.

Alderman Petty: Have you spoken with any of the festival organizers that you mentioned with the exception of Bikes, Blues and BBQ about this ordinance?

Marilyn Heifner: I haven't spoken with Bikes, Blues and BBQ about this ordinance.

Alderman Petty: Nor any of the other festivals organizers you mentioned?

Marilyn Heifner: No.

Alderman Petty: I have. I spoke to the Bikes, Blues and BBQ Board in the fall of last year and asked to see their books and they refused. Every other organizer I've spoke to said that's not a problem, we already maintain books we would be stupid not to maintain a balance sheet and we would have no problem letting you see that.

Marilyn Heifner: What does the City Council gain from looking at their books? Are you going to deny them the opportunity to bring that festival here?

Alderman Ferrell: Alderman Petty, how many organizations did you look at the books of?

Alderman Petty: Two.

Alderman Ferrell: Out of how many?

Alderman Petty: I know two festival organizers personally and asked them if they would have a problem showing the City government their books and they said no, absolutely not.

Alderman Ferrell: Would you mind telling us who they were?

Alderman Petty: I would but they asked me not to betray their trust.

Alderman Ferrell: Okay, thank you. Yet we're trying to mandate that we would have the ability to go in and look. That seems rather inconsistent. I'm going to vote against the ordinance.

Alderman Petty: I want to address some of these things. I think the point that was made earlier that we are going to run people off with this is a red herring. I don't think that's true. I think you look at something as small as Springfest, even they maintain a balance sheet. I would be surprised and appalled if they did not. It's the same with any festival. It's just a matter of being willing to provide it. Anybody who runs an \$800,000 festival maintains books. It's not a big deal there. I guess with regards to privacy that was brought up, I just want to make sure everyone understands that we are talking about looking at the books of the organizers not the

books of every vendor that comes through. I want to make sure every one is clear on that. We are just talking about festival organizers.

Alderman Lucas: I really don't see what advantage the city would have to look at these people's books. We're just happy to have festivals that come to Fayetteville and bring people that spend their money. So I'm very much opposed to this ordinance.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray 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 Lucas seconded the motion.

Alderman Thiel: There are parts of this that I'm not opposed to. The only difference between this and the one that Bikes, Blues, and BBQ already complies with is section F. As far as requiring that vendors remit their taxes that is an issue that came up with Bikes, Blues, and BBQ. We felt that we were having a problem so we dealt with it by passing an ordinance. I would suggest to Alderman Petty that maybe he go back to the drawing board or possibly make an amendment to remove "F". I think there are positives, if you work with the Chamber, and define the amount of days for a festival. I think that there are some things in this that are good.

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

City Attorney Kit Williams read the ordinance.

Alderman Petty asked City Attorney Kit Williams if he was comfortable with the language.

City Attorney Kit Williams: The current code has five "shall's" in it, no "should's". It's all "shalls", just like all ordinances are because they are not encouragements, usually they're requirements. I don't think that any person would be made an agent of the city. We are requiring vendors to do things. We are not saying you are our agent. However, we did work with Bikes, Blues and BBQ with the last ordinance in order to make sure we had an ordinance that they were happy with as well with what City Council wanted. From a purely legally point of view, I think the City Council has the power to do this if you want to. It's a policy decision about whether or not you want to do it.

Alderman Petty I think "F" needs to be in there, because we are giving ten's of thousands of dollars to multi-day festivals. Any multi-day festival that is going to get that kind of support from us no matter whom it is. I think there is a principle of transparency in there that we need to follow. I think it's fair to see those kinds of books because we are giving them so many resources.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 1-6. Alderman Petty voting yes. Alderman Rhoads, Ferrell, Lucas, Lewis, Thiel and Cook voting no. Alderman Gray was absent.

The ordinance failed.

Announcements: None

City Council Tour: None

Meeting adjourned at 8:10 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**City of Fayetteville Arkansas
City Council Meeting Minutes
April 20, 2010**

A meeting of the Fayetteville City Council was held on April 20, 2010 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

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

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the April 6, 2010 City Council meeting minutes.

Approved

Sweetser Construction, Inc. Bid #10-03: A resolution amending Resolution No. 15-10 awarding Bid #10-03 and approving the purchase of curb and gutter and concrete flatwork from Sweetser Construction, Inc. in an amount not to exceed \$250,000.00, as needed through the end of calendar year 2010.

Resolution 57-10 as recorded in the office of the City Clerk.

Aggregate Materials Bid #10-20: A resolution awarding Bid #10-20 and approving the purchase of Class 7 Base (SB-2) and Shot Rock from Rogers Group, Inc. (Hamstring Quarry), concrete aggregate-1.5" from Northwest Arkansas Quarries and concrete aggregate-¾", B-Stone and abrasives/grit from APAC-Central, Inc., all in varying amounts, as needed through the end of calendar year 2010.

Resolution 58-10 as recorded in the office of the City Clerk.

Fochtman Enterprises, Inc. Bid #10-24: A resolution awarding Bid #10-24 and approving the purchase of curb and gutter construction from Fochtman Enterprises, Inc. in an amount not to exceed \$200,010.00 for use in Ozark Regional Transit New Freedom Projects, as needed through the end of calendar year 2010.

Resolution 59-10 as recorded in the office of the City Clerk.

Les Rogers, Inc. Bid #10-25: A resolution awarding Bid #10-25 and approving the purchase of topsoil from Les Rogers, Inc. in the amount of \$10.95 per cubic yard for use in Ozark Regional Transit New Freedom Projects, as needed through the end of calendar year 2010.

Resolution 60-10 as recorded in the office of the City Clerk.

Scurlock Industries of Fayetteville, Inc. & Water Products, Inc. Bid #10-26: A resolution awarding Bid #10-26 and approving the purchase of concrete drainage pipe from Scurlock Industries of Fayetteville, Inc. and metal and plastic drainage pipe from Water Products, Inc. in varying unit prices for use in Ozark Regional Transit New Freedom Projects and other city projects, as needed through the end of calendar year 2010.

Resolution 61-10 as recorded in the office of the City Clerk.

Rogers Group, Inc. Bid #10-27: A resolution awarding Bid #10-27 and approving the purchase of aggregate from Rogers Group, Inc. in the amount of \$6.00 per ton for use in Ozark Regional Transit New Freedom Projects, as needed through the end of calendar year 2010.

Resolution 62-10 as recorded in the office of the City Clerk.

City of Farmington Inter-Local Agreement: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington through the end of 2011.

Resolution 63-10 as recorded in the office of the City Clerk.

City of Goshen Inter-Local Agreement: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Goshen, Arkansas to provide animal sheltering services to the City of Goshen through the end of 2011.

Resolution 64-10 as recorded in the office of the City Clerk.

City of Elm Springs Inter-Local Agreement: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Elm Springs, Arkansas to provide animal sheltering services to the City of Elm Springs through the end of 2011.

Resolution 65-10 as recorded in the office of the City Clerk.

City of Winslow Inter-Local Agreement: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Winslow, Arkansas to provide animal sheltering services to the City of Winslow through the end of 2011.

Resolution 66-10 as recorded in the office of the City Clerk.

City of Elkins Inter-Local Agreement: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Elkins, Arkansas to provide animal sheltering services to the City of Elkins through the end of 2011.

Resolution 67-10 as recorded in the office of the City Clerk.

City of Greenland Inter-Local Agreement: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Greenland, Arkansas to provide animal sheltering services to the City of Greenland through the end of 2011.

Resolution 68-10 as recorded in the office of the City Clerk.

Police Department Donations: A resolution amending the 2010 city budget by approving a budget adjustment to recognize Police Department donation revenue for the first quarter of 2010 in the amount of \$3,720.00.

Resolution 69-10 as recorded in the office of the City Clerk.

Federal Forfeiture Revenue: A resolution amending the 2010 city budget by approving a budget adjustment to recognize federal forfeiture revenue for the first quarter of 2010 in the amount of \$654.00 for use by the Fayetteville Police Department.

Resolution 70-10 as recorded in the office of the City Clerk.

State Forfeiture Revenue: A resolution amending the 2010 city budget by approving a budget adjustment to recognize state forfeiture revenue for the first quarter of 2010 in the amount of \$7,809.00 for use by the Fayetteville Police Department.

Resolution 71-10 as recorded in the office of the City Clerk.

Arkansas Department of Environmental Quality (ADEQ) #1: A resolution authorizing the Mayor to apply for a 2010 Arkansas Department of Environmental Quality Recycling Education Grant through the Boston Mountain Solid Waste District in the amount of \$25,000.00 for recycling education support.

Resolution 72-10 as recorded in the office of the City Clerk.

Arkansas Department of Environmental Quality (ADEQ) #2: A resolution authorizing the Mayor to apply for a 2010 Arkansas Department of Environmental Quality Recycling Grant through the Boston Mountain Solid Waste District in the amount of \$47,250.00 for recycling containers for the Westside Recycling Drop-off Facility.

Resolution 73-10 as recorded in the office of the City Clerk.

State and Tribal Assistance (STAG): A resolution authorizing the Mayor to apply for a State and Tribal Assistance Grant (STAG) in the amount of \$485,000.00 from the U.S. Environmental Protection Agency for sanitary sewer system improvements in the area of and including the Elkins outfall sewer line.

Resolution 74-10 as recorded in the office of the City Clerk.

Alderman Cook moved to approve the Consent Agenda. Alderman Petty seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Form-Based Zoning Districts: An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to modify existing and create new use units and Form-Based Zoning Districts that permit administrative development approval and to create design standards for said districts. *This ordinance was left on the First Reading at the April 6, 2010 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Internal Services and Development Director: There is positive dialogue occurring around this ordinance amendment. This is the 10th public meeting that we have had on this over the last 18 months.

Alderman Cook: I have heard nothing but positive. It is an opportunity for people to do something different than the past. I like the changes.

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

City Attorney Kit Williams read the ordinance.

Alderman Petty: I am proud of staff for working on this. We have instances of neighborhoods that don't have zoning that represents what is actually there and how people are using the land. This form based code makes sense.

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

Ordinance 5312 as Recorded in the office of the City Clerk

New Business:

Capital Improvements Plan: A resolution adopting the 2010-2014 five year Capital Improvements Plan.

Paul Becker, Finance & Internal Services Director: I would ask that this not be passed tonight so an expanded discussion could be had. This is a plan not an appropriation. It is subject to change due to priorities and economic conditions. We have forecasted what we think revenues are going to be for the next five years and where those would be allocated on a capital basis.

Alderman Petty: What was your philosophy in making the forecast?

Paul Becker: We based it on a sales tax increase of 2%. The Water & Sewer Fund was based on our rate study and increases pursuant to the rate study.

Don Marr, Chief of Staff: The individual projects philosophy was based on infrastructure needs, continued investment in technology to improve efficiency and productivity, Council committees and staff recommendation on anticipated projects. Priorities could change and funds could be moved.

Alderman Lewis: I would like to hear from people on this. Can you explain what the Capital Improvement project is for people that do not know?

Paul Becker: It is a medium range tool used for planning proposes in the design of the budget for all the departments.

Don Marr: It is on line for review.

Alderman Rhoads moved to table the resolution to the May 4, 2010 City Council meeting. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent during the vote.

ADM 10-3529 (UDC Amendment: Tandem Lot): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapters 151: Definitions and 163.12:

Tandem Lot Development in order to clarify and update Tandem Lot Development requirements with current public service requirements and development patterns.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook moved to suspend the rules and go to the third reading. Alderman Thiel seconded the motion.

Alderman Petty: We have been criticized for acting quickly. I think we need to give the public an opportunity to review it.

Alderman Lucas: I agree.

Alderman Rhoads: I have heard people say we do not move things fast enough. I think you have to make a decision on a case by case basis.

Upon roll call the motion passed 6-2. Alderman Lucas and Petty voting no.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5313 as Recorded in the office of the City Clerk

ADM 10-3544 (Sunbridge Villas R-PZD Amendment No. 1): An ordinance amending a Residential Planned Zoning District entitled R-PZD 06-2213 Sunbridge Villas to allow modification to the approved zoning criteria PZD Plats for Planning Area Two, as described herein.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. The Planning Commission recommended this.

Alderman Lewis: I am glad to see activity in this area.

Alderman Thiel: I like attached housing. It is more affordable.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5314 as Recorded in the office of the City Clerk

Amend Chapter 113: An ordinance to correct and clarify §113.02 (C) (4) and §113.12 (C) (4) of the Code of Fayetteville.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: This is a house keeping item changing “contract” to “contact”.

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

City Attorney Kit Williams read the ordinance.

Alderman Lewis moved to suspend the rules and go to the third reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5315 as Recorded in the office of the City Clerk

Amend Chapter 179: An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to add Chapter 179: Low Impact Development.

City Attorney Kit Williams read the ordinance.

Jeremy Pate stated this will be a new chapter in the code. He explained what this change would mean to the City.

Alderman Ferrell: I like what I read in this.

Aldermen Lewis gave additional information about the ordinance.

Aubrey Shepherd, a citizen spoke in favor of the ordinance. This is something that has been talked about for years. It is a way to make a major difference. It is a great ordinance.

Brian Teague, Community by Design: Everyone involved in drafting this ordinance has done a great job. I support it 100 percent.

Billy Plumbing, U of A student: Thank you for this ordinance. It is a great thing.

Louise Mann spoke in support of the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas moved to suspend the rules and go to the third reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-1. Alderman Petty voting no.

City Attorney Kit Williams read the ordinance.

Alderman Petty: This makes sense.

Alderman Lewis thanked the staff, citizens and engineers for their work on this ordinance. This is a wonderful opportunity for Fayetteville. This really sets us apart.

Don Marr: We would like to thank Councilmember Lewis for her work with staff to help us understand these concepts. We have benefited from her level of expertise. This goes a long way in the discussions on phosphate levels. As we put these things in place it gives us an ability to impact non point source impact on phosphate levels. There are huge benefits to our citizens not only for the development community but for our environment. We thank you for that support.

Mayor Jordan thanked the staff and Alderman Lewis for their work on this.

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

Ordinance 5316 as Recorded in the office of the City Clerk

Simultaneous Detachment and Annexation of 99 Acres: An ordinance simultaneously detaching territory from the City of Johnson and annexing said territory into the City of Fayetteville, pursuant to A.C.A. §14-40-2101.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: This is the first step in fulfilling the process that began two or three years ago to construct the extension of Van Ashe.

Mayor Jordan: I would like to thank the City Attorney for his work on this and his negotiating skills.

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

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: There may be a minor modification to Exhibit B, which is the written legal description.

Alderman Ferrell moved to suspend the rules and go to the third reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-1. Alderman Petty voting no.

Alderman Lucas: This is an exciting time. I am real happy to see this move forward. I think it is going to help our economic engine of the mall if we can get access to it from the west. Please vote for it.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5317 as Recorded in the office of the City Clerk

Meeting adjourned at 7:15 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

Handed out Oct the City Council Meeting
5/4/2010
City Council Agenda
C. 5
Amend Chapter 72 Electronic
Payment Station Program



LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor
City Council

CC: **Don Marr**, Chief of Staff
Sondra Smith, City Clerk
Terry Gulley, Transportation Services Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to be 'Kit Williams', written over a horizontal line.

DATE: **May 4, 2010**

RE: **Correction to item #5 Parking Meters and Electronic Payment Stations ordinance, Section 8 and Section 6**

In Section 8 of the enacting ordinance and subsection (H)(3) (a) Sunday, the time for \$.50 per hour should read:

“(a) 1:00 p.m. until 6:00 p.m. – \$.50 per hour” rather than “1:00 p.m. until **5:00** p.m.” as presented in your packet.

I will read the correct language when the ordinance is placed upon its first reading.

Also, Section 6 of the enacting ordinance should add the following to the end of the sentence: “or as directed by the Mayor.” The Parking Division currently takes the cash deposits directly to the bank. I recommend additional accounting procedures for the vastly increased (estimated) parking revenues and the handling of electronic payments. These procedures should primarily be decided by the Mayor’s administration and will certainly be reviewed by our outside auditing firm (BKD) as well as our Internal Auditor and the citizens’ Audit Committee.

I will read Section 6 as follows during the ordinance's initial reading:

“The Parking Manager shall collect all deposits or electronic transactions from parking meters and electronic payment stations installed under this article and deliver them to the Accounting Department or as directed by the Mayor.”

Attached are the two pages (8 and 10) of your packet which have been corrected. I want to thank Terry Gulley who spotted these problems and informed me so we could correct them before placing the ordinance on its first reading.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby amends §72.54 **Tampering with Meters Prohibited** by repealing it in its entirety and enacting a replacement § 72.54 **Tampering with Meters or Electronic Payment Stations Prohibited**.

"It shall be unlawful for any person to deface, injure, tamper with, willfully break, destroy or impair the usefulness of, or to open without lawful authority, any parking meter or electronic pay station installed in accord with this article."

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby amends § 72.55 **Collections from Meters** by repealing it in its entirety and enacting a replacement § 72.55 **Collections from Meters and Electronic Payment Stations**.

"The Parking Manager shall collect all deposits or electronic transactions from parking meters and electronic payment stations installed under this article and deliver them to the Accounting Department or as directed by the Mayor."

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby amends §72.57 **Parking Meter Zones** by repealing subsection (E) and subsection (F) in their entirety and enacting replacement subsections as shown below:

"§72.57(E) *Regulated hours for parking meters.*

(1) Within the Entertainment District Parking Zone between the hours of 10 a.m. until 2:00 a.m. Monday - Saturday and 1:00 p.m. until 2:00 a.m. on Sunday a.m. the owner or driver of a vehicle upon parking the vehicle in a parking meter space shall immediately deposit sufficient money as required in §72.58(H), in the parking meter.

(2) Outside the Entertainment District Parking Zone between the hours of 8:00 a.m. until 6:00 p.m. Monday - Friday (except City holidays), the owner or driver of a vehicle upon parking the vehicle in a parking meter space shall immediately deposit sufficient money as required in §72.58(G) in the parking meter.

"(F) *Unlawful to leave vehicle parked in excess of allowed time.*

"Upon the expiration of the legal parking time paid for and allowed pursuant to this chapter during the period that paid

(b) 5:00 p.m. until 2:00 a.m. the following day - \$1.00 per hour with a maximum charge of \$5.00

(c) 2:00 a.m. until 10:00 a.m. - free parking

(2) Saturday

(a) 10:00 a.m. until 6:00 p.m. - \$.50 per hour with a maximum charge of \$3.00

(b) 6:00 p.m. until 2:00 a.m. the following day - \$1.00 per hour with maximum charge of \$5.00

(c) 2:00 a.m. until 10:00 p.m. - free parking

(3) Sunday

(a) 1:00 p.m. until 6:00 p.m. - \$.50 per hour

(b) 6:00 p.m. until 2:00 a.m. the following day - \$1.00 per hour with a maximum charge of \$5.00

(c) 2:00 a.m. until 1:00 p.m. - free parking

(4) Monthly daytime parking permits (Proximity Access Cards) for gated parking lots in the Entertainment District Parking Zone.

Persons desiring to purchase monthly access to and parking within gated lots in the Entertainment District Parking Zone between the hours of 10:00 a.m. and 4:00 p.m. on weekdays (excluding holidays) may purchase a Proximity Access Card for \$35.00. Any Proximity Access Card holder shall be required to pay normal hourly parking fees for any parking within the lot beyond 4:00 p.m. Special events authorized by the Mayor that require use of the gated parking lot will supersede the rights of monthly parkers during such event.

Aldermen

Mayor Lioneld Jordan
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 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

Tentative Agenda City of Fayetteville Arkansas City Council Meeting May 4, 2010

A meeting of the Fayetteville City Council will be held on May 4, 2010 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:

1. Sales Tax Report – Paul Becker
2. Capital Improvements Plan Presentation – Paul Becker

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the April 20, 2010 City Council meeting minutes.
2. **Arkansas Western Gas Company – Mount Comfort Road:** A resolution to approve an additional payment of \$85,195.89 to Arkansas Western Gas Company for relocation of its gas mains along Mount Comfort Road.

3. **Dean Crowder Construction, Inc.:** A resolution awarding Bid #10-23 and approving a contract with Dean Crowder Construction, Inc. in the amount of \$4,963,386.00 for construction of biosolids management solar dryers, WSIP Subproject Bio-1, and approval of a \$150,000.00 contingency.
4. **Williams Tractor, Inc. Bid #10-22:** A resolution awarding Bid #10-22 and approving the purchase of one (1) four-wheel drive New Holland T6050 Plus diesel tractor from Williams Tractor, Inc. in the net amount of \$39,191.00 after trade-in, for use by the Fayetteville Executive Airport-Drake Field.

B. Unfinished Business:

1. **Capital Improvement Plan:** A resolution adopting the 2010-2014 five year Capital Improvement Plan. *This resolution was tabled at the April 20, 2010 City Council meeting to the May 4, 2010 City Council meeting.*

C. New Business:

1. **VAC 10-3539 (Laura McKinnon):** An ordinance approving VAC 10-3539 submitted by Jorgensen and Associates for property located along the eastern property line of 740 Lollar Lane to vacate a portion of a 15-foot alley that runs from College Avenue to the subject property, a total of 1,875 square feet.
2. **VAC 10-3540 (First State Bank of NWA):** An ordinance approving VAC 10-3540 submitted by First State Bank of Northwest Arkansas for property located at 2292 North Covington Park Boulevard to vacate utility easement, a total of 33 square feet.
3. **Amend Chapter 72 (Nonconsensual Towing):** An ordinance to amend Chapter 72 Parking Regulations of the Fayetteville Code to enact regulations for nonconsensual towing of vehicles within the Entertainment District Parking Zone.
4. **Amend Chapter 72 (§72.18 Residential Parking Permit):** An ordinance to amend Chapter 72 Parking Regulations by enacting §72.18 Residential Parking Permit Program for Entertainment District Parking Zone.
5. **Amend Chapter 72 (Electronic Payment Station Program):** An ordinance to amend Article III Parking Meters of Chapter 72 Parking Regulations by changing its name and adding provisions for an electronic payment station program for paid parking lots and paid on-street parking and for other reasons.
6. **Amend Chapter 72 (§72.99 Penalties):** An ordinance to amend Article III Parking Meters and Electronic Payment Stations of Chapter 72 Parking Regulations by amending §72.99 Penalties.

7. **The Parking Consultants, Inc.:** A resolution to authorize negotiations with Amano McGann for the lease/purchase of up to 19 electronic pay stations and 3 digital gate pay stations and other equipment needed if the City Council approves paid parking lots and on-street parking spaces in the Entertainment District Parking Zone.
8. **Parking Program Personnel:** A resolution approving a budget adjustment in the amount of \$498,542.00 for the implementation and funding of the parking program in the Entertainment District Parking Zone and approving the addition of 2.5 full-time equivalent positions in the Parking Management Division for the 2010 budget.

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard before the City Council. If you wish to address the City Council on an agenda item please queue behind the podium when the Chair asks for public comment. Once the chair recognizes you, go to the podium and give your name and address. Address your comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate elected official, staff member or others for response. Please keep your comments brief, to the point and relevant to the agenda item being considered so that everyone has a chance to speak.

Interpreters or TDD for hearing impaired are available for all City Council meetings, a 72 hour advance notice is required. For further information or to request an interpreter, please call 575-8330.

As a courtesy please turn off all cell phones and pagers.

A copy of the City Council agenda is available at accessfayetteville.org or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.

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

A. 2
Arkansas Western Gas Company –
Mount Comfort Road
Page 1 of 8

May 4, 2010

City Council Meeting Date

Chris Brown

Submitted By

Engineering

Division

Development Services

Department

Action Required:

A Resolution Approving An Additional Payment to Arkansas Western Gas Company in the Amount of \$85,195.89 for Relocation Work on Mount Comfort Road

\$ 85,195.89

Cost of this request

\$ 20,547,511.00

Category / Project Budget

Transportation Bond Improvements

Program Category / Project Name

4520.9520.5809.00

Account Number

\$ 5,452,687.44

Street Improvements

Program / Project Category Name

06035.1500

Project Number

\$ 15,094,823.56

Remaining Balance

2006A Sales Tax Construction

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Johnny C. Bate

Department Director

04-14-2010
Date

Previous Ordinance or Resolution #

Kim G. King

City Attorney

04-16-2010
Date

Original Contract Date:

Original Contract Number:

Paul A. Butler

Finance and Internal Service Director

04-17-2010
Date

Received in City Clerk's Office

Kim G.



Jim M. ...

Chief of Staff

4-19-10
Date

Received in Mayor's Office



Frank J. ...

Mayor

4/20/10
Date

Comments:

CITY COUNCIL AGENDA MEMO

Council Meeting of May 4, 2010

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director

From: Chris Brown, City Engineer *CB*

Date: April 14, 2010

Subject: A Resolution Approving an Additional Payment to Arkansas Western Gas Company in the Amount of \$85,195.89 for Relocation Work on Mount Comfort Road

PROPOSAL:

Arkansas Western Gas Company (AWG) owns a 4-inch high pressure transmission main located on the south side of Mount Comfort Road, along with various other distribution lines that were in conflict with proposed improvements to Mount Comfort Road. In 2008, the City Council passed Resolution 63-08 approving an Agreement with AWG whereby the City is obligated to pay 95.95% of the actual cost of the relocation by AWG. The cost to the City was estimated to be \$397,000, as reflected in the Resolution. No contingency amount was approved in the Resolution.

The work by AWG has been completed and invoiced. The invoice amount of \$482,195.89 is \$85,195.89 more than was appropriated by Resolution 63-08. This increase is primarily due to the difference in the estimated and actual length of pipe relocated.

RECOMMENDATION:

Staff recommends Council approval of the additional payment to AWG. The City has agreed to pay 95.95% of Arkansas Western Gas Company's relocation costs, so no revision to the Agreement is required. Since Resolution 63-08 did not appropriate adequate funds to meet the terms on the agreement, an additional appropriation is needed before payment can be made.

BUDGET IMPACT:

The invoice amount of \$482,195.89 for this work will be paid from the Transportation Improvements Bond Fund. The total project budget for Mount Comfort Road Improvements is \$11,663,000. Current estimated expenditures, including this request, total \$10.8 million.

INVOICE SUMMARY

I/O # : 1002607

Cost for preliminary engineering work and actual relocation of pipeline associated with the Mount Comfort Road Improvements in Fayetteville, AR.

<u>Type of Charge</u>	<u>Amount</u>
Labor and Payroll	66,985.82
Employee Expense	-
Material/Supplies	106,598.18
Outside Services / Legal	202,845.57
Vehicle Expenses	154.46
Right of Way	5,621.75
Utilities - Gas & Water	-
Permits, Licenses	-
Other Exp & Fees	18.33
ROW - Other	-
Subtotal - Direct Charges	382,224.11
Overhead Allocation	115,268.25
AFUDC	5,056.77
Total Project Charges	502,549.13
Betterment	-
Adjusted Total Charges	502,549.13
Billable Amount 95.95%	482,195.89
Previous Contributions or Billings	(432,132.28)
NET Amount Due	50,063.61

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN ADDITIONAL PAYMENT
OF \$85,195.89 TO ARKANSAS WESTERN GAS COMPANY FOR
RELOCATION OF ITS GAS MAINS ALONG MOUNT COMFORT
ROAD

**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
an additional payment of \$85,195.89 over the estimated amount of \$397,000.00 approved by
Resolution No. 63-08 to Arkansas Western Gas Company for relocation of gas lines and
appurtenances to allow construction improvements to Mount Comfort Road.

PASSED and APPROVED this 4th day of May, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

RESOLUTION NO. 63-08

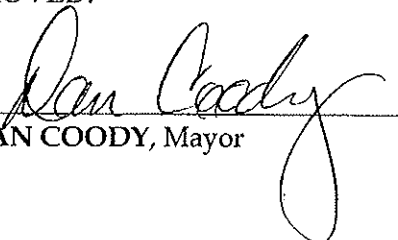
A RESOLUTION APPROVING AN AGREEMENT WITH ARKANSAS WESTERN GAS COMPANY IN THE AMOUNT OF \$397,000.00 FOR RELOCATION OF GAS LINES AND APPURTENANCES TO ALLOW CONSTRUCTION OF IMPROVEMENTS TO MOUNT COMFORT ROAD.

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

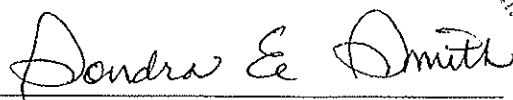
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an agreement with the Arkansas Western Gas Company in the amount of \$397,000.00 for relocation of gas lines and appurtenances to allow construction of improvements to Mount Comfort Road.

PASSED and APPROVED this 18th day of March, 2008.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA E. SMITH, City Clerk/Treasurer



AWG #26058

ARKANSAS WESTERN GAS COMPANY
UTILITY CONSTRUCTION/RELOCATION AGREEMENT

Property Developer: City of Fayetteville
Address: 113 West Mountain Street
Fayetteville, AR 72701

Job Location: Zion Road

THIS AGREEMENT, made and entered into this 18th day of March, 2008, by and between City of Fayetteville, acting by and through its duly authorized representative, hereinafter referred to as the "Developer," and ARKANSAS WESTERN GAS COMPANY, acting by and through its duly authorized representative, hereinafter referred to as the "Owner."

WITNESSETH:

WHEREAS, THE "Developer" proposes to make certain improvements at the location designation as shown above; and as part of the necessary work of such improvements, "Owner" must adjust or relocate certain of its existing facilities, and in connection with such adjustment, or relocation, "Developer" shall participate in the costs of such work to the extent herein agreed upon; and

WHEREAS, the proposed improvement necessitates the adjustment and/or relocation of certain facilities of "Owner" as described in the following description of work.

Install pipe with all necessary appurtenances to relocate for the proposed Mount Comfort Road improvements as planned and presented in the design plans provided by the City of Fayetteville for the Mount Comfort Road Bond Project No. 06035.1500. City of Fayetteville will reimburse 95.95% of the actual cost of all materials, contract labor, company labor, equipment hours including Engineering and Inspection costs to Arkansas Western Gas Company.

And, such adjustment, relocation or construction being shown in detail in "Owner's" plans, sketches, estimate of cost, and specifications (when applicable) which are attached hereto and made a part hereof; and

WHEREAS, the "Developer" desires to implement the herein described utility adjustments or relocations and approve the proposed utility construction of "Owner" by entering into an agreement with said "Owner."

NOW, THEREFORE, IT IS HEREBY AGREED:

1. Where applicable hereunder by reason of new utility occupancy or crossing of "Developer's" property, "Developer" hereby grants to "Owner" a right-of-way license and permission to install and operate utility facilities on or across "Developer's" properties as shown on the approved plans or sketch maps attached hereto and made a part hereof, and to execute such easements or right-of-way grants as may be necessary to evidence and record such right of "Owner."

2. Where applicable hereunder by reason of new construction on existing utility rights of way, "Owner" hereby grants to "Developer" the right to use for his purposes the lands within the project limits on or across which "Owner" holds a valid property interest antedating "Developer's" rights which were subsequently acquired in the same lands, and which property rights "Owner" shall retain so long as "Owner" (or "Owner's" successors or assigns) continues such use and occupancy and does not abandon, and thereby release, such property interest to "Developer" through facility removal in making said adjustments or by subsequent facility removal for "Owner's" convenience; and the "Developer" hereby agrees that "Owner," by granting said right and by said continued joint use and occupancy, does not waive any future claim for reimbursement for adjustment cost as may be eligible for reimbursement by reason of such prior property interest, nor does "Owner" waive any other legal or property right held under the Law or Constitution of the State or the United States.

3. In the event that future construction, reconstruction, expansion, relocation, rehabilitation, betterment, maintenance, or other work on the facilities owned and operated by either the "Developer" or the "Owner" in the area jointly occupied or used under either or both the above provisions of this Agreement will disturb, detrimentally affect, interfere, or be inconvenient to the facilities or responsibilities of either party, the parties hereto shall reach agreement in writing as to locations, extent, and methods of such work before the work is undertaken. In a case of emergency, and where immediate action is necessary for the protection of the public and to minimize damage to or loss of investment in the property of the "Developer" or the "Owner" either party hereto may, at its own responsibility and risk, make any necessary emergency repairs, and shall notify the other party hereto of such action as soon as practicable.

4. "Owner" shall inform "Developer," in writing, three days or more in advance of the date work is to be started, and shall keep the "Developer" informed of progress and activity related to the work being performed, and shall furnish written notice when the work is completed.

5. "Developer" agrees that the cost of the utility adjustment and/or construction provided for hereunder shall be paid to "Owner" as follows. "Owner" agrees that "Developer" will only pay actual cost of adjustment should actual cost be less than \$ 397,000.00. If actual cost exceeds \$ 397,000.00, the "Developer" will pay the actual cost. Exhibit "A" is cost estimate as submitted to City of Fayetteville.

6. "Owner" shall accept as full payment for work hereunder the amount developed or accumulated as eligible actual and related indirect costs in accordance with "Owner's" accounting procedure, which is the Uniform System of Accounts prescribed by the Arkansas Public Service Commission. "Owner" further agrees to retain said cost records and accounts for inspection and audit for a period of not less than one (1) year from the date of final payment.

7. "Owner" shall be responsible for any and all hazards to persons, property, and traffic, and shall save the "Developer" harmless in all respects from any and all losses, damages, or injuries caused by any negligent act or omission by "Owner's" employees or agent performing work under this Agreement or future maintenance or servicing work on facilities constructed under this Agreement; and "Owner" shall, in completing said work, perform clean up and restoration of appearances of the work area including disposal of surplus materials and debris, so as not to leave the work area in an unsafe or unsightly condition.

8. If requested by "Owner" in writing, "Developer" shall make intermediate progress payments in amounts not exceeding ninety percent (90%) of eligible billed costs, and no more often than monthly intervals, for work hereunder upon receipt of statements in two (2) copies for periodic and unpaid costs, provided the herein estimated reimbursable amount is \$2,000.00 or more, and that no such intermediate payment shall be construed as final settlement for any item included in any intermediate billing.

9. "Owner" shall, within six (6) months after completion of the adjustment and acceptance thereof by the "Developer," prepare and submit to "Developer" a detailed complete (including intermediate billings, if any) and final bill in two (2) copies and covering the total cost for the adjustment of "Owner's" facilities.

10. The "Developer," upon receiving from "Owner" the final billing documents complete as listed next above, shall pay "Owner" for the eligible actual cost, less all prior payments, if any, for making the adjustments in "Owner's" facilities as agreed herein. "Developer" shall pay "Owner" within thirty (30) days after such billing documents are received. If "Developer" fails to pay within said time, the amount due shall bear interest at the rate of 10 percent per annum until paid. "Developer" shall have the right to inspect and audit the books of account of "Owner" during normal business hours of "Owner" at any time within the time limit set forth in Paragraph 6 to determine the correctness of "Owner's" billing. "Owner" agrees to refund any and all amounts paid in payments found in the audit to exceed the total amount eligible for work hereunder.

11. It is mutually agreed by the parties hereto that the provisions of this Agreement pertaining to relative property rights, right-of-way occupancy permission, access for servicing when applicable and joint use of rights of way shall continue in full force and effect from the date of execution, and shall be perpetually binding upon each party's legal representatives, successors or assigns.

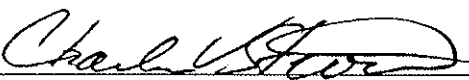
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by their duly authorized representatives the date first herein above written.

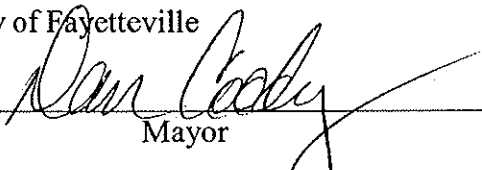
"OWNER"

"DEVELOPER"

ARKANSAS WESTERN GAS COMPANY

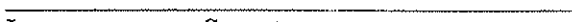
City of Fayetteville

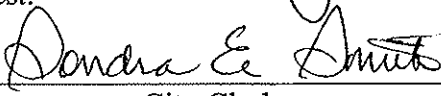

Its: Senior Vice-President

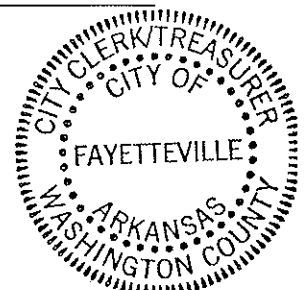

Its: Mayor

Attest:

Attest:


Its: Secretary


Its: City Clerk



City of Fayetteville Staff Review Form

A. 3
Dean Crowder
Construction, Inc.
Page 1 of 36

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

5/4/2010

City Council Meeting Date
Agenda Items Only

David Jurgens
Submitted By

Utilities Capital Projects
Division

Utilities
Department

Action Required:

Approval of a Construction contract with Dean Crowder Construction, Inc., for \$4,963,386.00, for the construction of Biosolids Management Solar Dryers WSIP Subproject BIO-1, Bid 10-23, and approval of a 3% contingency of \$150,000.00.

\$ 5,133,386

Cost of this request

\$ 11,309,875

Category / Project Budget

Biosolids Processing Phase I

Program Category / Project Name

4520.9530.5315.00

Account Number

\$ 2,486,434

Funds Used to Date

Wastewater Sys Imprv Project

Program / Project Category Name

02133.0600

Project Number

\$ 8,823,441

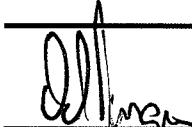
Remaining Balance

Water and Sewer

Fund Name

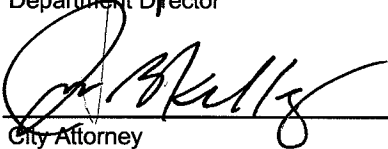
Budgeted Item ☒ XX

Budget Adjustment Attached ☐


Department Director

16 APR 10
Date

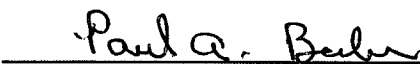
Previous Ordinance or Resolution #


City Attorney

4-21-10
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

4-21-2010
Date

Received in City
Clerk's Office




Chief of Staff

4-21-10
Date

Received in
Mayor's Office

Mayor

Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Fayetteville Water and Sewer Committee

Date: April 7, 2010

Subject: Construction contract with Dean Crowder Construction, Inc., for \$4,963,386.00, for the construction of Biosolids Management Solar Dryers WSIP Subproject BIO-1, Bid 10-23

RECOMMENDATION

City Administration recommends approval of a construction contract with Dean Crowder Construction, Inc., for \$4,963,386.00, for the construction of Biosolids Management Solar Dryers, WSIP subproject BIO-1, Bid 10-23, and approval of a 3% contingency of \$150,000.00.

BACKGROUND

The City currently hauls an average of 15 tractor trailer loads of biosolids weekly to either the Prairie View Landfill in Lamar, or the Ozark Ridge Landfill in Russellville. Fuel prices and tipping fees make the current landfill operation much more expensive than when selected in 2003. It also represents a waste of a potentially valuable biosolids product. Finally, there are several significant risks inherent in landfilling, as demonstrated by the American Environmental Landfill's sudden refusal to accept biosolids on 26 August, 2008.

The solar dryer units are expected to dry the material to a range of 40 – 70% solids, depending upon weather conditions. With this first phase of biosolids processing, we believe we can save a minimum of \$480,000 in the first twelve months. Additionally, we will investigate a number of possible beneficial reuses for the dried biosolids after the first batch is processed.

DISCUSSION

The Contract provides for the construction of six solar drying houses at the Noland farm site, to dry biosolids from both wastewater treatment plants. Upon installation, we will immediately begin drying biosolids in the houses and will stop hauling biosolids to landfills. After solar drying, we will be working the phase 2 portion of the work whereby the biosolids will be dried to over 90% solids. The City received 6 bids on April 7.

Contractor	Bid Price
Dean Crowder Const (low bid)	\$ 4,963,386
VEI General Contractor	\$ 5,349,600
Branco Enterprises	\$ 5,475,000
Crossland Heavy	\$ 5,499,726
Edwards Design & Const	\$ 5,499,998
Seven Valley's Concrete	\$ 5,536,846
Engineer's Estimate	\$ 5,500,000

Dean Crowder construction has successfully completed a variety of projects for the City in recent years.

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #10-23 AND APPROVING A CONTRACT WITH DEAN CROWDER CONSTRUCTION, INC. IN THE AMOUNT OF \$4,963,386.00 FOR CONSTRUCTION OF BIOSOLIDS MANAGEMENT SOLAR DRYERS, WSIP SUBPROJECT BIO-1, AND APPROVAL OF A \$150,000.00 CONTINGENCY

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 # 10-23 and approves a contract with Dean Crowder Construction, Inc. in the amount of \$4,963,386.00 for construction of biosolids management solar dryers, WSIP Subproject Bio-1. 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 project contingency in the amount of \$150,000.00.

PASSED and APPROVED this 4th day of May, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 10-23
DATE: 04/07/10
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 10-23, Construction of Biosolids Management - Solar Dryers

BIDDER	TOTAL BASE BID
1 Branco Enterprises, Inc.	\$5,475,000.00
2 Crossland Heavy Contractors, Inc.	\$5,449,726.00
3 Dean Crowder Construction, Inc.	\$4,963,386.00
4 Edwards Design & Construction, Inc.	\$5,499,998.98
5 Seven Valley's Concrete, LLC	\$5,536,846.00
6 VEI General Contractors	\$5,349,600.00

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

CERTIFIED:

A handwritten signature in black ink, appearing to read "P. Vice", written over a horizontal line.

P. VICE, PURCH MGR

A handwritten signature in black ink, appearing to read "J. Fourn", written over a horizontal line.

WITNESS

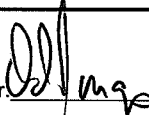
4/7/10

DATE

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

*All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)**All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us*

City Of Fayetteville - Purchase Order (PO) Request (Not a Purchase Order) <i>All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)</i> <i>All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us</i>						Requisition No.:	Date:		
						P.O Number:	5/5/2010	Expected Delivery Date:	
							ASAP		
Vendor #: 16506		Vendor Name: Dean Crowder Construction Inc.				Mail Yes: ☒ No: ☐			
Address: 804 SE 21st St				Fob Point: 1400 N 113 W Mountain Fayetteville, AR 72701		Taxable Yes: ☒ No: ☐		Quotes Attached Yes: ☐ No: ☒	
City: Bentonville		State: AR		Zip Code: 72712		Ship to code:		Division Head Approval: 	
Requester: David Jurgens				Requester's Employee #: 490		Extension: 330			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Biosolids Management - Solar Dryers Bid 10-23	1	ea	4,963,386.00	\$4,963,386.00	4520.9530.5315.00	02133.0600'		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				
Special Instructions:						Subtotal: <u>\$4,963,386.00</u> Tax: _____ Total: <u>\$4,963,386.00</u>			
Approvals: Mayor: _____ Finance & Internal Services Director: _____ Dispatch Manager: _____ Department Director:  _____ Budget Manager: _____ Utilities Manager: _____ Purchasing Manager: _____ IT Manager: _____ Other: _____									

PROJECT MANUAL

BIOSOLIDS MANAGEMENT SOLAR DRYERS



FAYETTEVILLE, ARKANSAS

PROJECT NO. BIO-1
02133.0600

MARCH, 2010





www.accessfayetteville.org

A. 3
Dean Crowder
THE CITY OF FAYETTEVILLE, ARKANSAS
UTILITIES DEPARTMENT
113 West Mountain
Fayetteville, AR 72701
P (479) 575-8330 F (479) 575-8257

March 31, 2010

**RE: Addendum Number 1
Biosolids Management - Solar Dryers
Fayetteville, AR**

All Prospective Bidders:

The following items shall be included as part of the bid package as Addendum Number 1.

1. One-half size Drawing Sheet 1 shall be replaced with Drawing Sheet 1R – Site Plan
2. One-half size Drawing Sheet EC2 – Sediment Control Plan
3. Two (2) 1" PVC conduits shall be supplied between the Automatic Transfer Switch and the Generator. The contractor shall supply and install the necessary wires for controlling the generator and a branch circuit for battery charging and a block heater.
4. Drawing Sheet 20 – Two 2", One 1-1/2", and One 1" SCH80 PVC conduits shall be supplied per chamber.
5. The Contractor shall be responsible for all interconnection wires, conduits, and sizing per National Electric Code.
6. The Contractor shall provide and install the 1000A, NEMA 3R, service rated, automatic transfer switch. Upon loss of line power, the transfer switch shall start the generator and switch power to the generator. Once line power is restored, the transfer switch shall switch back to line power and turn off the generator.
7. RLF-96 – DBE/MBE/WBE COMPLIANCE shall be added to the bid package. The evaluation form is not required to be submitted with the bids. However, the contractor who enters into an agreement for the work with the City shall be required to document any and all efforts to comply with DBE/MBE/WBE participation. The City of Fayetteville, Arkansas encourages all general contractors to subcontract portions of their contract to qualified small, minority, and women business enterprises as part of the Invitation to Bid.

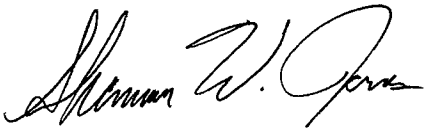
Full size drawing sheets shall be distributed with the contract documents upon award of the contract.

8. An electronic copy of the Stormwater Pollution Prevention Plan is included on the enclosed CD.

The following items are listed for clarification of the drawings and/or the specifications.

9. The power feed is owned by the City of Fayetteville, and will not be metered.
10. The City of Fayetteville shall supply and install the 450KVA pole mounted transformer. The Contractor shall be responsible for supplying the conduit and cable for the connection to the transformer. This shall include the necessary conduit and cable up the pole to the transformer.
11. Conduit #106 is for a fiber optic cable. The Contractor shall supply a pull line for this conduit. The City of Fayetteville will install the fiber optic cable.
12. The Contractor shall be responsible for the installation of all other mechanical and electrical equipment furnished by the manufacturer. The Contractor is encouraged to get clarification from all manufacturers for all items to be supplied/installed by manufacturers.

CITY OF FAYETTEVILLE



Shannon W. Jones, P.E.



www.accessfayetteville.org

April 2, 2010

**RE: Addendum Number 2
Biosolids Management - Solar Dryers
Fayetteville, AR**

All Prospective Bidders:

The following items shall be included as part of the bid package as Addendum Number 2. Both Addendum Number 1 and Addendum Number 2 shall be acknowledged in Section 00310 – Bid Proposal.

1. Drawing Sheet C1 – Concrete Details shall be replaced with Revised Drawing Sheet C1 – Concrete Details.

A full size drawing sheet shall be distributed with the contract documents upon award of the contract.

2. The interior floor slabs for the drying chambers shall be reinforced with #5s at 12" O.C. each way.
3. The unload ramp shall be reinforced with #5s at 12" O.C. each way.
4. Waterstop as indicated on the drawings shall be Greenstreak 701, or equal.
5. All concrete shall be reinforced as noted on the drawings. Minimum thickness of concrete shall be 6-inches. The 36' wide, 8-inch thick unreinforced concrete access drive is the only concrete that is not reinforced.
6. All rebar splice laps shall be 24-inches.

CITY OF FAYETTEVILLE

Shannon W. Jones, P.E.

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00212	Supplemental Information for Bidders	2
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00311	Bidder's Statement of Subcontractors	2
00312	Bid Bond	2
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00640	Warranty Bond	2
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00830	Prevailing Wage Rates	6
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END OF SECTION 00010

SECTION 00020

CITY OF FAYETTEVILLE

INVITATION TO BID

BID 10-23, BIOSOLIDS MANAGEMENT – SOLAR DRYERS

The City of Fayetteville will receive sealed bids for the construction of a Biosolids Management Facility. Work will include site grading, concrete work, installation of solar drying structures and equipment, driveway construction, electrical, and drainage structures.

Any questions concerning the bidding process should be addressed to Andrea Foren, at aforen@ci.fayetteville.ar.us or by calling (479)575-8220.

Bids must be submitted in a sealed envelope or package labeled "Bid 10-23, Biosolids Management – Solar Dryers". All bids shall be received on or before **2:00 PM on April 7th, 2010** to the address listed below:

City of Fayetteville
Purchasing – Room 306
113 West Mountain Street
Fayetteville, AR 72701

Bidding Documents may be examined at the Purchasing Office and at the following Plan Rooms:

Southern Reprographics
2905 Point Circle
Fayetteville, AR 72704
(479) 582-4022

NWA Planning Room
200 S. Bloomington – Suite G
Lowell, AR 72745
(479) 750-7704

Copies of the Bidding documents may be purchased through the Plan Rooms above in accordance with the Information for Bidders. Return of documents is not required, and amount paid for documents is not refundable. Partial sets are not available.

A non-mandatory pre-bid meeting will be held on **Thursday, March 25, 2010 at 11:00 AM** in Room 326 at City Hall, 113 W. Mountain, Fayetteville, AR 72701. All interested parties are strongly encouraged to attend.

Each Plan Holder shall register with the City of Fayetteville Purchasing Department as a plan holder. The City may issue addendums and/or clarifications prior to the bid opening. Failure to register with the City may prevent plan holders from receiving all necessary information.

The City will not be responsible for misdirected and/or incomplete bids. Bidders should call the Purchasing Office at (479) 575-8220 to insure receipt of their bid documents prior to opening time and date listed on the bid form.

Each Bid must be submitted on the prescribed form and accompanied by a certified check or bid bond executed on the prescribed form, payable to the City of Fayetteville, Arkansas in an amount not less than 5 percent of the amount bid.

For information concerning the proposed work, contact Shannon Jones, P. E. at shjones@ci.fayetteville.ar.us or by calling (479) 444-3452.

The attention of the Bidder is directed to the applicable federal and state requirements and conditions of employment to be observed and minimum wage rates to be paid under this contract.

“Pursuant to Arkansas Code Annotated 22-9-203, the City of Fayetteville, Arkansas encourages all qualified small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, the City of Fayetteville, Arkansas encourages all general contractors to subcontract portions of their contract to qualified small, minority, and women business enterprises.”

The Owner reserves the right to waive irregularities and to reject bids and to postpone the award of the Contract for a period of time which shall not exceed beyond 90 days from the bid opening date.

NOTICE TO ALL BIDDERS –
ALL BIDDERS SHALL REGISTER AS A PLAN HOLDER:

All vendors intending on bidding SHALL register as a plan holder by notifying Andrea Foren, Purchasing Agent, via e-mail at aforen@ci.fayetteville.ar.us. When registering as a plan holder, vendors shall submit primary contact information including name of contractor, primary contact, phone number, fax number, and physical address. **FAILURE TO REGISTER AS A PLAN HOLDER CAN RESULT IN YOUR BID BEING REJECTED.**

Bidder assumes all responsibility for receiving updates and any addenda issued to this project by monitoring www.accessfayetteville.org (Business section, Bid's RFP's & RFQ's). Failure to acknowledge addenda issued as instructed could result in rejection of such bid.

A non-mandatory pre-bid meeting will be held in Room 306 at City Hall, 113 W. Mountain, Fayetteville, AR on Thursday, March 25, 2010 at 11:00 AM.
All parties are strongly encouraged to attend.

The City of Fayetteville will answer any questions and update all registered plan holders.

CITY OF FAYETTEVILLE, ARKANSAS

By: Andrea Foren, Purchasing Agent

END OF SECTION 00020

SECTION 00100

INFORMATION FOR BIDDERS

1. DEFINED TERMS

- 1.1 Terms used in these Information for Bidders which are defined in the Standard General Conditions of the Construction Contract have the meanings assigned to them in the General Conditions. The term "Bidder" means one who submits a Bid directly to City of Fayetteville, as distinct from Sub-Bidder, who submits a Bid to a Bidder. The term "Successful Bidder" means the lowest, qualified, responsible and responsive Bidder to whom City of Fayetteville (on the basis of City of Fayetteville's evaluation as hereinafter provided) makes an award. The term "Bidding Documents" included the Advertisement or Invitation to Bid, Information for Bidders, the Bid Form, and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

2. COPIES OF BIDDING DOCUMENTS

- 2.1 Complete sets of Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement or Invitation to Bid may be obtained from the Plan Rooms. Deposit for Bidding Documents are non refundable.
- 2.2 Complete sets of Bidding Documents shall be used in preparing Bids; the City of Fayetteville does not assume any responsibility for errors or misinterpretations resulting from the use of the incomplete sets of Bidding Documents.
- 2.3 The City of Fayetteville in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

3. QUALIFICATIONS OF BIDDERS

- 3.1 Each Bid must contain evidence of Bidder's qualifications to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the Contract.
- 3.2 Qualifications shall be submitted in a separate sealed envelope at the date and time listed on the Bid Proposal. Refer to Section 00420 – Statement of Bidder's Qualifications.

4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- 4.1 It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c)

consider Federal, State and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work, (d) study and carefully correlate Bidder's observations with the Contract Documents, and (e) notify Engineer of all conflicts, errors or discrepancies in the Contract Documents.

- 4.2 In the preparation of Contract Documents, the Engineer has relied on the report of soil and subsurface investigation listed in the Supplemental Information For Bidders. A copy of this report is appended (If Provided). The report is not a part of the Contract Documents and is provided for informational purposes only. Neither the City of Fayetteville nor the engineer guarantees the accuracy of the report. The Bidder shall make further investigations and tests as the Bidder deems necessary in order to provide the Work at the Contract Price, within Contract Time, and in accordance with the terms and conditions of the Contract Documents.
-
- 4.3 Information and data reflected in the Contract Documents with respect to Underground Facilities at or contiguous to the site is based upon information and data furnished to the City of Fayetteville by owners of such Underground Facilities or others, and City of Fayetteville does not assume responsibility for the accuracy or completeness thereof, unless it is expressly provided otherwise in the Supplementary Conditions.
- 4.4 Provisions concerning responsibilities for the adequacy of data furnished to the prospective Bidders on subsurface conditions, Underground Facilities and other physical conditions, and possible changes in the Contract Documents due to differing conditions appear in Paragraph 4.2 and 4.3 of the General Conditions.
- 4.5 Before submitting a Bid, each Bidder will be responsible to make or obtain such explorations, tests and data concerning physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
- 4.6 On request in advance, City of Fayetteville will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations. A representative of the City of Fayetteville shall be present during all tests.
- 4.7 The lands upon which the Work is to be performed, rights of way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by City of Fayetteville.

5. INTERPRETATIONS AND ADDENDA

- 5.1 All questions about the meaning or intent of the Contract Documents are to be directed in writing to Engineer. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than ten (10) days prior to the date for opening of Bids may not be answered. Only questions answered by formal, written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 5.2 Prior to the deadline for receiving Bids, Addenda may also be issued to modify the Bidding Documents as deemed advisable by City of Fayetteville or Engineer.

6. BID SECURITY

- 6.1 Each Bid must be accompanied by Bid security made payable to City of Fayetteville in an amount of five (5) percent of the Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond (on form attached, if a form is prescribed), issued by a surety.
- 6.2 The Bid security of the Successful Bidder will be retained until Bidder has executed the Agreement and furnished the required Contract security, whereupon the Bid security will be returned. If the successful Bidder fails to execute and deliver the Agreement and furnish the required Contract security within ten (10) days after the Notice of Award, City of Fayetteville may annul the Notice of Award, and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom City of Fayetteville believes to have a reasonable chance of receiving the award may be retained by City of Fayetteville until the earlier of the seventh (7th) day after the Effective Date of the Agreement or the sixty-first (61st) day after the Bid opening, whereupon Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven (7) days after the Bid opening.

7. CONTRACT TIME

- 7.1 The number of days within which the Work is to be substantially completed and also completed and ready for final payment (the Contract Time) are set forth in the Agreement and these Contract Documents.

8. LIQUIDATED DAMAGES

8.1 Provisions for liquidated damages, if any, are set forth in the Agreement.

9. SUBSTITUTE OR "OR EQUAL" ITEMS

9.1 The Bid shall be based on the specified products or their approved equal described on the Drawings or written in the Specifications. Any product may be used which is specified by the referenced standards (such as ASTM) and which meets those standards. ~~For products which are specified by naming one or more manufacturers~~ preceded by "equal to" or followed by "or equal," a written request for substitution shall be submitted for approval by the Engineer. Such written requests will be considered up to ten (10) days prior to the scheduled Bid opening.

10. SUBCONTRACTORS, SUPPLIERS AND OTHERS

10.1 Subcontractors and suppliers shall be listed, if required, on the Bid Form.

11. BID FORM

11.1 The Bid Form is included with the Bidding Documents; additional copies may be obtained from Engineer.

11.2 All blanks on the Bid Form must be completed in ink or by typewriter.

11.3 Unit prices and lump sum amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern and the unit price will govern over the extended amount.

11.4 Bids by corporations must be executed in the corporate name by the president or a vice president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistance secretary. The corporate address and state of incorporation must be shown below the signature.

11.5 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

11.6 All names must be typed or printed below the signature.

11.7 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).

- 11.8 The address, telephone number, and fax number if applicable for communications regarding the Bid must be shown.

12. SUBMISSION OF BIDS

- 12.1 Bids shall be submitted at the time and place indicated in the Advertisement or Invitation to Bid. Bids shall be bound in the original project manual and shall be enclosed in an opaque sealed envelope, marked with the Project Title (and, if applicable, the designated position of the Project for which the Bid is submitted) and name, address, and contractor's license number of the Bidder, and accompanied by the Bid security and other required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.

13. MODIFICATION AND WITHDRAWAL OF BIDS

- 13.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.
- 13.2 If, within twenty-four (24) hours after Bids are opened, any Bidder files a duly-signed, written notice with the City of Fayetteville and promptly thereafter demonstrates to the reasonable satisfaction of City of Fayetteville that there was a material and substantial mistake in the preparation of its Bids, that Bidder may withdraw its Bid and the Bid security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

14. OPENING OF BIDS

- 14.1 Bids will be opened and (unless obviously non-responsible) read aloud publicly. An abstract of the amounts of the base Bids and major alternates (if any) will be made available to the Bidders after the opening of Bids. Bids will be returned without being read aloud if all applicable portions of the Contract Documents are not met by the Bidder.

15. BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 15.1 All Bids will remain subject to acceptance for sixty (60) days after the day of the Bid opening, but City of Fayetteville may, in its sole discretion, release any Bid and return the Bid security prior to that date.

16. AWARD OF CONTRACT

- 16.1 City of Fayetteville reserves the right to reject any and all Bids, to waive any and all informalities and to negotiate Contract terms with the Successful Bidder, and the right to disregard all nonconforming, nonresponsive, unbalanced or conditional Bids. Also, City of Fayetteville reserves the right to reject the Bid of any Bidder if City of Fayetteville believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by City of Fayetteville. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
-
- 16.2 In evaluating Bids, City of Fayetteville will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award. City of Fayetteville may accept any such alternatives in any order or combination, whether in the order in which they are listed in the Bid Form or not.
- 16.3 City of Fayetteville may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. City of Fayetteville also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- 16.4 City of Fayetteville may conduct such investigations as City of Fayetteville deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to City of Fayetteville's satisfaction within the prescribed time.
- 16.5 If the Contract is to be awarded, it will be awarded to the lowest Bidder whose evaluation by City of Fayetteville indicates to City of Fayetteville that the award will be in the best interest of the Project.
- 16.6 If the Contract is to be awarded, City of Fayetteville will give the successful Bidder a Notice of Award within ninety (90) days after the day of the Bid opening.

17. CONTRACT SECURITY

- 17.1 The General Conditions and the Supplementary Conditions set forth City of Fayetteville's requirements as to performance and payment Bonds and a Warranty Bond. When the successful Bidder delivers the executed Agreement to City of Fayetteville, it must be accompanied by the required performance and payment Bonds. At the time of Final Acceptance, the Contractor shall provide the City of Fayetteville the Warranty Bond.

18. SIGNING OF AGREEMENT

- 18.1 When City of Fayetteville gives a Notice of Award to the successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement and all other written Contract Documents attached. Within ten (10) days thereafter Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to City of Fayetteville with the required Bonds. Within ten (10) days thereafter, City of Fayetteville shall deliver one fully-signed counterpart to Contractor. Each counterpart is to be accompanied by a complete set of the Drawings with appropriate identification.

19. PRE-BID CONFERENCE

- 19.1 NONE

20. RETAINAGE

- 20.1 Provisions concerning retainage are set forth in the Agreement.

21. SPECIAL LEGAL REQUIREMENTS

- 21.1 Attention of Bidders is called to Act 150, Acts of Arkansas 1965, concerning the licensing of contractors to do business in Arkansas.
- 21.2 It is conclusively presumed that Bidders have familiarized themselves with Arkansas laws which may be applied to a Contract for the Work proposed herein as the aforementioned Acts are not exclusive. It is further conclusively presumed that Bidders have familiarized themselves with Federal and local laws, ordinances and regulations pertaining to the Work proposed herein.

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END OF SECTION 00100

SECTION 00212

SUPPLEMENTAL INFORMATION FOR BIDDERS

1. BIDDER'S FORMS

The BIDDER'S attention is called to the following additional forms which shall be filled out and submitted with the BID:

SECTION 00420 - STATEMENT OF BIDDER'S QUALIFICATIONS

BIDDER SHALL HAVE COMPLETED A MINIMUM OF THREE (3) PROJECTS OF SIMILAR SIZE AND SCOPE WITHIN THE PAST FIVE (5) YEARS.

2. SPECIAL CONDITIONS

The BIDDER'S attention is called to all Conditions relating to the Work of this Contract especially Document 00700 - General Conditions.

3. PRE-BID CONFERENCE

A Pre-bid conference will be held at the time, date & location shown below:

March 25, 2010 – 11:00 A.M. LOCAL TIME

City of Fayetteville
Room 326
113 West Mountain Street
Fayetteville, AR 72701

4. EXCESS ENGINEERING COSTS

A. General

Excess engineering costs shall be applicable only during the Contract Time provided in the Agreement.

B. Overtime

- i. The City of Fayetteville shall charge the Contractor for all engineering and construction observation expenses incurred by City of Fayetteville in connection with any overtime work. For any such overtime during the regular specified Contract Time beyond the regular eight hour day and for any time worked on Saturday, Sunday, or holidays.

- ii. These charges for excess engineering will be deducted from the Contractor's monthly payment request.
 - iii. The Contractor shall not work over a 10-hour day without written permission from the City of Fayetteville.
 - v. The Engineer shall determine when observation of construction activities beyond the regular eight-hour day is required.
-

END OF SECTION 00212

SECTION 00310

BID PROPOSAL

LOCATION: CITY OF FAYETTEVILLE, ROOM 306
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701
DATE: April 7, 2010, 2:00 p.m. LOCAL TIME

Proposal of: DEAN CROWDER CONSTRUCTION INC.

Address: 804 SE 121ST STREET
BENTONVILLE AR 72712

Bid For: BIOSOLIDS MANAGEMENT – SOLAR DRYERS

Bid Submitted to:

The City of Fayetteville
Purchasing – Room 306
113 W. Mountain
Fayetteville, AR 72701

BIDDER will complete the **Work** for the lump sum price listed below.

Total Base Bid:

<u>FOUR MILLION NINE HUNDRED SIXTY THREE</u>	
<u>THOUSAND THREE HUNDRED EIGHTY SIX & ^{NO}/₁₀₀</u>	<u>\$ 4,963,386.00</u>
Amount in Words	Figures

The undersigned **BIDDER** proposes and agrees, if this Bid is accepted, to enter into an **Agreement** with **CITY OF FAYETTEVILLE** in the form included in these **Contract Documents** to complete all **Work** as specified or indicated in the **Contract Documents** for the **Contract Price** and within the **Contract Time** indicated in these **Contract Documents**. **BIDDER** accepts the provisions of the

Agreement as to **Liquidated Damages** in the event of failure to complete the **Work** in the Contract Time specified.

BIDDER accepts all of the terms and conditions of the **Information for Bidders**, including without limitation those dealing with the disposition of **BID SECURITY**. This **Bid** will remain open for ninety (90) days after the day of **Bid Opening**. **BIDDER** will sign the **Agreement** required by these **Contract Documents** within ten (10) days after the date of **CITY OF FAYETTEVILLE'S Notice of Award**.

In submission of this **BID**, **BIDDER** represents, as more fully set forth in the **Agreement**, that **BIDDER** has examined all **CONTRACT DOCUMENTS** (including but not limited to **Advertisement, Invitation to Bid and the Information for Bidders**) and the following **ADDENDA: #1 Dated 3.31.2010 ; #2 Dated 4.2.2010**

Failure to list all necessary Agenda issued by the **OWNER** or the **ENGINEER** could mean the **BID** submitted by the **BIDDER** may be deemed unresponsive and not read publicly.

In submission of the **BID**, **BIDDER** represents, that they have examined the site and locality where the **Work** is to be performed, the legal requirements (Federal, State and Local Laws, Ordinances, Rules and Regulations) and the conditions affecting cost, progress or performance of the **Work** and has made such independent investigations as **BIDDER** deems necessary.

In submission of the **BID**, **BIDDER** represents, that this **BID** is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation. The **BIDDER** represents that they have not directly or indirectly induced or solicited any other **BIDDER** to submit a false or sham **BID**. The **BIDDER** represents that they have not solicited or induced any person, firm or corporation to refrain from bidding and have not sought by collusion to obtain for themselves any advantage over any other **BIDDER** or over the **CITY OF FAYETTEVILLE**.

All terms used in the **BID** are defined and have the meanings assigned to them in the **General Conditions** of these **Contract Documents**.

Attached to this **BID FORM** is the required Bid Security in the form of a Bid Bond or Certified Check in the amount of five (5) percent of the Total Bid Amount.

BIDDER submitting this **BID** is:

☒ A Corporation, incorporated in the State of ARKANSAS

☐ A Partnership, consisting of the following partners, whose full names are: _____

☐ An Individual whose full name is: _____

DEAN CROWDER CONSTRUCTION INC.
General Contractor (Firm Name)

[Signature] Jeff Wilson
Signed By

VICE PRESIDENT
Title

4.7.2010
Date

804 SE 21ST STREET
Address

BENTONVILLE AR 72712

479.273.5304
Telephone Number & Fax

0031610311
Contractor's License Number

SECTION 00311

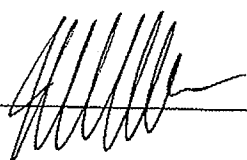
BIDDER'S STATEMENT OF SUBCONTRACTORS

The undersigned **BIDDER** proposes and agrees, if this **BID** is accepted, to use the following proposed subcontractors on this **Work**:

NAME	BUSINESS ADDRESS	WORK TO BE PERFORMED
1. <u>ROUGH BROTHERS INC.</u>	<u>4513 VINE STREET</u> <u>CINCINNATI, OHIO 45217</u>	<u>GREENHOUSE ERECTION</u>
2. <u>SKYLINE SERVICES</u>	<u>P.O. BOX 1760</u> <u>SPRINGDALE, AR 72765</u>	<u>ELECTRICAL</u>
3. <u>HESLIN CONCRETE</u>	<u>4051 N. OAK ST.</u> <u>SPRINGDALE, AR 72764</u>	<u>CONCRETE</u>
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____

The undersigned **BIDDER** agrees that sixty percent (60%) of the **Work** will be required to be performed with his own forces unless a variance is requested and granted from the **CITY OF FAYETTEVILLE**.

Date: 4.7.2010

Signed: 

SECTION 00312

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,
DEAN CROWDER CONSTRUCTION COMPANY, INC. as Principal, and
CINCINNATI INSURANCE COMPANY as Surety, are
hereby held and firmly bound unto the City of Fayetteville, hereinafter called the OWNER in the penal
sum of FIVE PERCENT (5%) OF TOTAL AMOUNT OF BID for payment of which, well
and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

The Condition of the above obligation is such that whereas the Principal has submitted to the
Owner a certain BID, attached hereto and hereby made a part hereof to enter into a contract in writing,
for Project No. BIO-1, BIOSOLIDS MANAGEMENT – SOLAR DRYERS

NOW, THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall
execute and deliver a contract in the Form of Contract attached hereto (properly
completed in accordance with said BID) and shall furnish a BOND for his faithful
performance of said contract, and for the payment of all persons performing labor or
furnishing materials in connection therewith, and shall in all other respects perform the
agreement created by the acceptance of said BID, then this obligation shall be void,
otherwise the same shall remain in force and effect; it being expressly understood and
agreed that the liability of the Surety for any and all claims hereunder shall, in no event,
exceed the penal amount of this obligation as herein stated.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Signed, this 7th day of APRIL, 2010.

Dean Crowder Construction, Inc.

(Principal)

Cincinnati Insurance Company

(Surety)

By:

Scott R. Clark
Attorney-in-Fact

END OF SECTION 00312

THE CINCINNATI INSURANCE COMPANY

Fairfield, Ohio

POWER OF ATTORNEY

A. 3
Dean Crowder
Construction, Inc.
Page 30 of 36

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY, a corporation organized under the laws of the State of Ohio, and having its principal office in the City of Fairfield, Ohio, does hereby constitute and appoint

Marty C. Clark; Sam B. Hiller; Larry R. Clark; Scott R. Clark;
Janice A. Butler; Becky Tipton and/or Lynne Stinson

of Fort Smith, Arkansas

and deliver on its behalf as Surety, and as its act and deed, any and all bonds, policies, undertakings, or other like instruments, as follows:

Any such obligations in the United States, up to
Twenty Million and No/100 Dollars (\$20,000,000.00).

This appointment is made under and by authority of the following resolution passed by the Board of Directors of said Company at a meeting held in the principal office of the Company, a quorum being present and voting, on the 6th day of December, 1958, which resolution is still in effect:

"RESOLVED, that the President or any Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 7th day of December, 1973.

"RESOLVED, that the signature of the President or a Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

IN WITNESS WHEREOF, THE CINCINNATI INSURANCE COMPANY has caused these presents to be sealed with its corporate seal, duly attested by its Vice President this 10th day of October, 2008.



STATE OF OHIO
COUNTY OF BUTLER

) ss:
)

THE CINCINNATI INSURANCE COMPANY

Thomas H. Kelly
Vice President

On this 10th day of October, 2008, before me came the above-named Vice President of THE CINCINNATI INSURANCE COMPANY, to me personally known to be the officer described herein, and acknowledged that the seal affixed to the preceding instrument is the corporate seal of said Company and the corporate seal and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporation.



Mark J. Huller
MARK J. HULLER, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO

My commission has no expiration
date. Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Secretary of THE CINCINNATI INSURANCE COMPANY, hereby certify that the above is a true and correct copy of the Original Power of Attorney issued by said Company, and do hereby further certify that the said Power of Attorney is still in full force and effect.

GIVEN under my hand and seal of said Company at Fairfield, Ohio.

this

7th day of April 2010



Gregory J. Schlemmer
Secretary

SECTION 00420

STATEMENT OF BIDDER'S QUALIFICATIONS

All requests must be addressed in writing and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The BIDDER may submit any additional information he/she desires.

A. REQUESTS REGARDING BIDDER

1. Name of Bidder.
2. Permanent main office address.
3. When organized.
4. If a corporation, where incorporated.
5. How many years have you been engaged in the contracting business under your present firm or trade name?
6. Contracts on hand: (Schedule these, showing amount of each contract and the anticipated dates of completion.)
7. General character of work performed by your company.
8. Have you ever failed to complete any work awarded to you. (If so, where and why?)
9. Have you ever defaulted on a contract ? (If so, where and why?)
10. List similar project of the size and magnitude of this Project which were completed by your company, stating the cost for each and the month and year completed. Include the entity for which the work was performed with names, titles, and phone numbers.
11. List your major equipment currently available for this contract and designate whether owned or leased.
12. Background and experience of field personnel currently employed by your organization who will perform the work.
13. Background and experience of the principal members (officers) of your organization. Include president, vice president, secretary, treasurer, etc.
14. Give Bank reference.
15. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the OWNER.
16. Give bonding agent and limit.
17. If subcontractor is to be used for this contract, state the percentage of work anticipated to be completed by subcontractor. If subcontractor is to perform work, a separate Statement of Bidder's Qualifications regarding subcontractor and the method used by the subcontractor. Refer to Section 00100 & Section 00311.

Submit this notarized Statement of Bidders Qualifications to the Engineer. Qualifications shall be submitted in a separate sealed envelope at the date and time listed on the Bid Proposal.

(Name of Bidder)

By: _____

Title: _____

State of _____

County of _____

_____ being duly sworn deposes and says that he is _____
_____ of _____

and that the answers to the foregoing questions and all statements therein contained are true and correct.

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public

My Commission expires _____
_____, 20

END OF SECTION 00420

SECTION 00500

AGREEMENT BETWEEN
CITY OF FAYETTEVILLE AND DEAN CROWDER CONSTRUCTION, INC.

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2010 by and between the **CITY OF FAYETTEVILLE** and **DEAN CROWDER CONSTRUCTION, INC.**

1. The **DEAN CROWDER CONSTRUCTION, INC.** shall commence and complete all Work as specified or indicated in the Contract Documents. The **WORK** is generally described as follows:

BIOSOLIDS MANAGEMENT – SOLAR DRYERS

2. The **DEAN CROWDER CONSTRUCTION, INC.** shall furnish all materials, supplies, tools, equipment, labor and other service necessary for the completion of the **WORK** described herein.
3. The **DEAN CROWDER CONSTRUCTION, INC.** shall commence the **WORK** required by the **CONTRACT DOCUMENTS** on or before a date to be specified in the **NOTICE TO PROCEED** and completed and ready for final payment within **240** calendar days. **DEAN CROWDER CONSTRUCTION, INC.** shall pay the **CITY OF FAYETTEVILLE**, as liquidated damages, the sum of **\$1000** for each calendar day thereafter that the **WORK** is not complete.
4. The **DEAN CROWDER CONSTRUCTION, INC.** agrees to perform all of the **WORK** described in the **CONTRACT DOCUMENTS** and comply with the terms therein as shown in the **BID PROPOSAL**.
5. The term **CONTRACT DOCUMENTS** shall mean and include the following:
 - 5.1 Invitation to Bid
 - 5.2 Information for Bidders
 - 5.3 Supplemental Information for Bidders
 - 5.4 Bid Proposal
 - 5.5 Bid Bond
 - 5.6 Agreement Between City of Fayetteville and DEAN CROWDER CONSTRUCTION, INC.
 - 5.7 Performance and Payment Bond
 - 5.10 General Conditions
 - 5.13 Prevailing Wage Rates
 - 5.14 Notice of Award
 - 5.15 Notice to Proceed
 - 5.16 Project Manual for Biosolids Management – Solar Dryers
 - 5.18 Addenda Numbers 1 to 2.

5.19 Change Orders

6. The **CITY OF FAYETTEVILLE** shall pay **DEAN CROWDER CONSTRUCTION, INC.** in the manner and at such times as set forth in the General Conditions such amounts as required by the **CONTRACT DOCUMENTS**.
 7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
 8. **MISCELLANEOUS**
-

- 8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
- 8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 8.3. City of Fayetteville and DEAN CROWDER CONSTRUCTION, INC. each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.
- 8.5. 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.
- 8.6. **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, DEAN CROWDER CONSTRUCTION, INC. 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 photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7. This contract must be interpreted under Arkansas Law.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and DEAN CROWDER CONSTRUCTION, INC. have signed this Agreement in triplicate. One counterpart each has been delivered to City of Fayetteville and Engineer, and one counterpart has been delivered to DEAN CROWDER CONSTRUCTION, INC. All portions of the Contract Documents have been signed, initialed, or identified by City of Fayetteville and DEAN CROWDER CONSTRUCTION, INC. or identified by Engineer on their behalf.

OWNER

CONTRACTOR

CITY OF FAYETTEVILLE

DEAN CROWDER CONSTRUCTION, INC.

BY _____
Mayor Lioneld Jordan

BY _____

(Print Name)

[CORPORATE SEAL]

[CORPORATE SEAL]

ATTEST _____

ATTEST _____

Address for giving notices:

113 W. Mountain
Fayetteville, AR 72701

Address for giving notices:

804 SE 21st Street
Bentonville, AR 72712

License No. 0031610311

(If **DEAN CROWDER CONSTRUCTION, INC.** is a corporation, attach evidence of authority to sign.)

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END OF SECTION 00500

City of Fayetteville Staff Review Form

A. 4
Williams Tractor Bid #10-22
Page 1 of 6

City Council Agenda Items
and
Contracts, Leases or Agreements

5/4/2010

City Council Meeting Date
Agenda Items Only

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding Bid #10-22 to Williams Tractor in the amount of \$69,200 (less trade-in of \$30,009 for a total cost to the City of \$39,191) for the purchase of a 4WD New Holland T6050 Plus Diesel Tractor for use by the Airport to mow grass around the runways.

\$ 69,200.00
Cost of this request

\$ 117,464.00
Category / Project Budget

Tractors / Mowers
Program Category / Project Name

9700.1920.5802.00
Account Number

\$ 80.00
Funds Used to Date

Vehicles and Equipment
Program / Project Category Name

02083.2010
Project Number

\$ 117,384.00
Remaining Balance

Shop Fund
Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐

Tony J. Gully
Department Director

4-9-10
Date

Previous Ordinance or Resolution #

Chris McKelvey
City Attorney

4-13-10
Date

Original Contract Date:

Original Contract Number:

Paul A. Bala
Finance and Internal Services Director

4-13-2010
Date

Received in City
Clerk's Office

ENTERED
4-13-10

Kim G

Don Man
Chief of Staff

4-14-10
Date

Received in
Mayor's Office

ENTERED
4/14/10

Donald Jordan
Mayor

4/15/10
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation *9/2/10*

From: Dennis Pratt, Fleet Operations Supt.

Date: April 9, 2010

Subject: Purchase of one Tractor

PROPOSAL: Bid 10-22 was opened on March 12, 2010 for one 4WD Diesel Tractor. Four bid responses were received. A detailed tabulation sheet is attached. The lowest bid from Williams Tractor does NOT meet specs. The second lowest bid from Williams Tractor meets all specifications.

This unit is for use by the Airport to mow the grass around the runways; Federal Aviation rules govern maintenance of the grass areas. It is a replacement for unit #557, a 13 year old tractor that is worn out.

This purchase was approved by the Equipment Committee on March 30, 2010.

RECOMMENDATION: I recommend acceptance of the low bid that meets specs from Williams Tractor in the amount of \$69,200 less trade in on old unit of \$30,009 for a total cost to the city of \$39,191.

BUDGET IMPACT: The only budget impact is an extra \$1.00 per month for insurance costs.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #10-22 AND APPROVING THE PURCHASE OF ONE (1) FOUR-WHEEL DRIVE NEW HOLLAND T6050 PLUS DIESEL TRACTOR FROM WILLIAMS TRACTOR, INC. IN THE NET AMOUNT OF \$39,191.00 AFTER TRADE-IN, FOR USE BY THE FAYETTEVILLE EXECUTIVE AIRPORT-DRAKE FIELD

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 #10-22 and approves the purchase of one (1) four-wheel drive New Holland T6050 Plus diesel tractor from Williams Tractor, Inc. in the net amount of \$39,191.00 after trade in, for use by the Fayetteville Executive Airport-Drake Field.

PASSED and APPROVED this 4th day of May, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 10-22
DATE: 03/12/10
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 10-22, 4WD Diesel Tractor

BIDDER	MANUFACTURER	MODEL	TOTAL PRICE	OPTIONAL: Trade-in allowance	TOTAL BID PRICE
1 Countryside Farm & Lawn	John Deere	7230	\$68,410.00	\$28,500.00	\$39,910.00
2 Larson Farm and Lawn	John Deere	7230	\$69,390.00	None	\$69,390.00
3 Williams Tractor, Inc. - OPT 1	New Holland	T6050 Plus	\$69,200.00	\$30,009.00	\$39,191.00
4 Williams Tractor, Inc. - OPT 2	New Holland	T6050 Delta	\$61,500.00	\$30,009.00	\$31,491.00

DOES
NOT
MEET
SPECS

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

CERTIFIED:

P Vice

P. VICE, PURCH MGR

[Signature]

WITNESS

03/12/10

DATE

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

*All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)
All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us*

Requisition No.:
Date: A. 4
Williams Tractor Bid #10-22
P.O Number:
Expected Delivery Date:

Vendor #: 11133 Vendor Name: WILLIAMS TRACTOR Mail Yes: No: X

Address: Fob Point: Taxable Yes: No: X Quotes Attached Yes: No:

City: State: Zip Code: Ship to code: 50 Division Head Approval: Extension: 485

Requester: BARBARA OLSEN Requester's Employee #: 1940

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	NEW HOLLAND T6050 PLUS 4WD TRACTOR	1	EA	69,200.00	\$69,200.00	9700.1920.5802.00	02083.2010		705016
2	PER BID #10-22. TO BE UNIT #5016, FIXED				\$0.00				
3	ASSET #705016				\$0.00				
4	TRADE IN UNIT 557	1		-30,009.00	-\$30,009.00	9700.0970.6881.02			
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: \$39,191.00
Tax: EXEMPT
Total: \$39,191.00

Approvals:
Mayor: Department Director: Purchasing Manager:
Finance & Internal Services Director: Budget Manager: IT Manager:
Dispatch Manager: Utilities Manager: Other:

City Council Agenda Items
and
Contracts, Leases or Agreements

4/20/2010

City Council Meeting Date
Agenda Items Only

Kevin Springer

Submitted By

Budget & Research

Division

Finance & Internal Services

Department

Action Required:

Approve a resolution adopting the Proposed 2010-2014 Five Year Capital Improvements Plan.

N/A

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 Services Director

Date

Received in City
Clerk's Office

Chief of Staff

Date

Received in
Mayor's Office

Mayor

Date

Comments:

TO: Mayor Jordan and City Council

THRU: Don Marr, Chief of Staff

FROM: Paul A. Becker, Finance Director *PAB*
Kevin Springer, Budget Director *[Signature]*

DATE: April 1, 2010

SUBJECT: **Proposed 2010-2014 Five Year Capital Improvements Program**

Recommendation:

Consider the Proposed 2010-2014 Five Year Capital Improvements Plan for adoption at the April 20, 2010 City Council meeting.

Discussion:

The Proposed 2010-2014 Five Year Capital Improvements Plan will be distributed to City Council on April 9, 2010.

It is anticipated that a special City Council working session will be scheduled for consideration of the 2010-2014 Five Year Capital Program at the April 13, 2010 agenda session.

If you have any questions concerning the Proposed 2010-2014 Five Year Capital Improvements Plan, please feel free to contact either Paul A. Becker at 575-8330 or Kevin Springer at 575-8226. Thank you for your attention to this matter.

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE 2010-2014 FIVE YEAR
CAPITAL IMPROVEMENT PLAN**

**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 adopts the 2010-2014 Five Year Capital Improvement Plan, a copy of which is attached to this Resolution and incorporated herein as if set out word for word.

PASSED and APPROVED this 20th day of April, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City Council Agenda Items
and
Contracts, Leases or Agreements

5/4/2010

City Council Meeting Date
Agenda Items OnlyAndrew Garner
Submitted ByPlanning
DivisionDevelopment Services
Department

Action Required:

VAC 10-3539: (Laura McKinnon, 445): Submitted by Jorgensen and Associates for property located along the eastern property line of 740 Lollar Lane. The property is zoned R-O, Residential Office. The request is to vacate a portion of a 15-foot alley that runs from College Avenue to the subject property.

_____	\$ _____	_____
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 ☐

Jerry C. Bate 04-14-2010
Department Director Date

Previous Ordinance or Resolution # _____

[Signature] 4-15-2010
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Barker 4-15-2010
Finance and Internal Services Director Date

Received in City
Clerk's Office

ENTERED
4/14/10
Kum D

Don Man 4-16-10
Chief of Staff Date

Received in
Mayor's Office

ENTERED
4/15/10
RHS

[Signature] 4/16/10
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Development Services Director 

From: Andrew Garner, Senior Planner

Date: April 13, 2010

Subject: VAC 10-3539 (740 Lollar Lane Alley Vacation)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating an alley on the subject property containing approximately 1,875 square feet.

BACKGROUND

The subject property is located at 740 Lollar Lane. There is a 15-foot wide alley that runs from College Avenue, continuing west and north along the east property line of 740 Lollar Lane. The alley originally connected College Avenue to Prospect Street but was vacated by City Council in 1997 (Ordinance No. 4060) and now ends at the applicant's property. The applicant owns the property on the east and west sides of the alley. The applicant's request is to vacate a portion (1,875 square feet) of this alley that bisects their property.

DISCUSSION

The applicant has submitted the required notification forms to the utility companies and to the City water, sewer, engineering, solid waste, and transportation divisions with no objections to the vacation of the alley. On April 12, 2010 the Planning Commission unanimously forwarded this request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 10-3539 SUBMITTED BY JORGENSEN AND ASSOCIATES FOR PROPERTY LOCATED ALONG THE EASTERN PROPERTY LINE OF 740 LOLLAR LANE TO VACATE A PORTION OF A 15-FOOT ALLEY THAT RUNS FROM COLLEGE AVENUE TO THE SUBJECT PROPERTY, A TOTAL OF 1,875 SQUARE FEET.

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described 15-foot alley is not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described in Exhibit B (attached).

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached and labeled Exhibit A shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follow, and shall not be in effect until this condition is met herein.

- I. Any relocation of existing utilities shall be at the owner/developer's expense.

PASSED and APPROVED this day of , 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

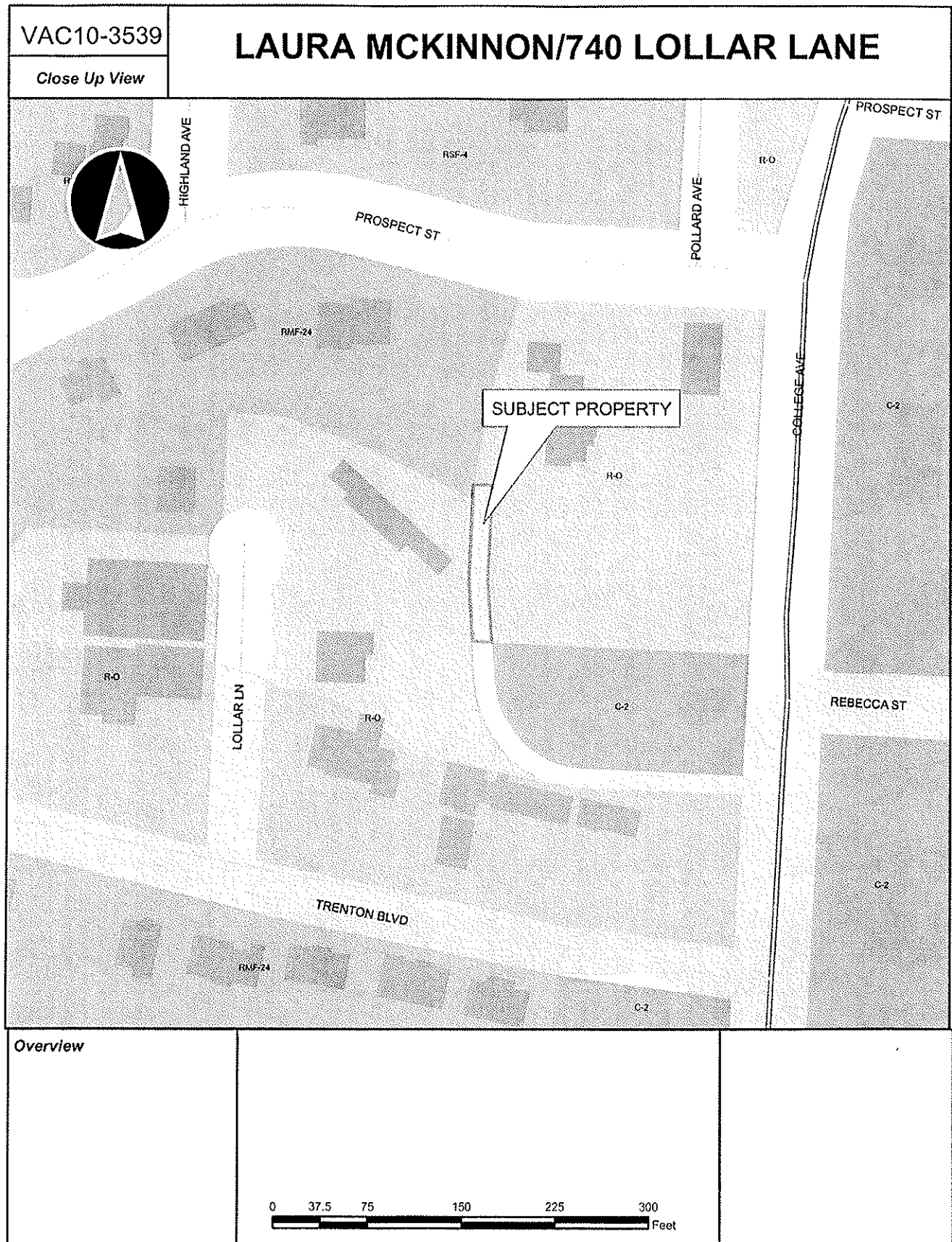


EXHIBIT "B"
VAC 10-3539

BEGINNING AT THE NW CORNER OF SAID LOT 3, THENCE SOUTH 125'
ALONG THE WEST LINE OF SAID LOTS 3 AND 4 THENCE WEST 15' THENCE NORTH
125' MORE OR LESS THENCE EAST 15' TO THE P.O.B.; CONTAINING 1875 SF MORE
OR LESS.



PC Meeting of April 12, 2010

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
THRU: Jeremy Pate, Development Services Director
DATE: ~~April 7, 2010~~ Updated April 13, 2010

VAC 10-3539: Vacation: (LAURA MCKINNON/740 LOLLAR LANE, 445):
Submitted by JORGENSEN & ASSOC for property located ALONG THE EASTERN PROPERTY LINE OF 740 LOLLAR LANE. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.04 acres. The request is to vacate a portion of a 15' alley that runs from College Avenue to the subject property

Planner: Andrew Garner

Findings:

Property Description: The subject property is located at 740 Lollar Lane. There is a 15-foot wide alley that runs from College Avenue, continuing west and north along the east property line of 740 Lollar Lane. The alley originally connected College Avenue to Prospect Street but was vacated by City Council in 1997 (Ordinance No. 4060) and now ends at the applicant's property. The applicant owns the property on the east and west sides of the alley.

SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Single-family	RMF-24; R-O
South	Multi-family	RSF-4
East	Undeveloped	RSF-4
West	Office	R-O

Request: The applicant's request is to vacate a portion (1,875 square feet) of an alley that bisects and dead-ends at the applicant's property.

The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

Ozarks Electric

Cox Communications

RESPONSE

No Objections

No Objections

Southwestern Electric Power Company No Objections

Arkansas Western Gas No Objections

AT&T No Objections

<u>CITY OF FAYETTEVILLE:</u>	<u>RESPONSE</u>
-------------------------------------	------------------------

Water/Sewer	No Objections
-------------	---------------

Transportation	No Objections
----------------	---------------

Solid Waste	No Objections
-------------	---------------

Engineering	No Objections
-------------	---------------

Public Comment: No public comment has been received. All affected adjacent property owner have submitted written verification of not object to the vacation of the alley.

Recommendation: Finding that adequate access exists to serve the existing properties and vacation of the subject portion of alley will have no adverse impacts, staff recommends forwarding **VAC 10-3539** to the City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. Any relocation of existing utilities shall be at the owner/developer's expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: April 12, 2010

Motion: Cabe

Second: Earnest

Vote: 7-0-1 (Lack recused)

Note: On consent agenda.



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

C. 1
VAC 10-3539 (Laura McKinnon)
Page 8 of 26

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
JUSTIN L. JORGENSEN, P.E.
BLAKE E. JORGENSEN, P.E.

2/16/10

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Planning
Re: McKinnon Alley Vacation

Attached please find information pertaining to the alley vacation for McKinnon. This is a 15' alley that will be vacated between the two properties owned by McKinnon.

Please call concerning any questions you may have.

Thank you.

Sincerely;



David L. Jorgensen, P.E.

03/15/2010 10:53 FAX

Petition to vacate a 15' alley west of lot 3 and 4 of BL 17 of A.L. Trent's Revised Plat of City Park Addition, City of Fayetteville, Arkansas

To: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of real estate abutting a 15' alley hereinafter sought to be abandoned and vacated, located west of lot 3 and 4 of BL 17 of A.L. Trent's Revised Plat of City Park Addition, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate said 15' alley being described as follows:

LEGAL DESCRIPTION

Beginning at the NW Corner of said Lot 3, thence South 125' along the west line of said lots 3 and 4 thence west 15' thence north 125' more or less thence east 15' to the P.O.B.; containing 1875 SF more or less.

That the abutting real estate affected by said abandonment of said 15' alley and that the public interest and welfare would not be adversely affected by the abandonment of the above described alley.

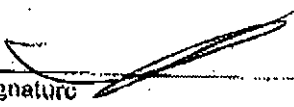
The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, and that the above describe real estate be used for their respective benefit and purpose as not approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

Whereof, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate.

Dated this 15 day of Mar 2010

LAURA MCKINNON
Printed name

Signature 

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: _____

Utility Company: DEAR'S ELECTRIC

Applicant Name: LAURA MCKINNON Applicant Phone: _____

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

M. J. Rupp
Signature of Utility Company Representative

System STAKING TECH
Title

**UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: _____

Utility Company: AEP

Applicant Name: Laura McKinnon Applicant Phone: _____

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Pam Sargent

Signature of Utility Company Representative

ENGINEER I

Title

UTILITY APPROVAL FORM FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

ATT

Date: _____

Utility Company: SBCApplicant Name: Laura McKinnon

Applicant Phone: _____

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

✓ No objections provided the following conditions are met:
Relocation of or damage to any existing
facilities will be at the owner/developers
expense

Susan K Clouser 01/26/2010
 Signature of Utility Company Representative

OSP DESIGN ENGINEER
 Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: 1/21/2010

Utility Company: Cox

Applicant Name: Laura McKinnon Applicant Phone:

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

ANY DAMAGE OR RELOCATION OF EXISTING FACILITIES WILL BE AT THE OWNER'S
EXPENSE.


Signature of Utility Company Representative

FIELD ENGINEER

Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: _____

Utility Company: AWG

Applicant Name: LAURA McKinnon Applicant Phone: ---

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Randy Drake
Signature of Utility Company Representative

Construction Coordinator
Title

01/12/2010 14:34 FAX

C. 1
VAC 10-3539 (Laura McKinnon)
Page 15 of 26UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDate: 1-13-10Utility Company: FAYETTEVILLE SOLID WASTEApplicant Name: LAURA MCKINNON Applicant Phone:

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:
General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Brian Pugh

Signature of Utility Company Representative

Waste Reduction Coordinator

Title

**UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 2-26-10
 Utility Company: FAYETTEVILLE WATER & SEWER
 Applicant Name: LAURA MCKINNON Applicant Phone:

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☒ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

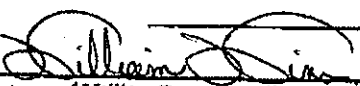
General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

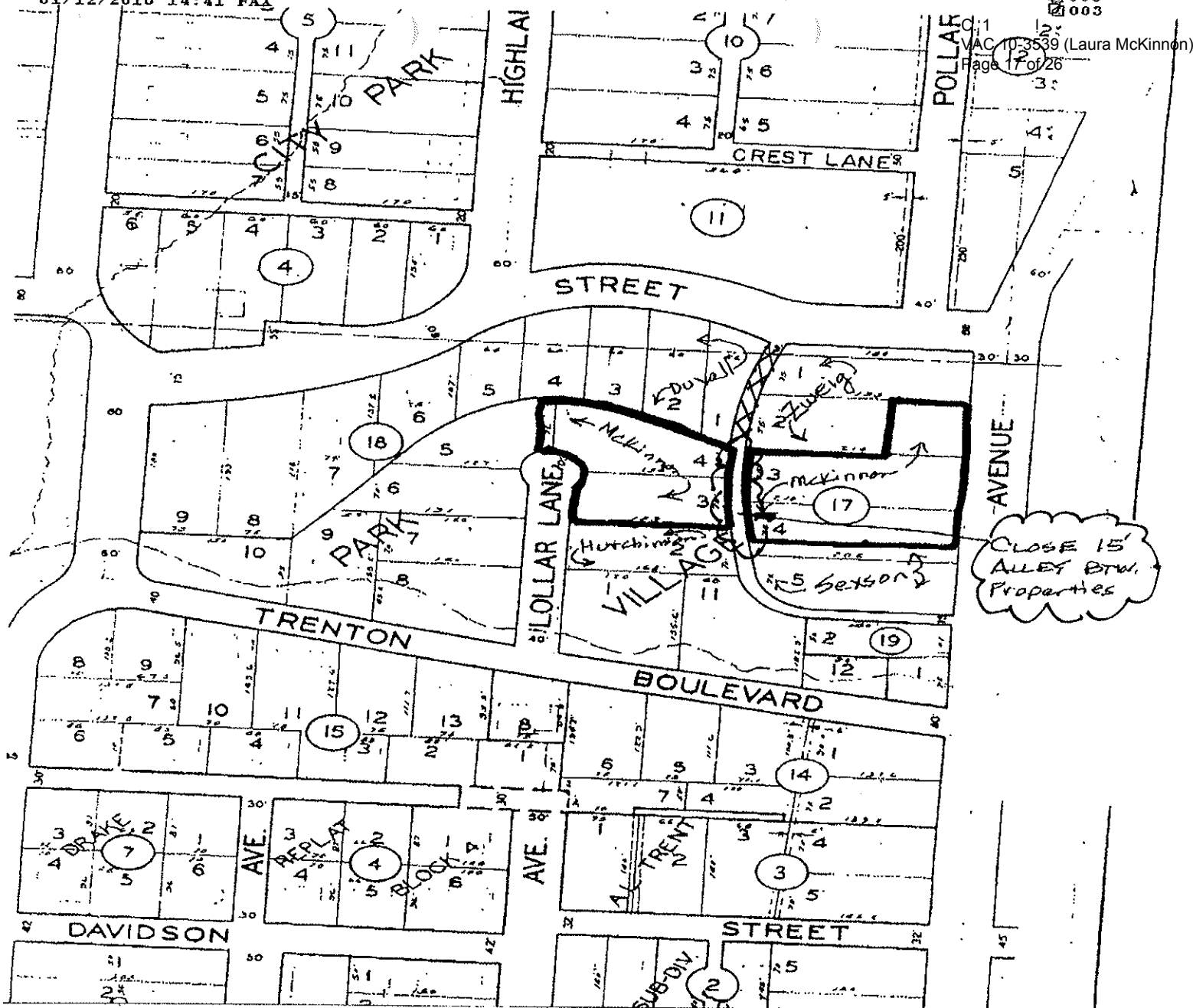
UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:


 Signature of Utility Company Representative

OPERATIONS MANAGER WATER & SEWER DIVISION
 Title



01/12/2010 14:41 FAX

0002

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

Date: _____

Utility Company: _____

FAYETTEVILLE TRANSPORTATION (STREETS)

Applicant Name: LAURA MCKINNON

Applicant Phone: _____

REQUESTED VACATION (applicant must check all that apply):

☐

Utility Easement

☐

Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.

☒

Alley

☐

Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

UTILITY COMPANY COMMENT

C. 1
VAC 10-3539 (Laura McKinnon)
Page 18 of 26



No objections to the vacation(s) described above.



No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:


Signature of Utility Company Representative

Asst. Transportation Mgr.
Title

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY AND
EASEMENT VACATION REQUESTS

Date: _____

Address/Location of vacation: SEE ATTACHED

Adjacent property address: 701 N. College Ave.

Lot: _____

Block: _____

Subdivision: _____

REQUESTED VACATION:

I have been notified of the petition to vacate the following alley, easement, right-of-way), described as follows:
(Include legal description and graphic representation of what is being vacated)
SEE ATTACHED

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Keith Saxon & Delta Annesse Family Trust Delta Sheffield
Name of Adjacent Property Owner (printed)

Osborne Attorney for Delta Sheffield, Sole Owner
Signature of Adjacent Property Owner

Laura McKinnon
Applicant Name

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY (ALLEY) AND
EASEMENT VACATION REQUESTS

Date: _____

Address/Location of vacation: _____

Adjacent property address: SEE ATTACHED
672 N. Lollar Ln.

Lot: _____

Block: _____

Subdivision: _____

REQUESTED VACATION:

I have been notified of the petition to vacate the following (alley) easement, right-of-way, described as follows:
(Include legal description and graphic representation of what is being vacated)

SEE ATTACHED

ADJACENT PROPERTY OWNERS COMMENTS:

☐

I have been notified of the requested vacation and decline to comment.

☒

I do not object to the vacation described above.

JK February 1, 2010☐

I do object to the requested vacation because:

Dorothea H. Hutchinson

Name of Adjacent Property Owner (printed)

Dorothea H. Hutchinson

Signature of Adjacent Property Owner

Laura McKinnon

Applicant Name

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY AND
EASEMENT VACATION REQUESTS

Date: 1.29.10
Address/Location of vacation: SEE ATTACHED
Adjacent property address: 59 E. Prospect Str.
Lot: _____
Block: _____
Subdivision: _____

REQUESTED VACATION:

I have been notified of the petition to vacate the following alley easement, right-of-way), described as follows:
(Include legal description and graphic representation of what is being vacated)
SEE ATTACHED

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
☒ I do not object to the vacation described above.
☐ I do object to the requested vacation because:

Mark Z. Weig
Name of Adjacent Property Owner (printed)

[Signature]
Signature of Adjacent Property Owner

Laura McKinnon
Applicant Name

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY AND
EASEMENT VACATION REQUESTS

Date: 1-14-10
Address/Location of vacation: SEE ATTACHED
Adjacent property address: 17 E. Prospect Str.
Lot: 1, 2, 3 & PART OF 4
Block: 18
Subdivision: ADD - A.C. TRENT REV

REQUESTED VACATION:

I have been notified of the petition to vacate the following alley (easement, right-of-way), described as follows:
(Include legal description and graphic representation of what is being vacated)
SEE ATTACHED

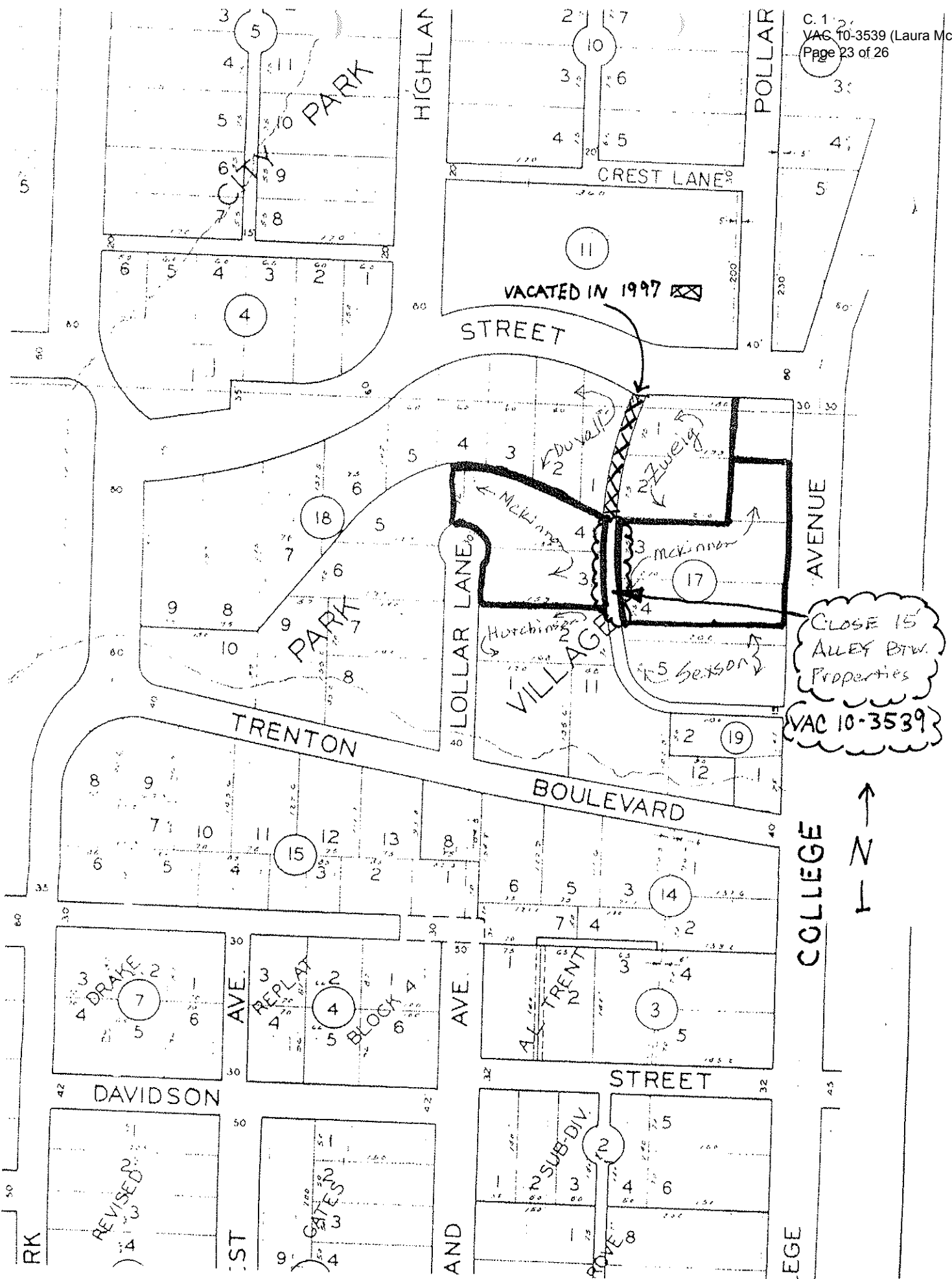
ADJACENT PROPERTY OWNERS COMMENTS:

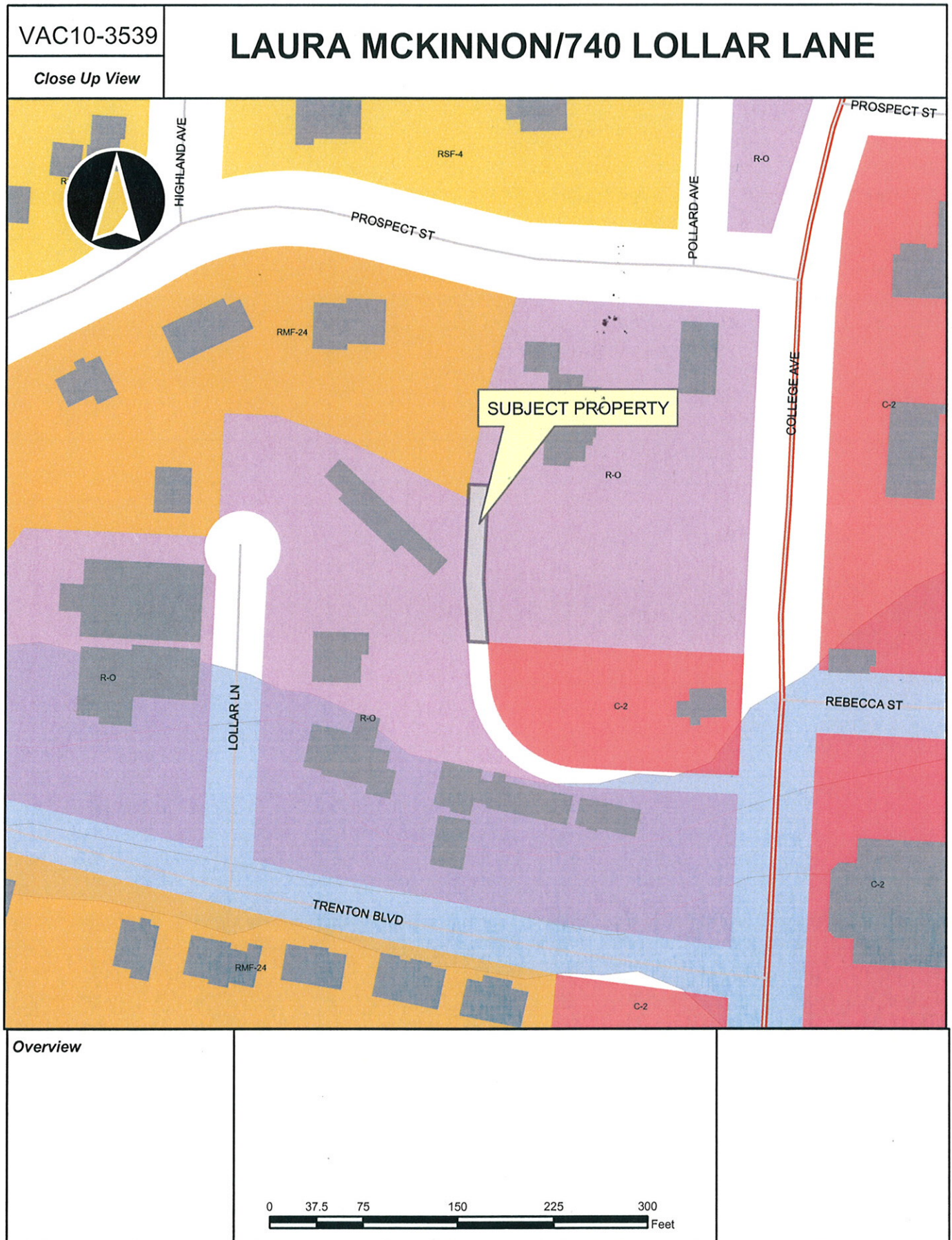
- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Roud L. Duvall
Name of Adjacent Property Owner (printed)

Roud L. Duvall
Signature of Adjacent Property Owner

Laura McKinnon
Applicant Name



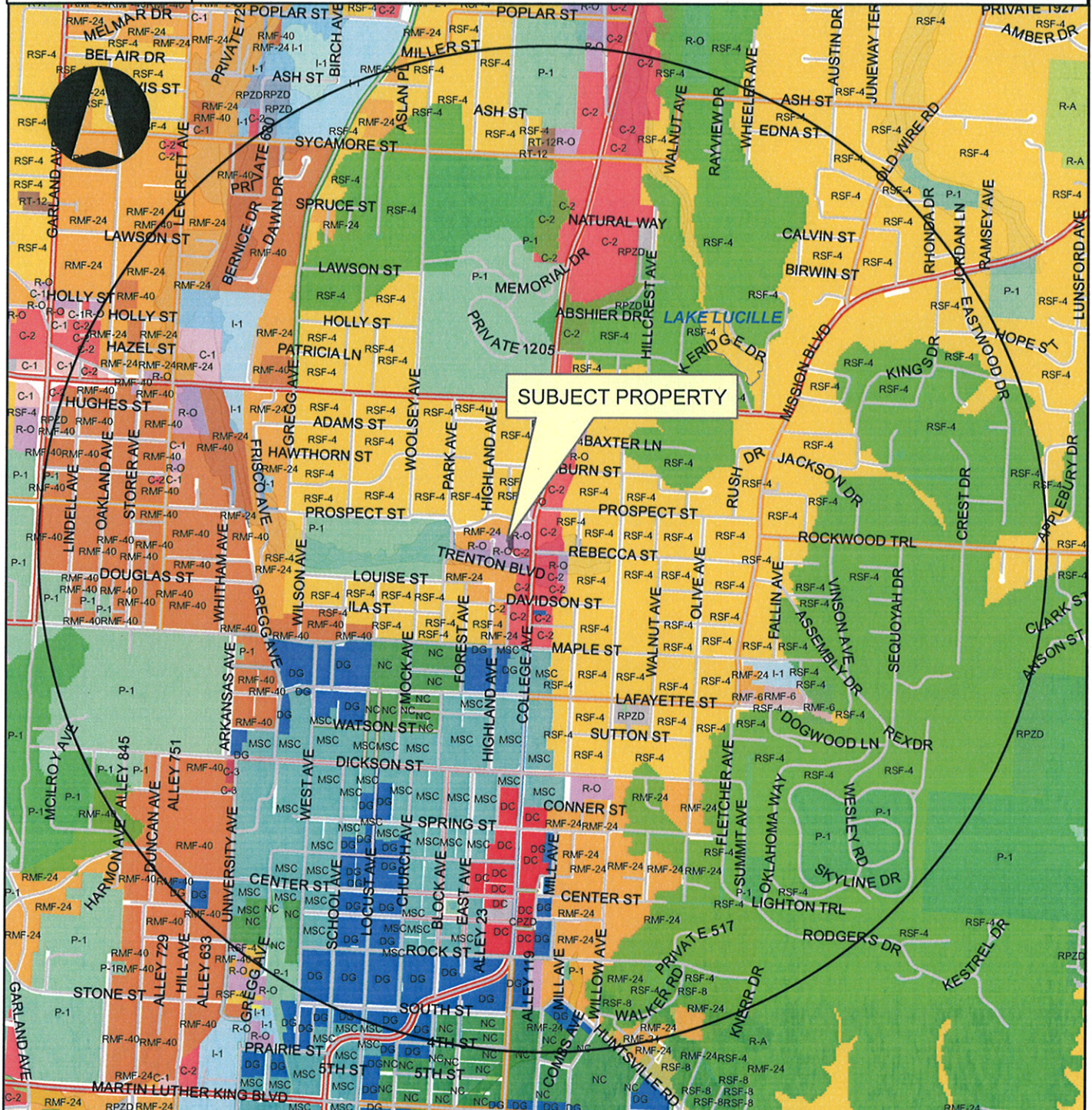


VAC10-3539

LAURA MCKINNON/740 LOLLAR LANE

C. 1
VAC 10-3539 (Laura McKinnon)
Page 15 of 15

One Mile View



Overview



Legend

Subject Property

VAC10-3539

Boundary

0 0.25 0.5 1 Miles

City of Fayetteville Staff Review Form

C. 2

VAC 10-3540 (First State Bank of NWA)
Page 1 of 20City Council Agenda Items
and
Contracts, Leases or Agreements

5/4/2010

City Council Meeting Date
Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

VAC 10-3540: (First State Bank of NWA, 334): Submitted by First State Bank of Northwest Arkansas for property located at 2292 North Covington Park Boulevard. The property is zoned RSF-4, Residential Single Family, 4 units per acre. The request is to vacate a portion of a utility easement.


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

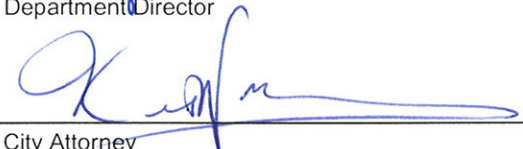
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Department Director

 04-14-2010
Date

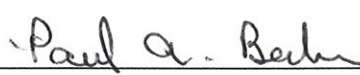
Previous Ordinance or Resolution #

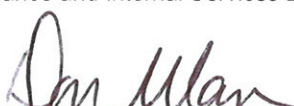

City Attorney

 April 15, 2010
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

 APRIL 15, 2010
Date
Received in City
Clerk's Office

Chief of Staff

 4-16-10
Date
Received in
Mayor's Office

Mayor

 4/16/10
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Director of Development Services 

From: Andrew Garner, Senior Planner

Date: April 13, 2010

Subject: VAC 10-3540 (2292 North Covington Boulevard Easement Vacation)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of a utility easement on the subject property containing approximately 33 square feet.

BACKGROUND

The subject property is located at 2292 North Covington Park Boulevard. There is an existing home on the property, constructed in 2007. A recent survey of the home conducted as part of a real estate transaction revealed that 1.2 feet of the overhang on the northern side of the home encroaches into a utility easement. The surrounding land use and zoning consists of single family and rural residential uses within the RSF-4 zoning district to the north, south, and west, and unincorporated Washington County to the east. The applicant's request is to vacate the portion (33 square feet) of this easement that is encroached by the home.

DISCUSSION

The applicant has submitted the required notification forms to the utility companies and to the City water, sewer, engineering, solid waste, and transportation divisions with no objections to the vacation of the easement. On April 12, 2010 the Planning Commission unanimously forwarded this request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 10-3540 SUBMITTED BY FIRST STATE BANK OF NORTHWEST ARKANSAS FOR PROPERTY LOCATED AT 2292 NORTH COVINGTON PARK BOULEVARD TO VACATE UTILITY EASEMENT, A TOTAL OF 33 SQUARE FEET.

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted utility easement is not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described in Exhibit B (attached).

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached and labeled Exhibit A shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subjected to the Conditions of Approval as follow, and shall not be in effect until this condition is met herein.

1. Any relocation of existing utilities shall be at the owner/developer's expense.

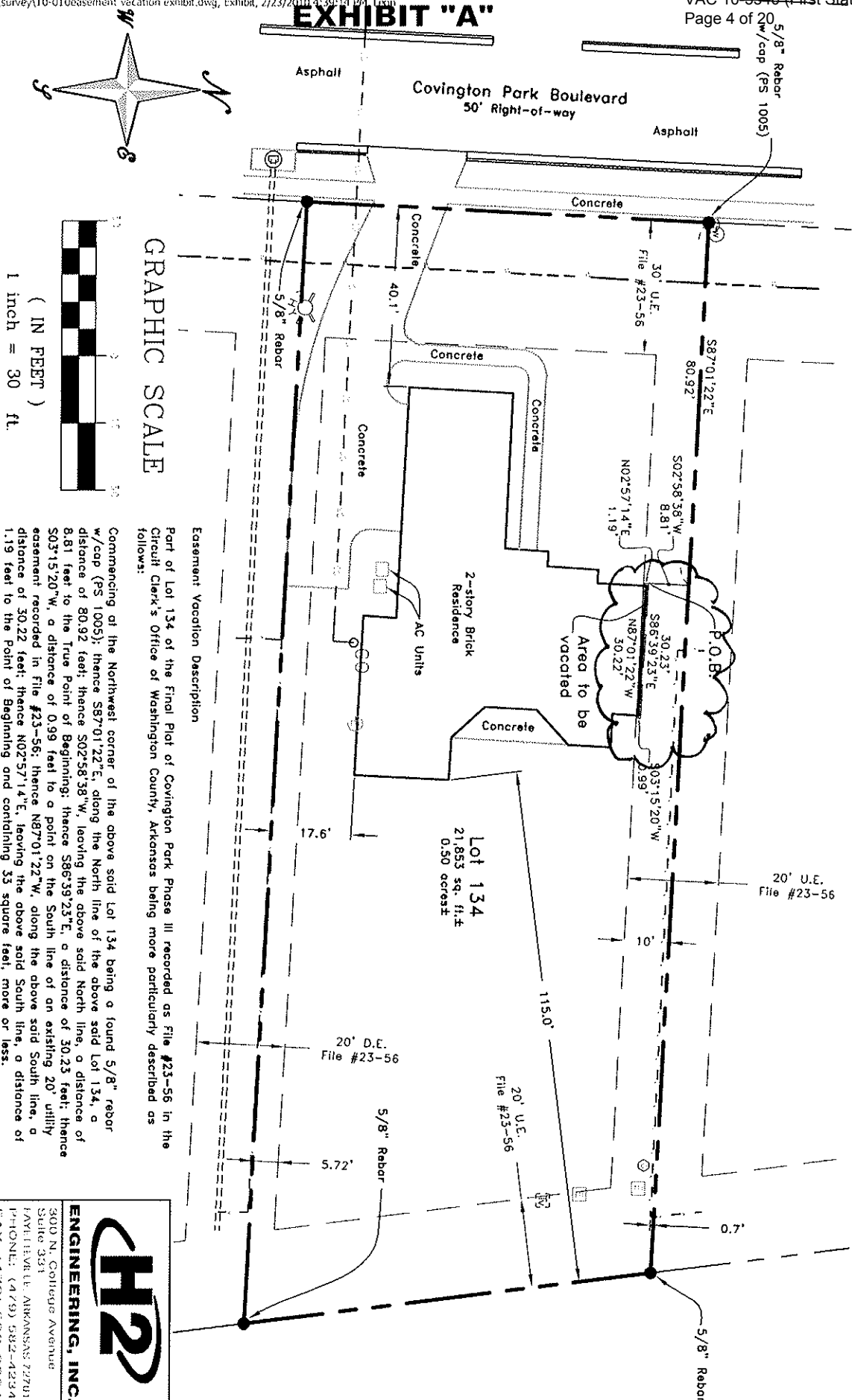
PASSED and **APPROVED** this day of , 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Easement Vacation Exhibit

Easement Vacation Description
Part of Lot 134 of the Final Plat of Covington Park Phase III recorded as File #23-56 in the Circuit Clerk's Office of Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of the above said Lot 134, being a found 5/8" rebar w/cap (PS 1005); thence S87°01'22"E, along the North line of the above said Lot 134, a distance of 80.92 feet; thence S02°58'38"W, leaving the above said North line, a distance of 8.81 feet to the True Point of Beginning; thence S86°39'23"E, a distance of 30.23 feet; thence S03°15'20"W, a distance of 0.99 feet to a point on the South line of an existing 20' utility easement recorded in File #23-56; thence N87°01'22"W, along the above said South line, a distance of 30.22 feet; thence N02°57'14"E, leaving the above said South line, a distance of 1.19 feet to the Point of Beginning and containing 33 square feet, more or less.

CH2
ENGINEERING, INC.
300 N. College Avenue
Suite 331
Fayetteville, Arkansas 72701
PHONE: (479) 582-4234
FAX: (479) 582-9254

EXHIBIT "B"
VAC 10-3540

PART OF LOT 134 OF THE FINAL PLAT OF COVINGTON PARK PHASE III RECORDED AS FILE #23-56 IN THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE ABOVE SAID LOT 134 BEING A FOUND 5/8" REBAR W/CAP (PS 1005); THENCE S87°01'22"E, ALONG THE NORTH LINE OF THE ABOVE SAID LOT 134, A DISTANCE OF 80.92 FEET; THENCE S02°58'38"W, LEAVING THE ABOVE SAID NORTH LINE, A DISTANCE OF 8.81 FEET TO THE TRUE POINT OF BEGINNING; THENCE S86°39'23"E, A DISTANCE OF 30.23 FEET; THENCE S03°15'20"W, A DISTANCE OF 0.99 FEET TO A POINT ON THE SOUTH LINE OF AN EXISTING 20' UTILITY EASEMENT RECORDED IN FILE #23-56; THENCE N87°01'22"W, ALONG THE ABOVE SAID SOUTH LINE, A DISTANCE OF 30.22 FEET; THENCE N02°57'14"E, LEAVING THE ABOVE SAID SOUTH LINE, A DISTANCE OF 1.19 FEET TO THE POINT OF BEGINNING AND CONTAINING 33 SQUARE FEET, MORE OR LESS.



PC Meeting of April 12, 2010

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
THRU: Jeremy Pate, Development Services Director
DATE: April 7, 2010 Updated April 13, 2010

VAC 10-3540: Vacation (FIRST STATE BANK/2292 N. COVINGTON PARK, 334): Submitted by FIRST STATE BANK OF NORTHWEST ARKANSAS for property located at 2292 N. COVINGTON PARK BOULEVARD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.33 acres. The request is to vacate a portion of a utility easement. Planner: Andrew Garner

Findings:

Property Description: The subject property is located at 2292 North Covington Park Boulevard. There is an existing home on the property, constructed in 2007. A recent survey of the home conducted as part of a real estate transaction revealed that 1.2 feet of the overhang on the northern side of the home encroaches into a utility easement. The surrounding land use and zoning consists of single family and rural residential uses within the RSF-4 zoning district to the north, south, and west, and unincorporated Washington County to the east.

Request: The applicant's request is to vacate a portion (33 square feet) of a utility easement to allow for a clear title and real estate closing on the property.

The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

RESPONSE

Ozarks Electric	No Objections
Cox Communications	No Objections
Southwestern Electric Power Company	No Objections
Arkansas Western Gas	No Objections
AT&T	No Objections

<u>CITY OF FAYETTEVILLE:</u>	<u>RESPONSE</u>
Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections
Engineering	No Objections

Public Comment: No public comment has been received.

Recommendation: Finding that adequate easement for service will exist to serve existing utilities and provide for new utilities, staff recommends forwarding **VAC 10-3540** to the City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. Any relocation of existing utilities shall be at the owner/developer's expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: April 12, 2010

Motion: Cabe

Second: Earnest

Vote: 7-0-1 (Lack recused)

Note: On consent agenda.



March 3, 2010

City of Fayetteville
Planning Commission
113 West Mountain St.
Fayetteville, AR 72701

**RE: 2292 N COVINGTON PARK – (LOT 134 COVINGTON PARK, PHASE III)
UTILITY EASEMENT ENCROACHMENT**

To Whom It May Concern:

Please accept this letter as our official request for a Utility Easement Vacation along the north property line of Lot 134, Covington Park, Phase III. The existing house encroaches into the utility easement approximately 1.2 ft including the overhang, which equates to approximately 33 sf. The exterior wall only encroaches 0.6 ft at the worst point.

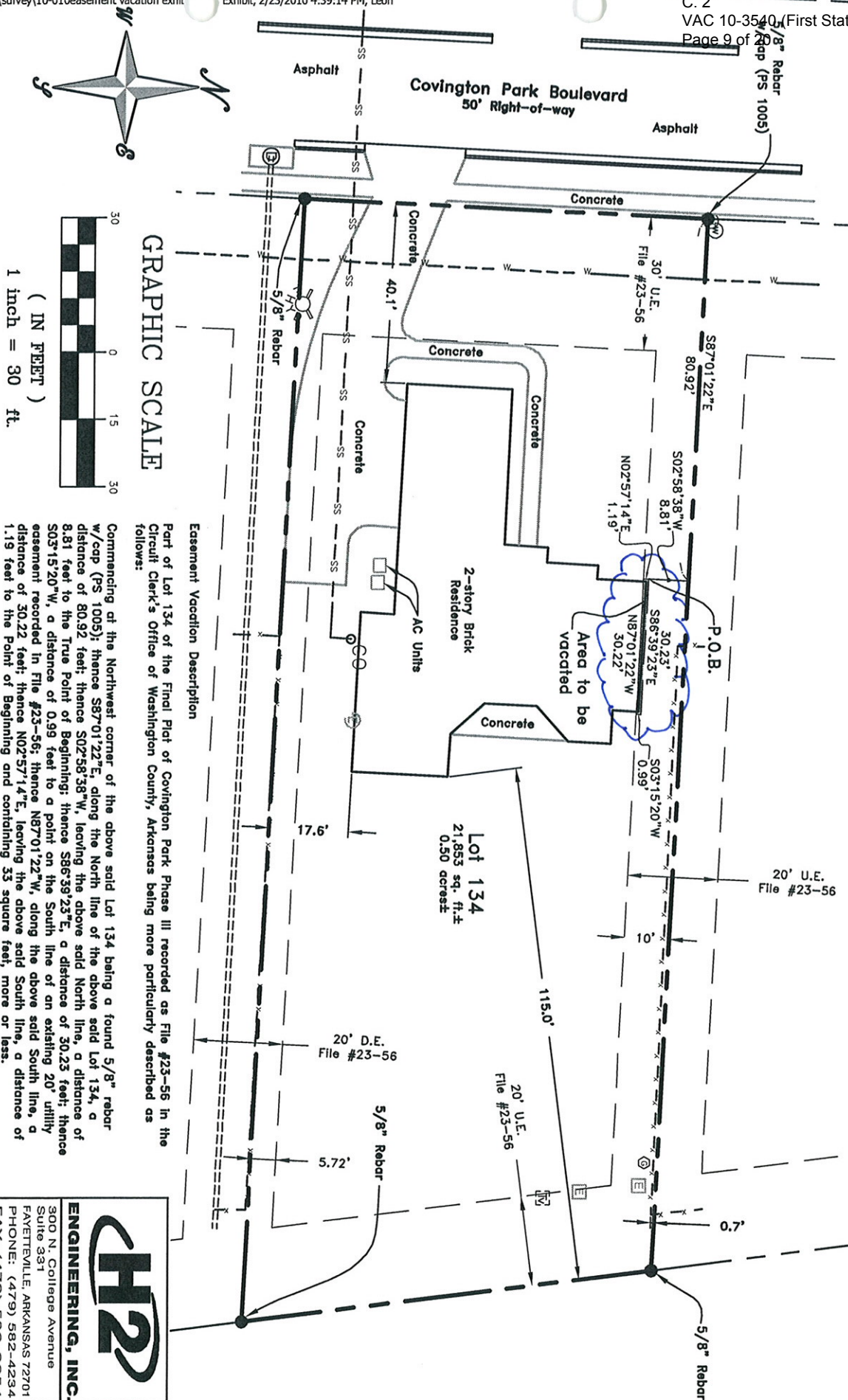
All utility agencies have granted their approval for the release of this easement area.

Thank you for your consideration in this regard.

Respectfully,

A handwritten signature in black ink, appearing to read 'Kipp Hearne', written over a horizontal line.

Kipp Hearne, P.E.



Easement Vacation Exhibit



ENGINEERING, INC.
300 N. College Avenue
Suite 331
FAVETTEVILLE, ARKANSAS 72701
PHONE: (479) 582-4234
FAX: (479) 582-9254

PETITION TO VACATE

**PETITION TO VACATE A UTILITY EASEMENT LOCATED AT LOT 134
COVINGTON PARK, PHASE III, CITY OF FAYETTEVILLE, ARKANSAS**

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lot 134 Covington Park, Phase III, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement, which is described as follows:

Part of Lot 134 of the Final Plat of Covington Park Phase III recorded as File #23-56 in the Circuit Clerk's Office of Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest corner of the above said Lot 134 being a found 5/8" rebar w/cap (PS 1005); thence S87°01'22"E, along the North line of the above said Lot 134, a distance of 80.92 feet; thence S02°58'38"W, leaving the above said North line, a distance of 8.81 feet to the True Point of Beginning; thence S86°39'23"E, a distance of 30.23 feet; thence S03°15'20"W, a distance of 0.99 feet to a point on the South line of an existing 20' utility easement recorded in File #23-56; thence N87°01'22"W, along the above said South line, a distance of 30.22 feet; thence N02°57'14"E, leaving the above said South line, a distance of 1.19 feet to the Point of Beginning and containing 33 square feet, more or less.

That the abutting real estate affected by said abandonment of the Utility Easement is Lot 134 Covington Park, Phase III, City of Fayetteville, used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

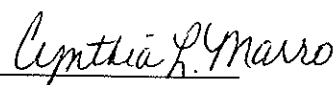
The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, and as to that particular land the owners be free from the easements of the public for the use of said easement.

Dated this 24th day of March, 2010.

JOHN E. NEGRAY and CYNTHIA L. MARRO
Printed Name

 
Signature

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: FEBRUARY 24, 2010

UTILITY COMPANY: OZARKS ELECTRIC COOPERATIVE CORPORATION

APPLICANT NAME: FIRST STATE BANK OF NWA APPLICANT PHONE: 479-582-0700

REQUESTED VACATION (*applicant must check all that apply*):

☒ Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** 2292 N Covington Park (Lot 134, Covington Park Phase III) - North Side of Lot

(*ATTACH legal description and graphic representation of what is being vacated-SURVEY*)

UTILITY COMPANY COMMENTS:

☒ No objections to the vacation(s) described above.

- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- No objections provided the following conditions are met:

Mike Plippo
Signature of Utility Company Representative

System Staking Tech
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: FEBRUARY 24, 2010

UTILITY COMPANY: AT&T

APPLICANT NAME: FIRST STATE BANK OF NWA APPLICANT PHONE: 479-582-0700
REQUESTED VACATION (*applicant must check all that apply*):

☒ Utility Easement

☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

☐ Alley

☐ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** 2292 N Covington Park (Lot 134, Covington Park Phase III) - North Side of Lot

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

Susan K. Clouser
Signature of Utility Company Representative

OSP ENGINEER
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: FEBRUARY 24, 2010

UTILITY COMPANY: COX COMMUNICATIONS

APPLICANT NAME: FIRST STATE BANK OF NWA APPLICANT PHONE: 479-582-0700

REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** 2292 N Covington Park (Lot 134, Covington Park Phase III) - North Side of Lot

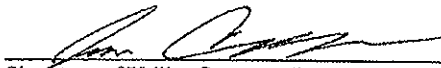
(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- ☒ No objections provided the following conditions are met:

ANY DAMAGES OR RELOCATION OF EXISTING FACILITIES WILL BE THAT DEVELOPER'S EXPENSE



Signature of Utility Company Representative

FIELD ENGINEER

Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: FEBRUARY 24, 2010

UTILITY COMPANY: ARKANSAS WESTERN GAS COMPANY

APPLICANT NAME: FIRST STATE BANK OF NWA APPLICANT PHONE: 479-582-0700

REQUESTED VACATION (*applicant must check all that apply*):



Utility Easement

~

Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~

Alley

~

Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** 2292 N Covington Park (Lot 134, Covington Park Phase III) - North Side of Lot

(*ATTACH legal description and graphic representation of what is being vacated-SURVEY*)

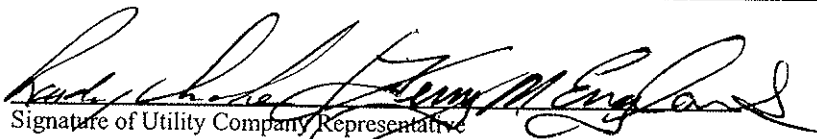
UTILITY COMPANY COMMENTS:

☒ No objections to the vacation(s) described above.

- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No exis. lines shown in this easement.

- No objections provided the following conditions are met:


Signature of Utility Company Representative

Division Manager
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: FEBRUARY 24, 2010

UTILITY COMPANY: AEP / SWEP CO

APPLICANT NAME: FIRST STATE BANK OF NWA APPLICANT PHONE: 479-582-0700
REQUESTED VACATION (*applicant must check all that apply*):

- ~ Utility Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed)**)

.. 2292 N Covington Park (Lot 134, Covington Park Phase III) - North Side of Lot

(*ATTACH legal description and graphic representation of what is being vacated-SURVEY*)

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- No objections provided the following conditions are met:

Jim Dargatz
Signature of Utility Company Representative
Engineer I
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: FEBRUARY 24, 2010

UTILITY COMPANY: CITY OF FAYETTEVILLE - WATER & SEWER DIVISION

APPLICANT NAME: FIRST STATE BANK OF NWA APPLICANT PHONE: 479-582-0700
REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** 2292 N Covington Park (Lot 134, Covington Park Phase III) - North Side of Lot

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- No objections provided the following conditions are met:


Signature of Utility Company Representative

Utilities Engineer
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: FEBRUARY 24, 2010

UTILITY COMPANY: CITY OF FAYETTEVILLE - TRANSPORTATION DIVISION

APPLICANT NAME: FIRST STATE BANK OF NWA APPLICANT PHONE: 479-582-0700

REQUESTED VACATION (*applicant must check all that apply*):

- ~ Utility Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

****** 2292 N Covington Park (Lot 134, Covington Park Phase III) - North Side of Lot

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- No objections provided the following conditions are met:


Signature of Utility Company Representative

Transportation Services Dir.
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: FEBRUARY 24, 2010

UTILITY COMPANY: CITY OF FAYETTEVILLE - SOLID WASTE DIVISION

APPLICANT NAME: FIRST STATE BANK OF NWA APPLICANT PHONE: 479-582-0700

REQUESTED VACATION (*applicant must check all that apply*):

☒ Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** 2292 N Covington Park (Lot 134, Covington Park Phase III) - North Side of Lot

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

Ben Pugh

Signature of Utility Company Representative

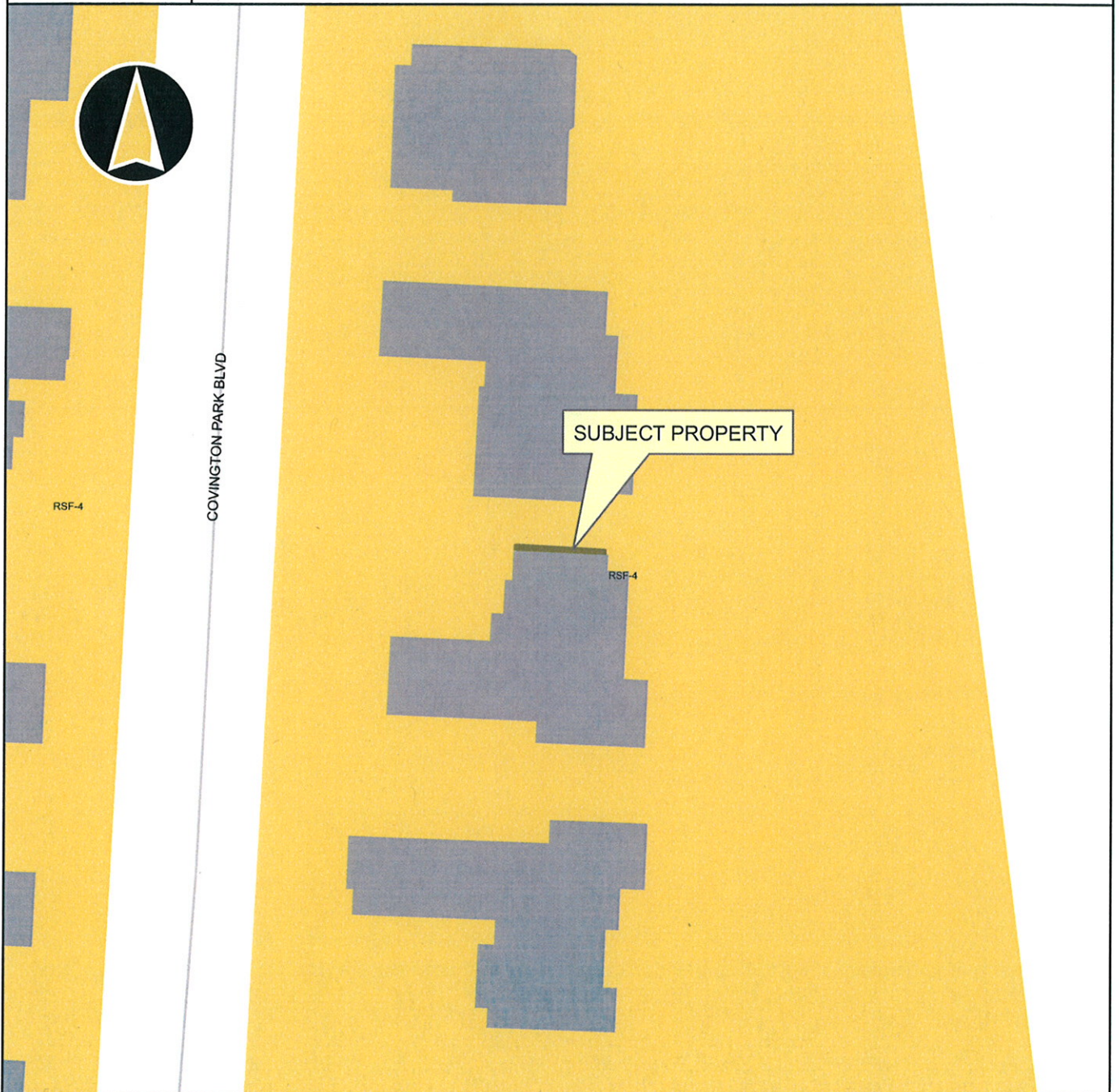
Waste Reduction Coordinator

Title

VAC10-3540

Close Up View

FIRST STATE BANK



Overview

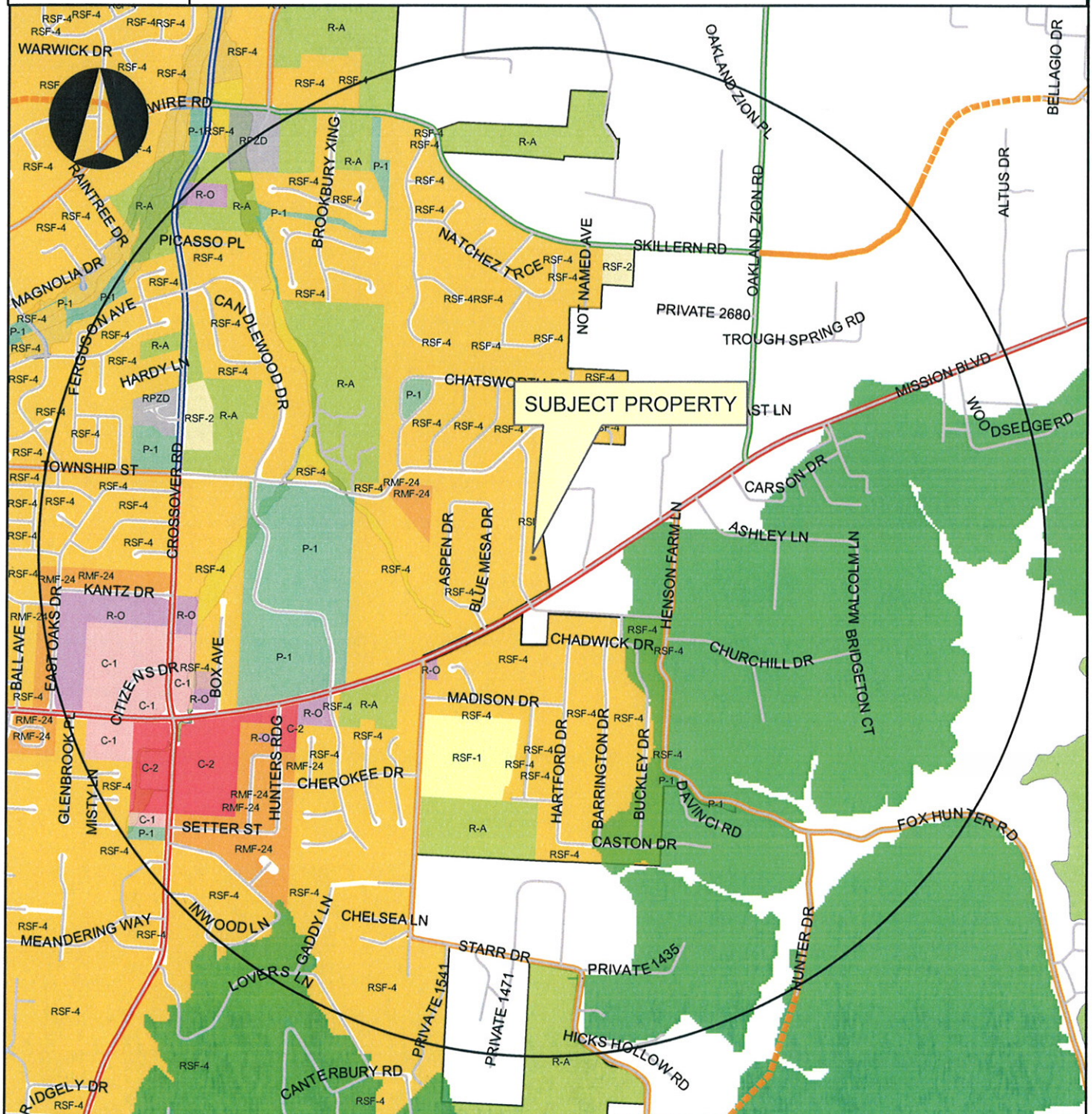


VAC10-3540

FIRST STATE BANK

C. 2
VAC 10-3540 (First State Bank of NWA)
Page 20 of 20

One Mile View



Overview



Legend

Subject Property

VAC10-3540

Boundary

0 0.25 0.5 1 Miles

AGENDA REQUEST

FOR: COUNCIL MEETING OF MAY 4, 2010

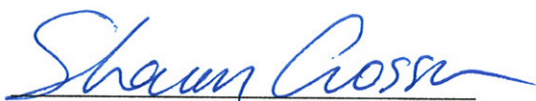
FROM:

LIONELD JORDAN, MAYOR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend Chapter 72 **Parking Regulations** Of The Fayetteville Code To Enact Regulations For Nonconsensual Towing Of Vehicles Within The Entertainment District Parking Zone

APPROVED FOR AGENDA:



Sharon Crosson
Parking & Telecommunications
Manager

4-15-10

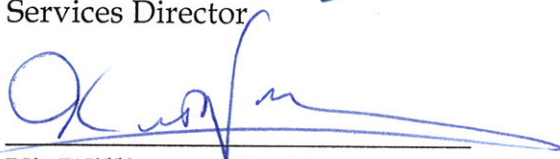
Date



Terry Gulley, Transportation
Services Director

4-15-10

Date



Kit Williams, City Attorney

April 14, 2010

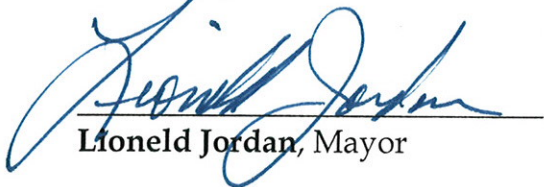
Date



Don Marr, Chief of Staff

4-19-10

Date



Lioneld Jordan, Mayor

4/19/10

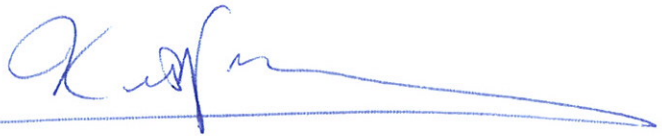
Date



TO: **Lioneld Jordan**, Mayor
City Council

CC: **Don Marr**, Chief of Staff
Jeremy Pate, Development Services Director
Terry Gulley, Transportation Services Director
Sharon Crosson, Parking & Telecommunications Manager

FROM: **Kit Williams**, City Attorney



DATE: **April 14, 2010**

RE: **Regulation of nonconsensual tows from private parking lots**

Thanks to Representative Lindsley Smith and Senator Sue Madison, the Arkansas Legislature amended A.C.A. §27-50-1101 to give cities increased power to regulate nonconsensual towing from private parking lots. I have attached part of that statute as well as A.C.A. §27-51-1305 concerning towing signs. Mayor Jordan asked me to draft an ordinance to limit the amount of towing and storage fees that could be charged to the vehicle's owner when a towing company tows away an improperly parked vehicle from a private parking lot. Mayor Jordan also wanted specific information required for "Paid Parking", "Customers Only" and "Residents Only" parking lot signs so persons would be fairly warned of the risk of towing and knows who to call and where to go to recover a towed vehicle.

The City Council has the power to enact an ordinance detailing: "(t)he amount of towing and storage charges, including the towing charge, and storage charge, the administrative fee, and any other fee that may be charged, to be assessed against the owner or operator of the vehicle" A.C.A. §27-50-1101 (a)(1)(B)(i). Mayor Jordan has proposed that within the Entertainment District a maximum of \$60.00 for all towing fees for a nonconsensual tow from a private Paid Parking lot and \$80.00 from a Customers Only or Residents Only parking lot could be charged to the vehicle's owner.

Since nonconsensual towing problems have occurred primarily in the Entertainment District near Dickson Street, Mayor Jordan felt that the additional signage requirements and some of the towing fee limitations should be only applicable in the Entertainment District. This ordinance does establish city-wide nonconsensual towing charge limitations of \$100.00 if a vehicle is illegally parked or abandoned on private property that is not either a paid parking lot or residents only or customers only parking lot within the Entertainment District.

Storage charges that begin twelve hours **after** the vehicle is placed in the storage area and **available for the owner to pick up** is limited to \$10.00 per day. The towing and storage company must answer the telephone number on its Nonconsensual Towing Warning Sign immediately after picking up the vehicle and for the next 12 hours or until the vehicle is returned to its owner (whichever comes first). This is to help the vehicle's owner contact the towing company and arrange to recover the vehicle. If the towing and storage company says the driver cannot pick up his vehicle when they are contacted, but has to wait until "normal operating hours" or the "next morning", the time to begin the storage fee charge is also delayed so that a driver cannot be forced to pay storage fees because the towing company was not "open" to release the car.

Police initiated tows, tows from publicly owned or leased property (including all University property) are exempt from the requirements of this proposed ordinance. Occasionally a difficult towing situation (large or damaged vehicle, etc.) could occur in which a larger nonconsensual towing fee would be justified. The property owner could call the police in this rare circumstance. If the police officer agrees, the police officer could initiate a nonconsensual tow which would not be regulated by this ordinance. Otherwise this ordinance would regulate all nonconsensual tows in the Entertainment District and, less restrictively, throughout the City.

Administrative Code References

Finance and administrations department, revenue division, federal driver's privacy act, see Code Ark. R. 006 05 033.

§ 27-50-1101. Nonconsensual towing of a vehicle, implement, or piece of machinery

(a)(1)(A) When a vehicle of a type subject to registration under the laws of this state, an implement, or a piece of machinery is found abandoned on private or public property within this state or is parked on private or public property within this state without the authorization of the property owners or other persons controlling the property, the property owner or his or her agent may have the vehicle, implement, or piece of machinery removed from the property by a towing and storage firm licensed by and subject to the rules of the Arkansas Towing and Recovery Board.

(B)(i) A city of the first class, city of the second class, or incorporated town by ordinance may regulate the manner that a property owner or other person controlling the property removes a vehicle, implement, or piece of machinery:

(a) By limiting:

(1) The distance from the location of removal to the destination of storage;

(2) The amount of towing and storage charges, including the towing charge, the storage charge, the administrative fee, and any other fee that may be charged, to be assessed against the owner or operator of the vehicle, implement, or piece of machinery removed from the property, with the difference between the charges allowed by the city and the actual towing and storage charges to be assessed to the property owner or other person controlling the property that requested the removal of the vehicle; and

(3) The request for removal of a vehicle, implement, or piece of machinery from the property to a towing and storage firm that accepts payment methods of cash, credit cards, or debit cards; and

(b) By requiring signage under § 27-51-1305 to include:

(1) The name, address, and telephone number of the towing and storage firm that may provide removal services from the parking lot;

(2) The amount of towing and storage charges that may be assessed against the owner or operator of the vehicle, implement, or other machinery; and

(3) Disclosing whether the towing and storage firm will accept the payment methods of cash, checks, credit cards, or debit cards.

(ii) An ordinance enacted under this subdivision (a)(1)(B) shall not conflict with this section.

(C) Prior to the removal of an abandoned vehicle, implement, or piece of machinery or a vehicle, implement, or piece of machinery parked without authority as provided by this section, the towing and storage firm shall

VEHICLE OPERATION & RULES OF THE ROAD

§ 27-51-1305

move the vehicle or require the driver or other person in charge of the vehicle to move it to a position off the paved or improved or main-traveled part of the highway.

(b) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where the vehicle constitutes an obstruction to traffic, the officer is authorized to provide for the removal of the vehicle consistent with § 27-50-1207.

Acts of 1937, Act 300, § 91; Acts of 2001, Act 1705, § 1, eff. Aug. 13, 2001.

Formerly Pope's Dig., § 6748; A.S.A. 1947, § 75-648.

Historical and Statutory Notes

2001

Acts of 2001, Act 1705 amended the section by substituting for "to the nearest garage or

other place of safety" the words "consistent with § 27-50-1207." at the end of (b).

Library References

Automobiles Ⓒ12.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 10, 51 to 52, 54 to 58, 60 to 62.

§ 27-51-1305. Removal of motor vehicles parked without authority in parking lots

(a) Consistent with the procedures of § 27-50-1101, the owner of a parking lot, his or her agent, or the lessee of a space in a parking lot may cause any motor vehicle which is parked on the lot without the consent of the owner of the lot or of his or her agent or which is parked in the space of the lessee without the consent of the lessee to be removed and stored at the expense of the owner or operator of the vehicle if a readable sign is prominently placed at each entrance to the lot specifying those persons who may park in the lot and prohibiting parking therein by all others.

(b) The owner of a lot or the lessee of a space in a lot who has an unauthorized vehicle removed and stored under the provisions of subsection (a) of this section shall not be liable for damages incurred by the owner or operator of an unauthorized vehicle as a result of removal or storage if the vehicle is removed by an insured vehicle wrecker service and stored by an insured storage company.

Acts of 1971, Act 200, §§ 1, 2; Acts of 2005, Act 2211, § 7, eff. Aug. 12, 2005.

Formerly A.S.A. 1947, §§ 75-651.1, 75-651.2.

Historical and Statutory Notes

Arkansas Code Revision Commission

2005

Technical changes were made in 2005 and 2007 to conform with the official Arkansas Code of 1987 as approved by the Arkansas Code Revision Commission.

Acts of 2005, Act 2211, § 7, amended the section by inserting "Consistent with the procedures of § 27-50-1101, the" at the beginning of (a).

Cross References

Nonconsensual towing of a vehicle, implement, or piece of machinery, see § 27-50-1101.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 72 **PARKING REGULATIONS OF THE FAYETTEVILLE CODE TO ENACT REGULATIONS FOR NONCONSENSUAL TOWING OF VEHICLES WITHIN THE ENTERTAINMENT DISTRICT PARKING ZONE**

WHEREAS, nonconsensual towing of vehicles from private property has been a problem for years in the Entertainment District around Dickson Street in Fayetteville; and

WHEREAS, the Fayetteville City Council passed a Resolution requesting that the Arkansas Legislature provide additional powers to the cities of Arkansas to regulate nonconsensual towing practices; and

WHEREAS, the City Attorney traveled to Little Rock at the request of Representative Lindsley Smith to inform her Legislative Committee about the problems of nonconsensual towing; and

WHEREAS, Representative Lindsley Smith and Senator Sue Madison were finally successful in obtaining passage of Act 681 of the 2009 Legislative Session which gives the cities more rights to regulate nonconsensual towing.

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 enacts **Article IV Nonconsensual Towing Regulations** of Chapter 72 **Parking Regulations** as shown below:

“
ARTICLE IV
NONCONSENSUAL TOWING REGULATIONS

“72.70 Application.

“These nonconsensual towing regulations shall apply within the Entertainment District Parking Zone shown on Exhibit A for the nonconsensual towing of a vehicle subject to registration under the laws of Arkansas if it is found abandoned, parked without the consent

of the property owner or the owners' agent, parked in violation of the time period or location agreed to by the owner or owner's agent, or for whatever reason the owner or owner's agent believes a vehicle, which is not the property of the owner or owner's agent, should be towed. These regulations do not apply to removal of vehicles from publicly owned or leased property, nor to police initiated tows. The sign requirements do not apply to residential driveways or parking lots designed for four or fewer vehicles. These regulations shall apply city-wide where indicated in §72.72.

"72.71. Requirements for proper signage before nonconsensual towing from private parking lots is permitted within the Entertainment District Parking Zone.

(A) *Exemption from the Sign Ordinance.* All signs required by this section shall be exempt from further regulation of the Sign Ordinance pursuant to §174.03(F).

(B) *Location and Size of Nonconsensual Towing Warning Sign.* Every private parking lot with five or more spaces must have an easily readable Nonconsensual Towing Warning Sign that is not more than 16 square feet, devoid of any advertising and prominently placed at each entrance to the parking lot.

(C) *Contents of Sign for 'Paid Parking Lot'.* The Nonconsensual Towing Warning Sign shall contain only the following information in clearly legible letters at least one inch in height in the following order from the top of the sign for a private parking lot that allows paid parking.

- (1) The symbol for towing vehicles.
- (2) 'Private Parking Lot.'
- (3) Either 'Pay to park at all hours' or 'Pay to park during (posted) hours.'
- (4) At the owner's option, the sign may show the hourly rate and any maximum day or evening rate for parking in the lot.
- (5) 'Parking in violation of posted restrictions will result in towing of vehicle at owner's expense, up to \$60.00, plus storage of up to \$10.00 per day.'
- (6) Name, address (including physical address of storage lot), and telephone number of towing and storage firm authorized to tow vehicles from this private lot.

(D) *Contents of sign for 'Customers Only' or 'Residents Only' Parking Lot.* The Nonconsensual Towing Warning Sign shall contain only the following information in clearly legible letters at least one inch in height in the following order from the top of the sign for a private parking lot that prohibits public parking and allows only residents or customers to park.

- (1) The symbol for towing vehicles.
- (2) 'Private Parking Lot.'
- (3) 'Customers Only' or 'Residents Only.' The owner may denote the business or residential complex.
- (4) 'Parking of unauthorized vehicle will result in towing of vehicle at owner's expense, up to \$80.00, plus storage of up to \$10.00 per day.'
- (5) Name, address (including physical address of storage lot), and telephone number of towing and storage firm authorized to tow vehicles from this private lot.

72.72. Regulations of Towing and Storage Companies.

(A) *Valid licenses required.* Any towing and storage company operating anywhere in the City of Fayetteville must be in full compliance with all state and local license requirements, A.C.A. §27-50-1101, the Fayetteville Code, and be in good standing with the Arkansas Towing and Recovery Board.

(B) *Allowed charges for nonconsensual towing and storage.* Within the Entertainment District Parking Zone, no Towing and Storage Company may charge a nonconsensually towed vehicle's owner/driver more than \$60.00 if the vehicle is towed from a 'Paid Parking Lot', \$80.00 if the vehicle is towed from a 'Customers Only' or 'Residents Only' Parking Lot, and \$100.00 if the vehicle is towed from private property not classified as a 'Paid Parking Lot' or 'Customers Only' or 'Residents Only' Parking Lot. In addition, the towing and storage company may charge up to \$10.00 per day for storage beginning twelve hours after the nonconsensually towed vehicle is placed in the storage lot and available to be reclaimed by its owner or driver. The maximum \$100.00 towing fee and \$10.00 per day storage fee for a nonconsensual tow from private property that is not police initiated is applicable everywhere within the entire city limits. The above fees are the total amount that can be charged to the owner/operator. No administrative, special equipment or other fee can be charged to the owner/operator of the vehicle.

(C) *Payments by owner/operator for towing and storage charges.* The towing and storage company must accept valid credit and debit cards for payment of towing and storage fees and may accept any other form of payment.

(D) *Location of storage yard.* The towing and storage company may not charge mileage or transportation fees for towing the vehicle to its storage lot which must either be located within Fayetteville or not more than eight miles from the place from which the vehicle was towed.

(E) *Company must answer telephone.* The towing and storage company shall answer every telephone call for the number displayed upon the Nonconsensual Towing Warning Sign during every 12 hour period immediately after a vehicle has been towed if such vehicle remains in the towing and storage company's possession.

PASSED and **APPROVED** this 4th day of May, 2010.

APPROVED:

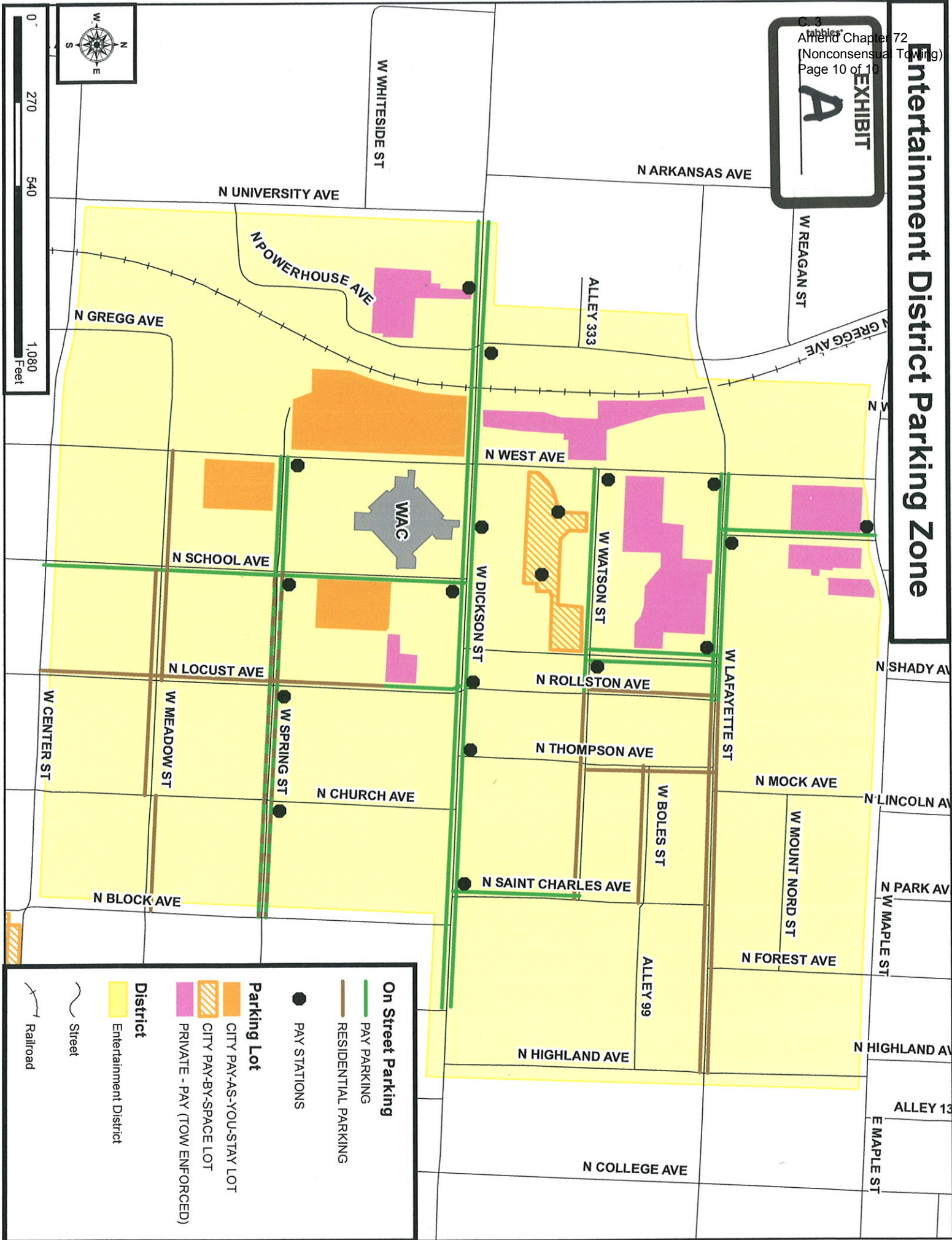
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Entertainment District Parking Zone

A



City of Fayetteville Staff Review Form

C. 4
Amend Chapter 72
(\$72.18 Residential Parking Permit)
Page 1 of 14

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

2

5/4/2010

City Council Meeting Date
Agenda Items Only

Sharon Crosson

Submitted By

Parking Management

Division

Transportation Services

Department

Action Required:

An Ordinance to amend Chapter 72 Parking Regulations of The Fayetteville Code to enact a Residential Parking Program in the Entertainment District Parking Zone.

\$ 900.00

Cost of this request

\$ 12,000.00

Category / Project Budget

Residential Parking Program

Program Category / Project Name

2130-9130-5404-00

Account Number

\$ 687.51

Funds Used to Date

Traffic Control Maint.

Program / Project Category Name

\$ 11,312.49

Remaining Balance

Off-Street Parking

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Tony G. Bulley
Department Director

4-16-10
Date

Previous Ordinance or Resolution #

K. J. ...
City Attorney

4-16-2010
Date

Original Contract Date:

Original Contract Number:

Paul a. Butler
Finance and Internal Services Director

4-19-2010
Date

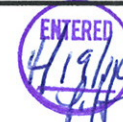
Received in City
Clerk's Office



Jim ...
Chief of Staff

4-19-10
Date

Received in
Mayor's Office



Leonard Jordan
Mayor

4/19/10
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Terry Gulley, Director of Transportation

From: Sharon Crosson, Parking and Telecom Manager

Date: April 16, 2010, 2010

Subject: An Ordinance to Amend Chapter 72 Parking Regulations of The Fayetteville Code to Enact a Residential Parking Program in the Entertainment District Parking Zone

PROPOSAL:

City staff is recommends the approval of an ordinance to enact a Residential Parking Program in the Entertainment District Parking Zone. The Entertainment District Parking Zone encompasses the area as shown in **Exhibit A**. This program is designed to address the parking needs of the local merchants, visitors, employees and residents of Dickson Street and surrounding neighborhoods.

RECOMMENDATION:

The purpose of this program is to provide no fee parking to City of Fayetteville residents that own, lease or rent residential units within the **Entertainment District Parking Zone**. The Entertainment District Parking Zone includes two Residential Parking Zones. The **Residential Parking Zone North** includes on-street parking spaces north of Dickson Street that are reserved for the exclusive use of residents to park their vehicles. The **Residential Parking Zone South** includes on-street parking spaces south of Dickson Street that are reserved for the exclusive use of residents to park their vehicles. Residential parking permits shall not be valid for use at any off-street public parking area.

While most residential units have adequate off-street parking it is reasonable to expect that several residents will require access to on-street spaces. Residents will be issued **one (1)** no fee on-street parking permit for **each vehicle** registered to the address within the Residential Parking Zone. These permits will be re-issued quarterly and will be for the exclusive use of the resident. The residential parking permit is non-transferable and has no cash value. Residential parking permits shall only be valid in the Residential Parking Zone for which it has been issued.

The **Residential Parking Zone North** provides approximately 116 on-street parking spaces for area residents. The **Residential Parking Zone South** provides approximately 79 on-street parking spaces for area residents, with an additional 59 "mixed-use" spaces available for area residents. There are **three (3)** blocks on Spring Street that will be mixed-use parking that will be available for public parking as well as overflow residential parking for the **Residential Parking Zone South**.

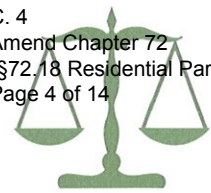
Residents will be required to provide the following information quarterly to qualify for a Residential Parking Permit:

1. Proof of residence within one of the two Residential Parking Zones
2. Current list/inventory of owned vehicles
3. Proof of vehicle ownership with registration matching the physical address within the Residential Parking Zone.
4. Vehicle to be permitted must be a motorized vehicle that will fit within a marked parking space.

Residential Parking Zone residents are encouraged to park their short term visitors in their respective driveways and utilize the on-street spaces for vehicles that are assigned a Residential Parking Permit. During special occasions when a resident will have several visitors, the resident shall contact the City of Fayetteville Parking Division for additional parking privileges as needed. All parking requests beyond the standard issued Residential Parking Permit will be reviewed and approved on a case by case basis.

BUDGET IMPACT:

Implementation of this program will include additional striping on-street of parking spaces and appropriate signage on these streets. The estimated startup cost for this program is \$900.00.



TO: **Lioneld Jordan**, Mayor
City Council

CC: **Don Marr**, Chief of Staff
Terry Gulley, Transportation Services Director
Sharon Crosson, Parking & Telecommunications Manager

FROM: **Kit Williams**, City Attorney

A handwritten signature in blue ink, appearing to read "Kit Williams", with a long horizontal line extending to the right.

DATE: **April 16, 2010**

RE: **Residential Parking Permit Program
for the Entertainment District Parking Zone**

I have drafted the ordinance to enact §72.18 **Residential Parking Permit Program for the Entertainment District Parking Zone** pursuant to the Administration's request and in compliance with the terms of the report from Sharon Crosson, Parking and Telecommunications Manager. This program would provide residents of the district free vehicle parking permits for every vehicle owned and make many streets available for resident parking only.

In reviewing the laws to see if a city has the power to convert formerly public on-street parking spaces to resident only on-street parking spaces, I found Arkansas Attorney General Opinion No. 97-403 issued January 15, 1998. (attached) Attorney General Winston Bryant took an expansive view of a city council's powers to enact a parking permit system for on-street parking in the Hillcrest area of Little Rock. The Attorney General noted:

"There does not appear to be any helpful Arkansas case law concerning the precise question presented in your letter; however, courts from other jurisdictions have upheld local parking restrictions which discriminate in favor of residents of the particular area and against nonresidents thereof."

The Attorney General then cited *County of Arlington v. Richards*, 434 U.S. 5 (1977) which held:

“To reduce air pollution and other environmental effects of automobile commuting, a community reasonably may restrict on-street parking available to commuters, thus encouraging reliance in car pools and mass transit.

...

“The Constitution does not outlaw these social and environmental objectives, nor does it presume distinctions between residents and nonresidents of a neighborhood to be invidious. The Equal Protection clause only requires that the distinction drawn by an ordinance like Arlington’s rationally promote the regulation’s objectives.” *Supra*, 434 U.S. at 7

Although Attorney General Bryant did cite one Montana case upholding a parking permit system favoring residents, he failed to note some state court decisions which had disallowed parking ordinances favoring residents. A Florida city’s ordinance was struck down as follows:

“*Arlington* is distinguishable from the instant case. Here, the goal of the ordinance is not to curtail air pollution, noise or traffic. Rather, the ordinance is intended solely to give residents preference over non-residents in the use of parking spaces in the park.” *City of Maitland, v. Orlando Bassmasters Association*, 431 S.W. 2d 178 (1983)

New York courts, while acknowledging that the United States Constitution may not invalidate preferential neighborhood parking, have held that New York state law did not grant cities the right to grant to residents of a neighborhood any possessory or proprietary right to the portion of the public road use for parking “in priority to or exclusive of use by the general public.” *New York State Public Employees Federations v. City of Albany*, 72 NY 2d 96, 102 (1988).

Both the Montana Supreme Court and the Pennsylvania Supreme Court have agreed that a city could implement a restrictive parking system discriminating in favor of residents of a neighborhood. *Love v. Borough of Stroudsburg*, 528 Pa. 320 (1991); *University of Montana Students v. City of Missoula*, 862 P2d 380 (Mont. 1993).

I checked with the Little Rock City Attorney to see if they had implemented or had any problems with the Hillcrest residential parking permit system discussed by the Attorney General. Little Rock had never implemented such a plan. However, North Little Rock implemented the “Argenta Residential Parking District” on March 26, 2007 to alleviate the parking problem for an historic residential area near the new Dickey-Stephens Baseball Park (Arkansas Travelers) during games. This residential parking district has not been challenged in Court nor caused substantial opposition from Travelers’ fans.

One source of statutory power to regulate streets (and I would argue street parking places) is found in A.C.A. 14-301-101 **Responsibilities of city council.**

“The city council shall:

“(1) Have the care, supervision, and control of all the public highways, bridges, streets, alleys, public squares, and commons within the city.”

The Arkansas Supreme Court has also recognized and held that city councils have much discretion in their regulation of streets. The only real limitations on this discretion would be an invasion of private rights or trying to do something in excess of their authorized power.

“Matters pertaining to regulations of streets and alleys and their use among those over which cities have authority to act and to exercise discretion ... With such broad powers over streets and alleys, it seems that the latitude of discretion vested in city governing boards should be very wide indeed.” *City of Little Rock v. Linn*, 245 Ark. 260, 432 S.W. 2d 455, 461 (1968)

“This court long ago recognized that the varied uses and conflicts of city life required that much must be left to the discretion of city authorities, whose actions should not be judicially interfered with unless manifestly unreasonable and oppressive, an unwarranted invasion of private rights, or clearly in excess of powers granted.” *Id.* at 462

CONCLUSION

With no Arkansas Supreme Court decisions on the precise issue of a city council's power to change public on-street parking spaces to resident-only on-street parking spaces, I can give no absolute assurance of your power in this area. Some states have disallowed it, and some states have approved it. The Arkansas Attorney General opined in 1998 that such a residents-only on-street parking program would be legal in Arkansas. Your power to establish this parking program may depend partly upon the demonstrated need and fairness of this residents-only parking program.

Opinion No. 97-403

January 15, 1998

The Honorable Phil C. Wyrick
State Senator
11001 Alexander Road
Mabelvale, Arkansas 72103-1905

Dear Senator Wyrick:

This is in response to your request, on behalf of the Hillcrest Residents Association, for an opinion concerning whether the City of Little Rock may establish "permit parking districts in residential areas." You indicate that such designated areas would require a parking permit for on-street parking in the area, and parking permits would be issued only to bona fide residents of the area. In my opinion, the answer to your question is generally "yes."

The Arkansas Supreme Court has stated that in order to be a valid enactment, an ordinance must come within the scope of the powers granted to cities and towns, be promulgated in the proper exercise of police powers, and must bear some reasonable relation to the public health, safety, morals, welfare, comfort, or convenience. *Wilkins v. City of Harrison*, 218 Ark. 316, 236 S.W.2d 82 (1951). An ordinance must not be arbitrary, capricious, or unreasonable. *Johnson v. Sunray Servs., Inc.*, 306 Ark. 497, 816 S.W.2d 582 (1991). It is my opinion that the type of ordinance contemplated in your letter bears a reasonable relation to the public health, safety, morals, welfare, comfort, or convenience. See generally *Macedonian Orthodox Church v. Planning Board of Randolph*, 636 A.2d 96 (N.J. Super. A.D. 1994) (a municipality can exercise its general police powers to deal with problems of traffic and parking so that the character of a residential neighborhood is preserved).

It is well established that municipalities have the right to enact reasonable regulations relating to the parking or standing of vehicles, and the authority to enact regulations relating to the parking or standing of vehicles may be implied from the power delegated to municipalities to regulate traffic or to prevent the encumbering of their streets with vehicles. 7A Am Jur 2d, *Automobiles and Highway Traffic* § 329 (1997). Arkansas Code Annotated § 14-55-102 (1987) states that municipal corporations shall have the power to make and publish bylaws and ordinances, not inconsistent with the laws of the state, which, as to them, shall seem necessary to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such corporations and the inhabitants thereof. See generally *Garrison v. City of Alpena*, 234 Ark. 170, 350 S.W.2d 690 (1961) (a city has the authority to pass local traffic ordinances to regulate, warn or guide traffic). Additionally, A.C.A. § 14-301-101 (1987) provides that the city council shall (1) have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the city; and (2) cause those public highways, bridges, streets, alleys, public squares, and commons to be kept open and in repair, and free from nuisance. [1] In short, municipal authorities have wide discretion in matters of making reasonable provisions for the safety of its inhabitants through the enactment of ordinances, resolutions or

bylaws. *City of Ft. Smith v. Van Zandt*, 197 Ark. 91, 122 S.W.2d 187 (1938).

There does not appear to be any helpful Arkansas case law concerning the precise question presented in your letter; however, courts from other jurisdictions have upheld local parking restrictions which discriminate in favor of residents of the particular area and against nonresidents thereof. The United States Supreme Court has held that such an ordinance does not, on its face, violate the Equal Protection Clause. *County Bd. of Arlington County, Va. v. Richards*, 434 U.S. 5, reh'g denied, 434 U.S. 976 (1977). The Court noted that a community may decide that restrictions on the flow of outside traffic into particular residential areas would enhance the quality of life thereby reducing noise, traffic hazards, and litter. *Id.* The Court further noted that the Constitution does not outlaw such social and environmental objectives, nor does it presume distinctions between residents and nonresidents of a local neighborhood to be invidious. *Id.*

In a case comparable to the situation presented in your letter, the Supreme Court of Montana upheld two city ordinances which regulated parking in the residential areas adjacent to the University of Montana. *Associated Students of the University of Montana v. City of Missoula*, 862 P.2d 380 (Mont. 1993); see also *Love v. Borough of Stroudsburg*, 597 A.2d 1137 (Penn. 1991) (borough ordinance creating a restrictive residential parking scheme was a valid exercise of police power and was not in violation of equal protection provisions of Pennsylvania Constitution). The City of Missoula adopted an on-street parking permit program to be used in residential areas adjacent to the University of Montana. Commuter parking on the sides of certain streets was prohibited between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Exceptions, however, permitted parking on holidays, parking for vehicles with permits, and parking for emergency or service vehicles. University area residential homeowners were permitted to purchase parking permits, but nonresidents could not purchase the permits. In upholding the ordinance, the court held that the distinction between residents and nonresidents rationally related to the City's legitimate governmental interests. The court concluded that the City had a legitimate interest in preserving the tranquillity among University commuters and area residents, in assuring homeowners ample parking space for themselves and their guests, and in reducing noise, traffic hazards, and litter in its residential areas.

Finally, with regard to whether a city must make any "finding[s] of fact" prior to establishing a "permit parking area," a city is not required to make any express "finding[s] of fact" prior to adopting an ordinance. Thus, it is possible that the city's governing body could simply determine that a specific area should be designated a "permit parking area." On the other hand, the city may also elect to adopt an ordinance specifying the manner in which an area may qualify as a "permit parking area." Under such an ordinance, the city should specify the requirements necessary to qualify as a "permit parking area." See *Love*, supra; *County Board of Arlington*, supra. The establishing of such requirements is a matter within the purview of the governing body of the city.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Warren T. Readnour.

Sincerely,

WINSTON BRYANT
Attorney General

WB:WTR/cyh

[1]Although you have not indicated that any part of the state highway system is involved, A.C.A. § 27-49-106(a) of the Uniform Act Regulating Traffic on Highways of Arkansas provides that no local authority shall enact or enforce any rule or regulation in conflict with the provisions of this act unless expressly authorized in this act. Section 27-49-106(b) provides, however, that "provisions of this act shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from: (1) Regulating the standing or parking of vehicles."

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND CHAPTER 72 PARKING REGULATIONS
BY ENACTING §72.18 RESIDENTIAL PARKING PERMIT PROGRAM
FOR ENTERTAINMENT DISTRICT PARKING ZONE**

WHEREAS, the Downtown Master Plan encompassing the Entertainment District Parking Zone and general city policy encourages residential uses within this Entertainment District; and

WHEREAS, the change of several large city parking lots from free parking to paid parking is likely to cause increased congestion and on-street parking problems for residents of the Entertainment District Parking Zone; and

WHEREAS, some accommodation to relieve the increased congestion and on-street parking problems should be enacted protect the quality of residential life for these residents; and

WHEREAS, a Residential Parking Permit Program for residents of the Entertainment District can ease this congestion and loss of on-street parking availability for these residents.

**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 amends Chapter 72 **Parking Regulations** by enacting a new §72.18 **Residential Parking Permit Program for the Entertainment District Parking Zone** as shown below:

**“72.18 Residential Parking Permit Program for the Entertainment
District Parking Zone**

(A) *Applicability.* This Residential Parking Permit Program shall be applicable within the Entertainment District Parking Zone as shown and described on Exhibit A attached to the enacting ordinance. This parking zone will be further divided by Dickson Street into the North Zone for included residents living north of Dickson Street and the South Zone for included residents living south of Dickson Street.

(B) *Definitions.*

‘Resident’ means a natural person residing within a dwelling that the resident owns, leases or rents within the Entertainment District Parking Zone.

‘Registered vehicle’ means a motorized, validly state licensed and insured vehicle kept at the residence owned or leased by the resident within the Entertainment District Parking Zone. The Arkansas Vehicle Registration Certificate for the vehicle should list the residence within the Entertainment District.

‘Permit’ means the currently valid permit issued by Parking Division of the Transportation Department of the City of Fayetteville which allows the resident to park the permitted resident’s vehicle in an authorized on-street parking zone pursuant to the terms of this section.

(C) *Restricted parking periods.* From 1:00 p.m. on Sundays and 10:00 a.m. Monday through Saturday until 2:00 a.m. every day, designated on-street parking spaces within the Entertainment District Parking Zone North and South shall be restricted to properly permitted vehicles. The owner of any vehicle improperly parked during this period shall be subject to the penalties set forth in §72.99.

(D) *On-street parking restrictions for most vehicles in the Entertainment District Parking Zone.* Where designated by signs and as shown on the exhibits, only residents of the Entertainment District Parking Zone North shall be permitted to park their properly permitted vehicles in the designated on-street parking areas of the Residential Parking Zone North of Dickson Street during the restricted parking period. Where designated by signs and as shown on the exhibits, only residents of the Entertainment District Parking Zone South shall be permitted to park their properly permitted vehicles in the designated on-street parking areas of the Residential Parking Zone South of Dickson Street during the restricted parking period.

(E) *Special regulations for oversized vehicles, motorcycles and licensed motor scooters.* No vehicle that cannot fit within a standard on-street parking space may be permitted or parked on-street in the Entertainment District Parking Zone. Moving vans serving a residence or business in the District may be specially permitted by the Transportation Department. Motorcycles and licensed motor scooters may receive a permit allowing parking only in special motorcycle/motor scooter on-street parking spaces and be prohibited from parking in standard on-street parking spaces.

(F) *Mixed use on-street parking on Spring Street.* Fifty-nine on-street parking spaces on Spring Street shall be available to the public for paid parking and to residents of the Entertainment District Parking Zone South for properly permitted vehicles free of charge.

(G) *Free public use of on-street parking.* From 2:00 a.m. every day and until 10:00 a.m. Monday through Saturday and until 1:00 p.m. on Sunday, all on-street parking spaces within the Entertainment District Parking Zone shall be free of charge and available to the public.

(H) *Temporary guest permits.* An Entertainment District Parking Zone resident may petition the City to issue temporary guest permits for visitors to their residence to use for a special, short and infrequent event. The resident must show good cause why a limited number of guest permits shall be issued by the City. The Parking and Telecommunications Manager shall investigate any such application and weigh the good cause shown by the applicant against the anticipated need for on-street parking by other residents and recommend to the Transportation Director whether or not to issue a certain number of temporary guest permits only if it is determined that their issuance shall not unduly inconvenience other residents or the public's access to the Spring Street mixed use parking spaces. The Transportation Director's decision shall be final.

(I) *Parking permits may not be loaned, transferred, sold or used except on the designated registered vehicle.* Any resident who attempts to or does loan, transfer, sell or give a permit to another person or entity, or who facilitates the use of the permit obtained for his registered vehicle on a nonregistered vehicle shall, in addition to the general penalty provisions in this chapter, immediately forfeit all permits issued to the resident and the right to apply for any future permits for three years.

(J) *Penalty.* The owner of any vehicle parked in violation of any term or requirement of this section shall be guilty of a violation and shall be subject to the penalties set forth in §72.99.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals any ordinance or code section that is inconsistent or incompatible with this ordinance to the extent of such inconsistency or incompatibility.

PASSED and **APPROVED** this 18th day of May, 2010.

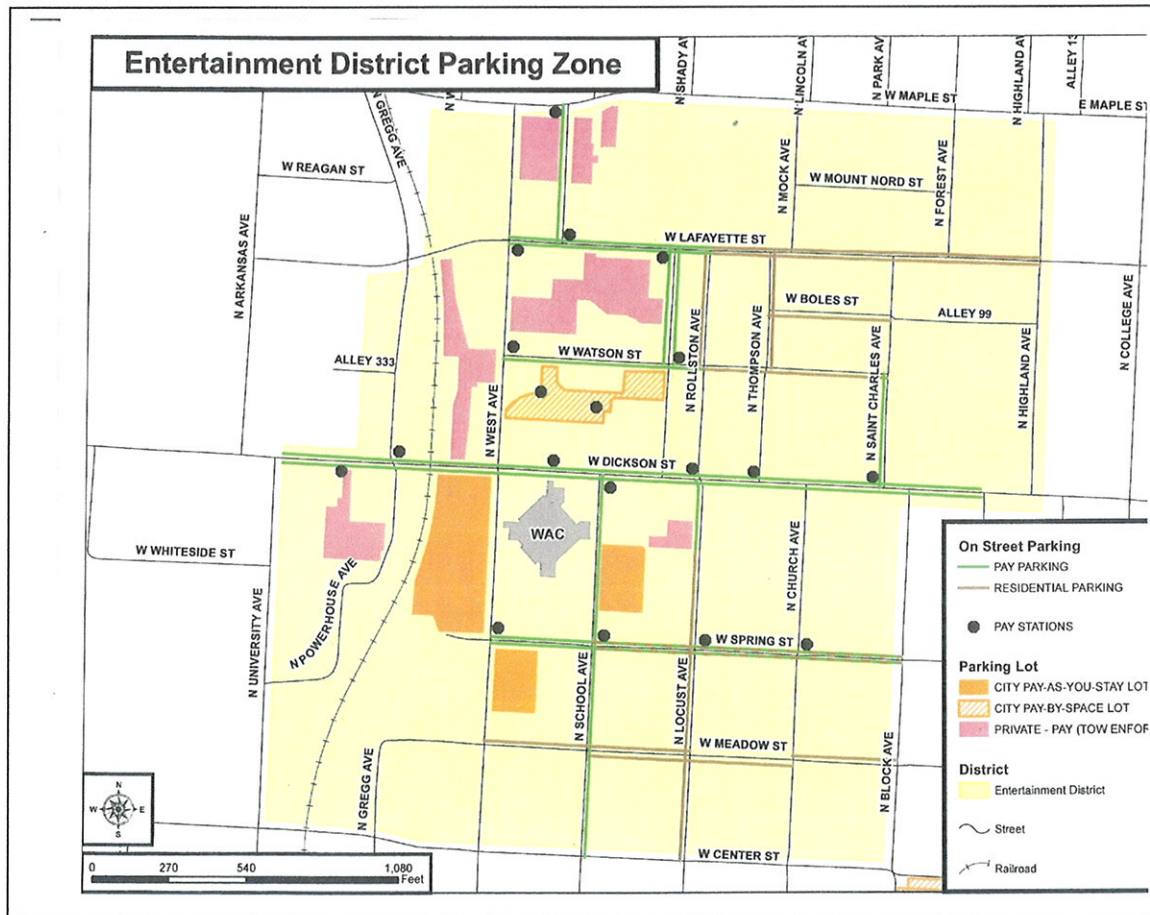
APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT A



Residential Parking Zone North:

1. Lafayette Street from Rollston Ave. to Highland Ave.
2. Boles Street from Thompson Ave. to St. Charles Ave.
3. Watson Street from Rollston Ave. to St. Charles Ave.
4. Rollston Ave. from Lafayette Street to Watson Street
5. Thompson Ave. from Lafayette Street to Watson Street

Residential Parking Zone South:

1. * Mixed-use area: Spring Street from School Ave. to Block Ave.
2. Meadow Street from West Ave. to Block Ave.
3. Locust Ave. from Center Street to 221 N. Locust Ave.

* Mixed-use area will be a combination of public parking and residential parking (with permit).

City of Fayetteville Staff Review Form

C. 5
Amend Chapter 72
(Electronic Payment Station Program)
Page 1 of 20

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

3

5/4/2010

City Council Meeting Date
Agenda Items Only

Sharon Crosson

Submitted By

Parking Management

Division

Transportation Services

Department

Action Required:

An Ordinance to amend Chapter 72 Parking Regulations of The Fayetteville Code to enact a Pay Parking Program and establish parking meter rates in the Entertainment District Parking Zone.

_____	\$ _____ -	Entertainment Dist. Parking Program
Cost of this request	Category / Project Budget	Program Category / Project Name
(multiple)	\$ _____ -	(multiple)
Account Number	Funds Used to Date	Program / Project Category Name
_____	\$ _____ -	Off-Street Parking
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

4-16-10
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

City Attorney

April 22, 2010
Date

Original Contract Number: _____

Finance and Internal Services Director

4-22-2010
Date

Received in City
Clerk's Office



Chief of Staff

4-22-10
Date

Received in
Mayor's Office



Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Terry Gulley, Director of Transportation

From: Sharon Crosson, Parking and Telecom Manager

Date: April 16, 2010, 2010

Subject: An Ordinance to Amend Chapter 72 Parking Regulations of The Fayetteville Code to Enact a Pay Parking Program in the Entertainment District Parking Zone

PROPOSAL:

City staff is recommends the approval of an ordinance to enact a pay parking program, referred to as the ***Entertainment District Parking Program***. The Entertainment District Parking Program encompasses the area as shown in **Exhibit A** and referred to as the ***Entertainment District Parking Zone***.

RECOMMENDATION:

This purpose of this program is to address the parking needs of the local merchants, visitors, employees and residents of Dickson Street and surrounding areas by implementing a pay parking program in the public parking lots and on-street spaces within the district. Every Section of this program is referring completely to the areas within the boundaries defined as the ***Entertainment District Parking Zone***. The program is designed to improve parking services in the Entertainment District and surrounding areas and achieve this goal by instituting pay parking in public facilities that are currently free, protecting adjacent neighborhoods from parking infiltration, develop an improved mechanism of enforcement for privately owned lots, which would eliminate towing and immobilization as their primary means of enforcement. The ***Entertainment District Parking Program*** will also provide a revenue source for generating funds to support the construction of a parking deck in the district.

BUDGET IMPACT:

Implementation of this program will generate a projected \$997,084.00 in annual revenues. Recurring annual expenses will be \$120,415.00 which includes staffing and operational expenses. Annual equipment lease is \$177,648.00. An allocation to the Walton Arts Center will be considered and a percentage allocation will be escrowed for a future parking deck.

1. Lot 50 – Northwest corner of West Ave. and Dickson St. (251 N. West Ave.)
2. Lot 56 – Southeast corner of West Ave. and Spring Street
3. Lot 60 – 246 N. School Ave.
4. Lot 55 – Southwest corner of Watson St. and Campbell Ave. (320 W. Watson Ave.)

Meter Fees & Times; Public On-Street Parking including Public Lots 50, 55, 56, 60

Parking rates for on-street parking spaces and public parking spaces in Lots 50, 55, 56 and 60 shall be set at the following rates and times:

Monday through Friday

- 2:00am to 10:00 am – Free
- 10:00am to 5:00pm - \$0.50/hour, \$3.00 max.
- 5:00pm to 2:00am the following day – \$1.00/hour, \$5.00 max.

Saturday

- 2:00am to 10:00am – Free
- 10:00am to 6:00pm - \$0.50/hour, \$3.00 max.
- 6:00pm to 2:00am the following day – \$1.00/hour, \$5.00 max.

Sunday

- 2:00am to 1:00pm – Free
- 1:00pm to 6:00pm - \$0.50/hour
- 6:00pm to 2:00am the following day – \$1.00/hour, \$5.00 max.

Entertainment District Employee Parking Program

Debit cards may be utilized by Entertainment District Employees that will provide a **ninety percent (90%)** discount on the current parking rate while parked in any designated discounted space. If an employee chooses to park on the prime spaces not designated for discounted parking, then their debit card shall be charged the full parking rate. The discounted parking spaces shall be determined by the Parking Manager as the needs of the public changes in the district.

The “Employee Parking Cards” may be obtained at the Parking Management Division and loaded as a pre-paid card or attached to the employee’s credit card. Employers that wish to provide parking benefits for their employees may also acquire and add funds to their employees’ cards. Merchants may also choose this option for providing parking benefits for their customers and/or members. These cards can be programmed to operate at specific areas as well.

Entertainment District Monthly Parking Permits

Monthly parkers will be allowed to park based on their parking privileges as programmed in the system server. Monthly parkers will access parking using Proximity Access Cards that are authorized for use on the system server based on the monthly parker pre-payment of monthly parker fees. Monthly parkers will drive into the entry or exit lanes causing the Proximity Card Reader to arm and read a properly presented and valid Proximity Access Card. A properly presented and valid card will cause the entry or exit gate to open allowing one vehicle to enter or exit the parking facility. Each lane will be fitted with a telephone based intercom to provide customer service in the event of an emergency. The designated parking spaces valid with a monthly parking permit shall be determined by the Parking Manager as the needs of the public changes in the district.

The parking fee for a parking permit is \$35.00 per month and is valid from 7:00am until 4:00pm and only on weekdays, Monday through Friday, excluding national holidays.

2010 PARKING REVENUE PROJECTIONS ENTERTAINMENT DISTRICT PARKING PROGRAM

Parking Lots	Location	Number of Spaces	Citation Revenue 7 days/week	Parking Fee Revenue 300 days/year 16 hours/day		
					Annualized Recurring	2010 Remaining 6 Months
Lot 50 - City owned	West of WAC	293	\$80,575	\$351,600	\$997,084	\$498,542
Lot 55 - City owned	Behind Brew Pub	105	\$28,875	\$126,000		
Lot 56 - City owned	South of Grubs	65	\$17,875	\$78,000		
Lot 60 - City owned	East of WAC	58	\$15,950	\$69,600		
On-Street Spaces	Entertainment District	210	\$57,750	\$252,000		
	Less Sales Tax 9.25%			-\$81,141		
Total Revenues:		731	\$201,025	\$796,059	\$997,084	\$498,542
Total Expenses:					\$587,063	\$402,433
Net Revenues:					\$410,021	\$96,109

✱ Includes Startup Costs of \$109,500

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLE III **PARKING METERS** OF CHAPTER 72 **PARKING REGULATIONS** BY CHANGING ITS NAME AND ADDING PROVISIONS FOR AN ELECTRONIC PAYMENT STATION PROGRAM FOR PAID PARKING LOTS AND PAID ON-STREET PARKING AND FOR OTHER REASONS

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 Article III **Parking Meters** of Chapter 72 **Parking Regulations** by renaming Article III **Parking Meters and Electronic Payment Stations** and adding the following definitions to §72.50 **Definitions**:

“‘Electronic Payment Stations’. A place where a person who has parked his vehicle in the Entertainment District Parking Zone pay parking space or lot may pay the appropriate fee for the paid park parking space.

‘Employee Parking Card.’ A card issued by the Parking Division for use only by employees of businesses operating in the Entertainment District Parking Zone which may be discounted by the Mayor up to 90% of normal parking rates for certain paid parking spaces within the Zone.

‘Entertainment District Parking Zone.’ The area depicted on the map and described on Exhibit A attached to this enacting ordinance.

‘Proximity Access Card.’ A card issued by the Parking Division for a monthly fee that allows the user to access and use gated parking lots in the Entertainment District Parking Zone on weekdays from 10:00 a.m. until 5:00 p.m.”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §72.51 **Presumption As To Unlawful Parking in Metered Space** by repealing it in its entirety and enacting a replacement §72.51 **Presumption As To Unlawful Parking In Metered Space and Paid Parking Space or Lot Serviced By An Electronic Payment Station.**

"The indication on the parking meter or within the Electronic Payment Station System that the paid for time has expired shall be presumptive evidence, as to the parked vehicle then found in the parking space or paid parking lot regulated by such parking meter or the Electronic Payment Station System, that the owner or driver has failed to pay for all the parking used in such space or lot which shall be presumptive evidence of the violation of unlawful parking."

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends §72.52 **Purpose of Deposit Requirement** by repealing it in its entirety and enacting a replacement §72.52 **Purpose of Deposit or Electronic Payment Requirement.**

"The coins required to be deposited in parking meters or the electronic payment required to be made at electronic payment stations by this article are for the purpose of regulating parking, to cover part of the cost of such necessary regulation for the convenience and protection of the public, to accumulate revenues to use for the construction of additional parking facilities including parking decks, and to provide operating revenue for the Walton Arts Center."

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends §72.53 **Depositing Slugs Prohibited** by repealing it in its entirety and enacting a replacement §72.53 **Depositing Slugs or Making Simulated Electronic Payment Prohibited.**

"(A) It shall be unlawful for any person to deposit or cause to be deposited in any parking meter installed under this article any slug, device or substitute for a coin of the United States of America.

(B) It shall be unlawful for any person to simulate an electronic payment at any electronic payment station installed under this article by any means."

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby amends §72.54 **Tampering with Meters Prohibited** by repealing it in its entirety and enacting a replacement § 72.54 **Tampering with Meters or Electronic Payment Stations Prohibited**.

"It shall be unlawful for any person to deface, injure, tamper with, willfully break, destroy or impair the usefulness of, or to open without lawful authority, any parking meter or electronic pay station installed in accord with this article."

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby amends § 72.55 **Collections from Meters** by repealing it in its entirety and enacting a replacement § 72.55 **Collections from Meters and Electronic Payment Stations**.

"The Parking Manager shall collect all deposits or electronic transactions from parking meters and electronic payment stations installed under this article and deliver them to the Accounting Department."

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby amends §72.57 **Parking Meter Zones** by repealing subsection (E) and subsection (F) in their entirety and enacting replacement subsections as shown below:

"§72.57(E) *Regulated hours for parking meters.*

(1) Within the Entertainment District Parking Zone between the hours of 10 a.m. until 2:00 a.m. Monday - Saturday and 1:00 p.m. until 2:00 a.m. on Sunday a.m. the owner or driver of a vehicle upon parking the vehicle in a parking meter space shall immediately deposit sufficient money as required in §72.58(H), in the parking meter.

(2) Outside the Entertainment District Parking Zone between the hours of 8:00 a.m. until 6:00 p.m. Monday - Friday (except City holidays), the owner or driver of a vehicle upon parking the vehicle in a parking meter space shall immediately deposit sufficient money as required in §72.58(G) in the parking meter.

"(F) *Unlawful to leave vehicle parked in excess of allowed time.*

"Upon the expiration of the legal parking time paid for and allowed pursuant to this chapter during the period that paid

parking is required, it is unlawful for the owner or driver to leave the vehicle in the parking space. Violation of such overtime parking shall be punished pursuant to §72.99."

Section 8: That the City Council of the City of Fayetteville, Arkansas hereby amends §72.58 **Off-Street Parking Meter Facilities; Rates for City Garage** by renaming the section **Off-Street parking Facilities; Rules and Rates** and by repealing subsections (G), (H) and (J) in their entirety and enacting replacement subsections (G), (H) and (J) as shown below:

"(G) Gated parking lots, parking decks and parking meters outside the Entertainment Parking District Zone. For all the parking lots identified in subsection (A) and all parking meters outside the Entertainment Parking District Zone.

The following parking fees are established and shall be required to be paid by the owner or operator of any vehicle parked in those spaces or parking lots:

- (1) Long-term metered spaces (red-capped parking meters) -- \$.15 per hour.
- (2) All other parking meters -- \$.25 per hour.
- (3) Gated lot (per space) -- \$30.00 per month.
- (4) Long-term parking permits (hang tags) for use only at long-term (red-capped) meters -- \$30.00 per month.
- (5) City Parking Deck at Meadow Street -- \$45.00 per month for first and second levels, \$30.00 per month for third level, plus single day usage fee of not more than \$4.00 if space is available.
- (6) Town Center Parking Deck - not more than \$70.00 per month nor more than \$4.00 per day if space is available.

(H) City parking lots and paid on-street parking spaces within the Entertainment District Parking Zone.

(1) For Parking Lots 50, 55, 56 and 60 and all paid on-street parking spaces within the Entertainment District Parking Zone, the following parking fees are established and shall be required to be paid by the owner or operator of any vehicle parked in those spaces or lots:

(1) Monday through Friday

- (a) 10:00 a.m. until 5:00 p.m. - \$.50 per hour with a maximum charge of \$3.00

(b) 5:00 p.m. until 2:00 a.m. the following day - \$1.00 per hour with a maximum charge of \$5.00

(c) 2:00 a.m. until 10:00 a.m. - free parking

(2) Saturday

(a) 10:00 a.m. until 6:00 p.m. - \$.50 per hour with a maximum charge of \$3.00

(b) 6:00 p.m. until 2:00 a.m. the following day - \$1.00 per hour with maximum charge of \$5.00

(c) 2:00 a.m. until 10:00 p.m. - free parking

(3) Sunday

(a) 1:00 p.m. until 5:00 p.m. - \$.50 per hour

(b) 6:00 p.m. until 2:00 a.m. the following day - \$1.00 per hour with a maximum charge of \$5.00

(c) 2:00 a.m. until 1:00 p.m. - free parking

(4) Monthly daytime parking permits (Proximity Access Cards) for gated parking lots in the Entertainment District Parking Zone.

Persons desiring to purchase monthly access to and parking within gated lots in the Entertainment District Parking Zone between the hours of 10:00 a.m. and 4:00 p.m. on weekdays (excluding holidays) may purchase a Proximity Access Card for \$35.00. Any Proximity Access Card holder shall be required to pay normal hourly parking fees for any parking within the lot beyond 4:00 p.m. Special events authorized by the Mayor that require use of the gated parking lot will supersede the rights of monthly parkers during such event.

(5) Discounted parking rates for employees. (Employee Parking Cards)

In order to assist employees working in the Entertainment District Parking Zone, the Mayor is authorized to sell and issue Employee Parking Cards that can be used for certain more distant parking spaces at a highly discounted rate of up to 90% off the normal parking rate.

(I) *Overtime parking.*

(1) If any vehicle remains parked in any metered parking space or within a paid parking lot beyond the period paid for such parking, the owner or operator of such vehicle shall be guilty of overtime parking and be subject to the punishment specified in §72.99.

(2) It is unlawful for any person to cause, allow or permit any vehicle owned or operated by said person to be parked in a gated city lot for more than 24 continuous hours. Any such illegally parked vehicle is subject to the provisions of §72.99 and to nonconsensual towing at the owner's expense who shall have post-deprivation hearing rights as set for in subsection (L).

PASSED and **APPROVED** this 4th day of May, 2010.

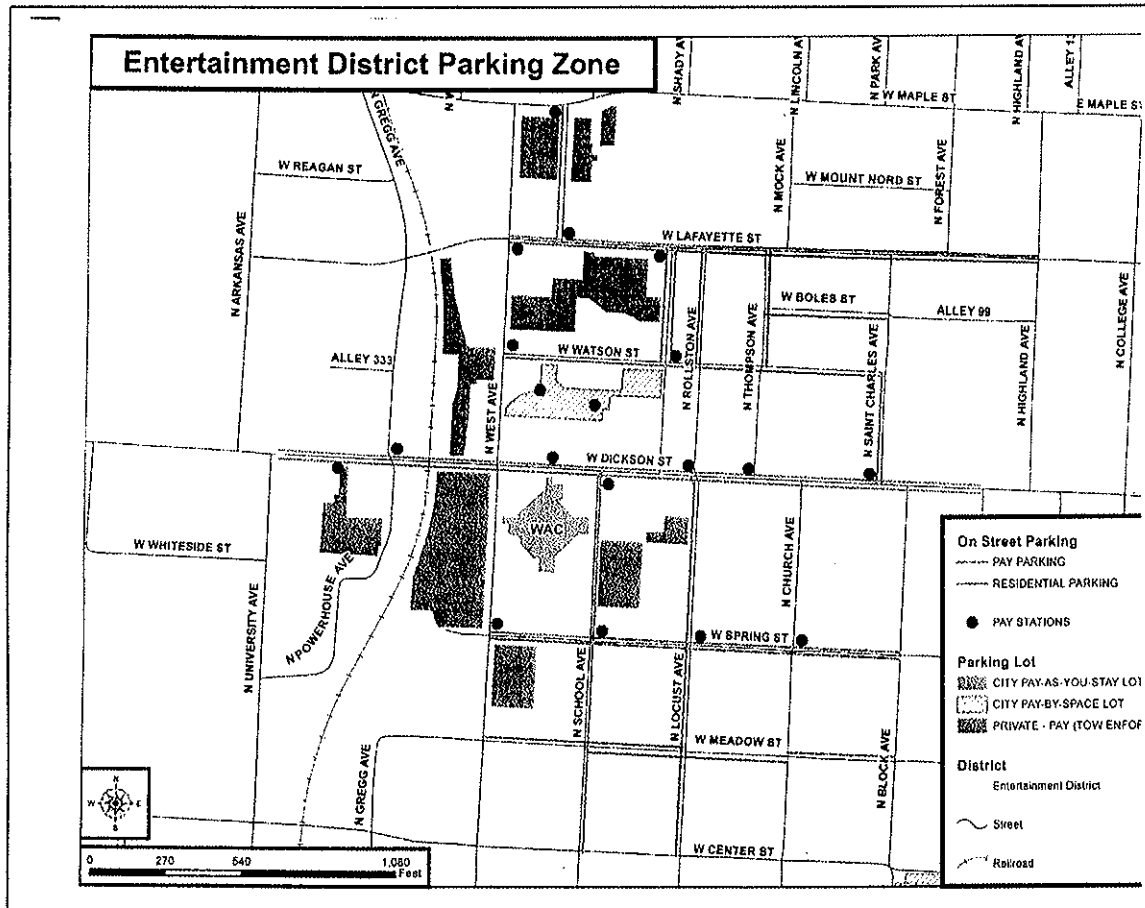
APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT A



Summary of Parking Spaces:	Count:
Pay Parking – Public Parking Lots	521
Pay Parking – Public On-Street	210
Mixed Use – Public Pay + Residential South	59
Residential Parking Zone South	79
Residential Parking Zone North	116
TOTAL SPACES	985

City of Fayetteville
 Parking Management Office
 113 W. Mountain St.
 Fayetteville, Arkansas
 Phone: 479-575-8280
 Fax: 479-575-8250
 Email: parking@ci.fayetteville.ar.us
 Website: www.accessfayetteville.org

Existing Law

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loading of materials, in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

(Code 1965, §§119-132, 119-133; Ord. No. 1447, 6-7-65; Code 1991, §72.31)

Cross reference(s)--Penalty, §72.99.

72.32 Designation Of Bus Stops And Taxicab Stands; Use Of Such Locations

- (A) The traffic superintendent is hereby authorized to establish bus stops, bus stands, taxicab stands and stands for other passenger common-carrier motor vehicles on the public streets in such places as he shall determine to be of the greatest benefit and convenience to the public, such bus stops, bus stands, taxicab stands or other stands so established shall be designated by appropriate signs where deemed by the traffic superintendent as necessary.
- (B) The following rules shall govern the stopping, standing and parking of buses and taxicabs:
- (1) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone or other location where passengers are normally discharged or picked up in such manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position as close to the curb as possible, so as not to impede unduly the movement of other vehicular traffic.
 - (2) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand designated by the traffic superintendent. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious unloading or loading of passengers.
- (C) No person shall stop, stand or park a vehicle other than a bus in a bus stop or other than a taxicab in a taxicab stand when such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading and unloading passengers when such stopping does not interfere

with any bus or taxicab waiting to enter or about to enter such zone.

(Code 1965, §§19-134--19-136; Ord. No. 1447, 6-7-65; Ord. No. 2745, 8-4-81; Code 1991, §72.32)

Cross reference(s)--Penalty, §72.99.

72.33 Hotel Loading Zones

The traffic superintendent shall establish and mark hotel zones to be used solely for the loading and unloading of passengers and baggage. Standing or parking in such hotel zones shall be limited to 15 minutes and no person shall park a vehicle in a hotel zone except for the purpose of taking and discharging passengers and baggage destined for such hotel.

(Code 1965, §19-137; Ord. No. 1447, 6-7-65; Code 1991, §72.33)

Cross reference(s)--Penalty, §72.99.

72.34 Parking Signs Or Curb Markings Required

Whenever, by any provision of this chapter, a parking time limit is imposed or parking is prohibited on any street or part of street, it shall be the duty of the traffic superintendent to erect appropriate signs or to paint appropriate curb markings on such street or part of street giving notice thereof, and no such regulations shall be effective unless such signs are erected or such curb markings are painted and in place on the side or sides of the street or part of street when parking time is limited or prohibited at the time of any alleged offense.

(Code 1965, §19-138; Ord. No. 1447, 6-7-65; Ord. No. 2650, 7-15-80; Code 1991, §72-34)

Cross reference(s)--Penalty, §72.99.

72.35-72.49 Reserved

ARTICLE III PARKING METERS



72.50 Definitions

For the purpose of this article the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Operator. Every individual shall operate a vehicle as the owner thereof, or as the agent, employee or permittee of the owner, or any person who is in actual physical control of a vehicle.

Park or parking. The standing of a vehicle, whether

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occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason of causes beyond the control of the operator of the vehicle.

Parking meter. Portions of streets within which the parking of vehicles are controlled, regulated, and inspected with the aid of timing devices or meters, herein referred to as "parking meters" or "meters".

Parking meter facility. Any real estate (except any public street, avenue, road, alley, or highway not specifically described herein) owned, leased, or operated by the city, upon which parking meters are installed and in operation for the use of vehicles.

Parking meter space. Any space within a parking meter facility or parking meter zone adjacent to a parking meter and which is duly designated and marked for the parking of a vehicle in accord with this article.

Parking meter zones. Portions of streets described and established by the City Council as zones within which the parking of vehicles shall be controlled, regulated, and inspected with the aid of timing devices or meters, herein referred to as "parking meters" or "meters".

Vehicle. Any device in, upon or by which any person or property is or may be transported upon a street, except a device which is operated upon rails or tracks.

(Code 1965, §19-51; Ord. No. 931, 2-23-48; Ord. No. 1083, 6-6-55; Ord. No. 4222, 2-15-00; Code 1991, §72.50)

72.51 Presumption As To Unlawful Parking In Metered Space

The indication on the parking meter that time has expired shall be presumptive evidence, as to a parked vehicle then found in the parking space regulated by such parking meter, that the owner or driver failed to deposit or cause to be deposited the required coin or coins in the meter and the indication by such meter of a "violation" shall be presumptive evidence of unlawful parking.

(Code 1965, §19-152; Ord. No. 931, 2-23-48; Ord. No. 1083, 6-6-55; Code 1991, §72.51)

72.52 Purpose Of Deposit Requirement

The coins required to be deposited in parking meters by this article are for the purpose of regulating parking and to cover part of the cost of such necessary regulation for the convenience and protection of the public.

(Code 1965, §19-153; Ord. No. 931, 2-23-48; Ord. No. 1083, 6-6-55; Code 1991, §72.52)

72.53 Depositing Slugs Prohibited

It shall be unlawful for any person to deposit or cause to be deposited in any parking meter installed under this article any slug, device or substitute for a coin of the United States of America.

(Code 1965, §19-154; Ord. No. 931, 2-23-48; Ord. No. 1083, 6-6-55; Code 1991, §72.53)

Cross reference(s)--Penalty, §72.99.

72.54 Tampering With Meters Prohibited

It shall be unlawful for any person to deface, injure, tamper with, willfully break, destroy or impair the usefulness of, or to open without lawful authority, any parking meter installed in accord with this article.

(Code 1965, §19-155; Ord. No. 931, 2-23-48; Ord. No. 1083, 6-6-55; Code 1991, §72.54)

Cross reference(s)--Penalty, §72.99.

72.55 Collections From Meters

The mayor shall assign or cause to be assigned a competent person to make collections of deposits from parking meters installed under this article. Such collections shall be delivered to the city controller and deposited to the credit of the city.

(Code 1965, §19-156; Ord. No. 931, 2-23-48; Ord. No. 1082, 6-6-55; Ord. No. 1083, 6-6-55; Code 1991, §72.55)

72.56 Loading Zones Not Prohibited

Nothing in this article shall be construed as prohibiting the city from providing for bus stops and taxicab stands and for other matters of similar nature, including the loading or unloading of trucks, vans or other commercial vehicles.

(Code 1965, §19-157; Ord. No. 931, 2-23-48; Ord. No. 1083, 6-6-55; Code 1991, §72.56)

72.57 Parking Meter Zones

(A) The mayor, or his duly authorized representative, is hereby authorized to describe, establish and alter parking meter zones.

(B) Parking meters shall be installed not more than two feet from the curb nor more than four feet from the front line of the parking space. Spaces shall be marked out as individual parking meter spaces for vehicles and kept clearly marked at all times. No parking meter authorized herein shall be so

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installed or a parking space so established that it will obstruct the convenient egress and ingress to any property butting on any street.

- (C) Each parking meter installed under this section, shall be set to operate upon the deposit therein of the prescribed coin or coins for the period of time prescribed as parking time limits in subsection (F) below. Each of such meters shall be so arranged so as to show or display a signal, which shall clearly indicate whether the time limit during which parking in that space is permitted has expired.
- (D) Any person parking a vehicle within a parking meter zone established by this section shall park the same wholly within the lines of the parking space marked as provided in subsection (B), and it shall be unlawful for any person to park or leave a vehicle in any such zone, unless it is wholly within such space. Where the parking meters are placed in front of parking spaces, the radiator shall be as near as possible to the parking meter controlling the space, and where the parking meters are placed alongside the parking spaces, the front fender or front wheels of the vehicle shall be as near as possible to the parking meter controlling the space.
- (E) Except in a period of emergency determined by an officer of a fire company or of the police department, or except in compliance with the directions of a police officer or traffic control signal, when any vehicle shall be parked in a space regulated by a parking meter installed under this subsection, between the hours of 8:00 a.m. and 6:00 p.m., on any day except Sunday and public holidays, the owner, operator or driver of such vehicle shall, upon entering such parking space, immediately deposit in the parking meter regulating such space one or more coins of the United States of America designated in subsection (F) below. The failure to deposit such proper coin or coins shall be deemed a violation of this section.
- (F) Any vehicle parking or standing in any parking meter space within a zone established by this section may lawfully occupy such space for one hour or less by paying the same rate as established in §72.58(H), Parking lot fees, (1) short term metered spaces.
- (1) Upon the expiration of the legal parking time as above prescribed, it shall be the duty of the owner or driver of the vehicle forthwith to remove the vehicle from the parking space, and it shall be unlawful for any person to cause, allow, permit, or suffer any such vehicle

driven by him or registered in his name to be parked or standing overtime or remain therein beyond the parking time limit prescribed by this section. It shall likewise be unlawful for any person to permit a vehicle driven by him/her or registered in his name to remain or be placed in any parking space alongside of or next to which any parking meter is placed while the parking meter is displaying a signal showing that the time for which the privilege to park in such space has been granted has expired, without making the deposit required in this section.

- (2) Each hour or portion thereof that a vehicle is parked overtime in violation of this section shall constitute a separate offense.
- (3) This section shall not be applicable on days or during hours in which subsection (E) above does not require the deposit of a coin in the parking meter.

(Code 1965, §§19-169--19-173; Ord. No. 931, 2-23-48; Ord. No. 1196, 4-6-59; Ord. No. 1775, 12-21-70; Ord. No. 2403, 12-6-77; Ord. No. 2410, 1-16-78; Ord. No. 2616, 4-1-80; Ord. No. 2769, 11-3-81; Ord. No. 4222, 2-15-00; Code 1991, §72.57)

Cross reference(s)--Penalty, §72.99.

**72.58 Off-Street Parking Meter Facilities;
Rates For City Garage**

- (A) *Established.* The following named and described real estate lying within the corporate limits of the city is hereby established as and shall constitute parking meter facilities:
- (1) Lots 8 to 15, inclusive, in Block 26 of the original plat of the city, including an alley 10 feet in width and running in an east and west direction and adjoining the southern boundary of Lots 12 to 15, inclusive, and the northern boundary of Lots 8 to 11 inclusive.
- (2) Lots 8, 9, 10, 11, 12, 13, 14 and 15 of Block 30, in the town (now city), as designated upon the original plat of said town.
- (3) Lot 9A and a part of Lot 10, in Block 29, of the original plat of the city.
- (4) Part of the Northwest Quarter of the Southwest Quarter of Section 15, Township 16 North, Range 30 West, described as follows: Beginning at a point 84 feet south and 25 feet east of the northwest corner of the said 40-

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- acre tract, and running thence south 178 feet; thence east 70.3 feet; thence north 178 feet; thence west 70.3 feet to the point of beginning.
- (5) A part of Block 7, of the original plat of the city, more particularly described as beginning at a point 13 feet and two inches south of the northwest corner of said Block 7, running thence east 50 feet; thence south 267 feet to the point of beginning.
- (6) Lots 7, 8, 9 and 10 of Block 17 in the town (now city) as designated upon the original plat of said town.
- (7) Lots 8, 9 and 10 of Block 13 in the town (now city) as designated upon the original plat of said town.
- (8) Lots 1, 2, Lot 3, less 52.53 feet of equal and uniform width off the south side thereof, and Lot 12, less 50 feet of equal and uniform width off the south side thereof of Block 13 in the town (now city) as designated upon the original plat of said town.
- (9) Part of Block 25, in the town (now city) as designated upon the original plat of said town, and more particularly described as follows: Beginning at the northeast corner of Lot 1 in said Block 25, thence west 42 feet; thence south 49.3 feet; thence west 58 feet; thence south 58.7 feet to the center of a platted alley; thence east 100 feet; thence north 107 feet to the point of beginning.
- (10) Part of Block 15, in the original plat of the city, described as follows: Beginning at a point 127 feet west of the northeast corner of Block 15 and running thence south 206 feet to the north line of a 12-foot alley; thence west 177 feet to the east line of an alley; thence north 90 feet; thence east 22 feet; thence north 116 feet to the south line of Meadow Street; thence east 17 feet; thence south 27 feet; thence east 20 feet; thence north 27 feet to the south line of Meadow Street; thence east 118 feet to the point of beginning.
- (11) Lots numbered 12 and 13 in Block 30 of the original town (now city).
- (B) *Definitions.* For the purpose of this section "public off-street automobile parking facilities" are defined as accommodations procured or provided, or both, by public authority for the parking of motor vehicle off the street or highway, and open to public use with or without charge. Parking facilities may consist of lots, garages, or other structures and accessories; they may be surfaced facilities or facilities above or below ground.
- (C) *Marking of parking spaces.* The mayor is hereby authorized to mark off individual parking spaces in the parking meter facilities established by this section, such parking spaces to be designated by lines painted or durably marked on the curbing or otherwise.
- (D) *Installation, location, mechanical requirements, and maintenance of meters.* In the parking meter facilities established by this article, the mayor shall cause parking meters to be installed upon the curb immediately adjacent to the parking spaces marked in accord with subsection (C) above, such installation to be placed not more than two feet from the curb or concrete islands as provided, from the front line of the parking space as indicated, and the mayor shall be responsible for the regulation, control, operation, maintenance, and use of such parking meters. Each parking meter installed shall indicate by proper legend the legal parking time established by the city and, when operated, shall at all times indicate the balance of legal parking time, and at the expiration of such period shall indicate illegal or overtime parking.
- (E) *Vehicles to be parked entirely within parking spaces.* At each space marked off in accord with subsection (C) above, it shall be unlawful for any person to park any vehicle across any lines or markings of such space or in such position that the vehicle shall not be entirely within the area designated by such lines or markings.
- (F) *Deposit of coin required.*
- (1) Except in a period of emergency determined by an officer of the fire or police departments, or in compliance with the directions of a police officer or traffic control sign or signal, when any vehicle is parked in any parking space alongside or next to which a parking meter is located in accord with this section, the operator of such vehicle shall, upon entering the parking meter space, immediately deposit or cause to be deposited in the meter such proper coin of the United States as is required for such parking meter and is designated by proper directions on the meter, and when required by the directions on the meter, the operator of such vehicle, after the deposit of the proper coin or coins, shall also set in operation the timing mechanism on such meter in accordance with directions properly appearing thereon. Failure to deposit such proper coin, and to set the timing mechanism

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in operation when so required, shall constitute a violation of this section. Upon the deposit of such coin (and the setting of the timing mechanism in operation when so required) the parking space may be lawfully occupied by such vehicle during the period of time which has been prescribed; provided that any person placing a vehicle in a parking meter space adjacent to a meter which indicates that unused time has been left in the meter by the previous occupant of the space shall not be required to deposit a coin so long as his occupancy of the space does not exceed the indicated unused parking time.

- (2) This section shall apply every day between the hours of 8:00 a.m. and 6:00 p.m., except Sundays and legal holidays.

(G) *Deposit of coin required at gated lot.* It shall be unlawful for any person to cause, allow, permit or suffer any vehicle operated by him or registered in his name to be parked in a gated off-street parking lot without the usage fee prescribed by subsection (H) below having first been deposited.

(H) *Parking lot fees.* The following off-street parking rates are hereby established:

- (1) Short-term metered spaces (gray capped meters) - \$0.25 per hour;
- (2) Long-term metered spaces (red capped meters) - \$0.15 per hour;
- (3) Gated lots (per space) - \$30.00 per month;
- (4) Long-term parking permits (hang tags) for use at long term meters only - \$30.00 per month;

(I) *Rates for parking in city parking garages.*

(1) City parking garage on Meadow Street:

- (a) First level (covered),
\$45.00 per space/per month, or not more than \$4.00 per visit if entry not restricted.
- (b) Second level (covered),
\$45.00 per space/per month.
- (c) Third level (not covered),
\$30.00 per space/per month, or not more than \$3.00 per visit if entry not restricted.

(2) Parking garages built or purchased after January 1, 2000, including the Town Center,

shall be rented at a market rate not to exceed a uniform fee of \$70.00 per month/per space.

- (3) It shall be unlawful for any person to cause, allow, permit or suffer any vehicle operated by him or registered in his name to be parked in any city parking garage without paying the parking fees prescribed above.

(J) *Overtime parking.*

- (1) If any vehicle remains parked in any parking space in a parking meter facility established by this section beyond the parking time limit set for such parking space, and if the meter indicates such illegal parking, then, and in that event, such vehicle shall be considered as parking overtime and beyond the period of legal parking time, and such parking shall be deemed a violation of this section. It shall be unlawful for any person to cause, allow, permit or suffer any vehicle operated by him or registered in his name to be parked overtime, or beyond the period of legal parking time established for any parking meter facility as herein described, or to deposit in any parking meter any coin for the purpose of parking beyond the maximum legal parking time for the particular parking meter space or to permit any such vehicle to remain or to be placed in any parking space adjacent to any parking meter while the meter is displaying a signal indicating that the vehicle occupying such space has already been parked beyond the period prescribed for such parking space.

(2) Each additional hour or fraction thereof that a vehicle is parked in violation of this section shall constitute a separate offense.

(3) It shall be unlawful for any person to cause, allow, permit or suffer any vehicle operated by him or registered in his name to be parked in a gated off-street parking lot for more than 24 continuous hours. Each additional hour or fraction thereof that a vehicle is parked in violation of this section shall constitute a separate offense.

(K) *One-way traffic.*

- (1) The mayor is hereby authorized to determine and designate specific lanes upon the real estate described in subsection (A) above upon which vehicular traffic shall proceed in one direction only and shall cause to be placed appropriate markings, signs, barriers, or other

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TITLE VII TRAFFIC CODE

devices to give notice thereof. The mayor shall cause to be erected signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway.

- (2) When signs indicating the direction of traffic are erected and maintained in accord with subsection (1) above, vehicular traffic shall move only in the indicated direction, and it shall be unlawful for any person to operate any vehicle in violation of the markings, signs, barriers, or other devices placed in accordance with subsection (1) above.

(L) *Immobilization of illegally parked motor vehicle.*

- (1) *Immobilization authorized.* Employees of the traffic division and officers of the police department are hereby authorized to temporarily immobilize any vehicle which is parked in violation of any provision of this chapter and whose owner has been cited for violating these parking regulations at least twice in the preceding thirty days or has outstanding fines and costs from previous parking violations due and owing.

- (2) *Post-deprivation hearing.* When any vehicle is immobilized under the provisions of this section, the owner or operator shall have the right to a post-deprivation administrative hearing by filing a written request for such a hearing with the mayor.

(3) *Conduct of hearing.*

- (a) A hearing shall be conducted before a hearing officer designated by the mayor and shall be held within 24 hours from receipt of a written demand therefor, unless the right to a speedy hearing is waived in writing. Saturdays, Sundays, and city holidays are to be excluded from calculating said 24-hour period. The hearing officer shall not be the person who directed the impounding and storage of the vehicle. The sole issue before the hearing officer shall be whether there was probable cause to immobilize the vehicle in question.
- (b) The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person has the right

to possession of the vehicle. The city shall carry the burden of establishing that there was probable cause to immobilize the vehicle in question. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing and to the registered owner of the vehicle. The hearing officer's decision shall in no way affect any criminal proceeding in connection with the immobilization. The decision of the hearing officer shall be final. Failure to request a post-immobilization hearing within three days from the date of immobilization, or failure to attend a scheduled post-immobilization hearing shall be deemed a waiver of the right to such hearing; and, the police department shall be authorized to have the vehicle towed to and stored at a safe place designated as an official police garage by the chief of police. The owner or operator of the vehicle shall be liable for all towing and storage fees.

(4) *Decision of hearing officer.*

- (a) The hearing officer shall only determine whether there was probable cause to immobilize the vehicle. If the hearing officer determines that there was no probable cause, the hearing officer shall prepare and date a certificate of no probable cause, a copy of which shall be given to the registered owner of the vehicle or his agent and to the police department and traffic division. Upon receipt of the owner's copy of such certificate, an employee of the traffic division or an officer of the police department shall remove the immobilization device from the vehicle.
- (b) If the hearing officer determines that there was probable cause for immobilizing the vehicle, the registered owner, or his agent, may obtain removal of the immobilization device by posting a bond in a reasonable amount specified by the district court. The amount of said bond shall be not less than a sum equivalent to the cumulative total of applicable fines, court costs, towing fees and storage fees. Upon presentation of a receipt evidencing the posting of said bond, an employee of the traffic division or an officer of the police department shall remove the

FAYETTEVILLE CODE OF ORDINANCES
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immobilization device from the vehicle.

(Code 1965, §§19-185--19-195; Ord. No. 1083, 6-6-55; Ord. No. 1197, 4-6-59; Ord. No. 1231, 1-25-60; Ord. No. 1242, 8-8-60; Ord. No. 1576, 11-6-67; Ord. No. 1802, 6-21-71; Ord. No. 1866, 6-5-72; Ord. No. 2613, 3-18-80; Ord. No. 2769, 11-3-81; Ord. No. 2815, 6-15-82; Ord. No. 2875, 11-23-82; Ord. No. 2914, 4-19-83; Ord. No. 2939, 9-12-83; Ord. No. 3995, §1, 9-17-96; Ord. No. 4222, 2-15-00; Code 1991, §72.58; Ord. No. 4889, 06-20-06)

Cross reference(s)--Penalty, §72.99.

72.59-72.98 Reserved

72.99 Penalties

- (A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided shall be fined as set forth in §10.99.
- (B) The penalty for each violation of §§72.13, 72.57 or 72.58(J) shall be \$5.00, if paid before the issuance of a summons, citation, or arrest warrant; otherwise, the penalty for each violation of §§72.13, 72.57, 72.58(J) shall be \$25.00; provided the penalty for each violation of §§72.13, 72.57, or 72.58(J) in excess of five parking violations in any calendar month shall be \$25.00 if paid before the issuance of a summons, citation, or arrest warrant; otherwise, the penalty for each violation of §§72.13, 72.57, or 72.58(J) in excess of five parking violations in any calendar month shall be \$50.00.

City of Fayetteville Staff Review Form

C. 6
Amend Chapter 72
(\$72.99 Penalties)
Page 1 of 6

City Council Agenda Items
and
Contracts, Leases or Agreements

4

5/4/2010

City Council Meeting Date
Agenda Items Only

Sharon Crosson

Submitted By

Parking Management

Division

Transportation Services

Department

Action Required:

An Ordinance to amend Chapter 72 Parking Regulations of The Fayetteville Code to change the fines and summons fees for parking violations in the Entertainment District Parking Zone and Downtown Square Parking Zone.

Cost of this request	\$ -	Entertainment Dist. Parking Program
	Category / Project Budget	Program Category / Project Name
Account Number	\$ -	Parking Fines
	Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Off-Street Parking
	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 Services Director

Date

Chief of Staff

Date

Mayor

Date

Received in City
Clerk's Office



Received in
Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Terry Gulley, Director of Transportation

From: Sharon Crosson, Parking and Telecom Manager

Date: April 16, 2010, 2010

Subject: An Ordinance to Amend Chapter 72 Parking Regulations of The Fayetteville Code to Change the Fines for Parking Violations in the Entertainment District Parking Zone and the Downtown Square Parking Zone

PROPOSAL:

City staff is recommends the approval of an ordinance to change the fines for parking violations and summons fees in the Entertainment District Parking Zone and the Downtown Square Parking Zone.

RECOMMENDATION:

Violation amounts are established in relation to the cost of the parking meter rate, and are set high enough with the intent to encourage the parker to pay appropriate fee for the use of the parking space. As the parking rates have been established for the Entertainment District and Downtown Square Parking Zones, the recommended violation amounts follow the general guidelines of this concept.

An escalating violation amount for overtime parking has been proposed for all public parking in the Entertainment District and Downtown Square Parking Zones. The first offense begins at a very low fine of \$10.00; this gives careful consideration to first-time visitors of our area. The second offense increases to \$15.00; three or more offenses are \$25.00 each. Parking fines have not been increased since 2002.

The violation amounts for prohibited parking and illegally parking in a handicap space are proposed to match that of the Fayetteville Police Department which is set by the District Judge. This provides consistency in the fines issued for the same offense by both the Parking Management Division and the Fayetteville Police Department.

BUDGET IMPACT:

Implementation of this program will involve minimal program of existing equipment and software to implement the new fines. Estimated revenues generated from this change is \$313,975 per year.

Citation Rates and Enforcement Recommendation

Citations may be written up to three (3) times per day, once per Time Period as defined in Chapter 72 Parking Meter Rates & Times.

Violation	1 st Offense	2 nd Offense	3 rd Offense and after	Summons Fee if Not Paid Within 14 Days
Overtime parking	\$10.00	\$15.00	\$25.00	\$25.00
Prohibited parking	\$70.00 (same as Police Department)			\$25.00
Handicap violation	\$195.00 (same as Police Department)			\$25.00

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLE III **PARKING METERS AND ELECTRONIC PAYMENT STATIONS OF CHAPTER 72 PARKING REGULATIONS BY AMENDING § 72.99 PENALTIES**

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 §72.99(B) **Penalties** by repealing it in its entirety and enacting a replacement §72.99(B) **Penalties** and a new subsection (C) as shown below:

“(B) The penalty for each violation of §§72.13, 72.57 or 72.58(J) shall be \$10.00, if paid before the issuance of a summons, citation, or arrest warrant; otherwise, the penalty for each violation of §§72.13, 72.57, or 72.58(J) shall be \$35.00; provided the penalty for each violation of §§72.13, 72.57, or 72.58(J) for a second offense shall be \$15.00 if paid before the issuance of a summons, citation, or arrest warrant; otherwise the penalty for each violation of §§72.13, 72.57, or 72.58(J) shall be \$40.00; provided the penalty for each violation of §§72.13, 72.57, or 72.58(J) for a third or subsequent offense shall be \$25.00 if paid before the issuance of a summons, citation, or arrest warrant; otherwise the penalty for each violation of §§72.13, 72.57, or 72.58(J) shall be \$50.00.

“(C) Parking citations for overtime parking may not be written for the same vehicle in the same space more than three times per day.”

PASSED and **APPROVED** this 4th day of May, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville Staff Review Form

C. 7
The Parking Consultants, Inc.
Page 1 of 6

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

5

5/4/2010

City Council Meeting Date
Agenda Items Only

Sharon Crosson

Submitted By

Parking Management

Division

Transportation Services

Department

Action Required:

A Resolution to recommend that City staff in conjunction with The Parking Consultants, Inc. begin negotiating equipment pricing for the Entertainment District Parking Program to achieve the best pricing possible on parking equipment.

_____	\$ _____ -	Entertainment Dist. Parking Program
Cost of this request	Category / Project Budget	Program Category / Project Name
_____	\$ _____ -	Parking Lot Improvements
2130-9130-5819-00	Funds Used to Date	Program / Project Category Name
Account Number		
_____	\$ _____ -	Off-Street Parking
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Tracy 2 Gully

Department Director

4-22-10

Date

Previous Ordinance or Resolution # _____

OK [Signature]

City Attorney

April 22, 2010

Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Babin

Finance and Internal Services Director

4-22-2010

Date

Received in City
Clerk's Office



Don Mann

Chief of Staff

4-22-10

Date

Received in
Mayor's Office

Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Terry Gulley, Director of Transportation

From: Sharon Crosson, Parking and Telecom Manager

Date: April 21, 2010

Subject: A Resolution to Recommend that City Staff in Conjunction with The Parking Consultants, Inc. Begin Negotiating Equipment Pricing for the Entertainment District Parking Program

PROPOSAL:

This resolution gives City Council support for City staff to begin negotiating equipment pricing for the Entertainment District Parking Program. This negotiation process will be led by The Parking Consultants, Inc. whom the City hired to provide parking planning services for this project. Staff requests our consultant to negotiate equipment pricing not to exceed the retail price of \$841,000.00, and in fact, our goal is to achieve a substantial discount on this purchase.

RECOMMENDATION:

In January of this year, the City contracted with The Parking Consultants, Inc. to provide professional parking planning services for the new pay parking program in the Entertainment District. Chris Pecoraro is our project manager and has brought forth many new and innovative ideas for our overall plan. He has provided professional parking planning services nationwide and has implemented new parking programs in Entertainment Districts like Fayetteville.

One of the services he provides expertise and experience is in negotiating pricing with equipment suppliers. Chris has already provided us with the retail cost for the equipment needed for the implementation of the Entertainment District Parking Program. Equipment for the program includes the following items:

Parking Office Server Upgrades and Credit Card Server	\$ 79,000
13 LUKE Solar Pay Stations	\$201,500
6 LUKE 120-VAC Pay Stations	\$90,000
DIGITAL – Lot 50	\$310,500
DIGITAL – Lot 56	\$ 80,000
DIGITAL – Lot 60	\$ 80,000
TOTAL RETAIL EQUIPMENT PURCHASE:	\$841,000

BUDGET IMPACT:

The purchase of this equipment will be accomplished through a lease option with Noreast Capital Corporation. The equipment will be leased on a 60-month term for an amount not to exceed retail pricing of \$841,000.00. The City will have the option to payoff the lease earlier with no early payment penalty.

Based on the final purchase price, the following table shows our monthly lease payment and payoff amount:

Purchase Price	Monthly Lease Payment	Payoff Amount in 24 Months
\$841,000	\$17,786	\$595,849
\$800,000	\$16,919	\$566,800
\$700,000	\$14,804	\$495,950
\$600,000	\$12,689	\$425,100

RESOLUTION NO. _____

A RESOLUTION TO AUTHORIZE NEGOTIATIONS WITH AMANO MCGANN FOR THE LEASE/PURCHASE OF UP TO 19 ELECTRONIC PAY STATIONS AND 3 DIGITAL GATE PAY STATIONS AND OTHER EQUIPMENT NEEDED IF THE CITY COUNCIL APPROVES PAID PARKING LOTS AND ON-STREET PARKING SPACES IN THE ENTERTAINMENT DISTRICT PARKING ZONE

WHEREAS, if the City Council desires to institute a paid parking lot and paid on-street parking program for the Entertainment District Parking Zone, City Staff has recommended using software, 19 electronic pay stations and 3 digital gate pay stations sold by Amano McGann; and

WHEREAS, since the list price of such equipment is \$841,000.00, staff would like the authority to use its parking consultant to negotiate with Amano McGann in an attempt to bring the best possible contract price to the City Council for its consideration and decision.

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 negotiations with Amano McGann for needed parking equipment contingent upon passage by the City Council of the ordinances instituting paid parking lots and paid on-street parking in the Entertainment District Parking Zone, and authorizes the use of its parking consultant in such negotiations with the express condition that the City Council shall make the final decision on any proposed lease or contract and will carefully consider whether sufficient grounds exist to waive competitive bidding for such a large contract.

PASSED and **APPROVED** this 4th day of May, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

SECTION V:

Equipment Locations; Public On-Street Parking including Public Lot 55

The placement of Multi-Space Meters for an effective Public On-Street Parking Program is critical to the success of the program. The following list identifies recommended locations based on destination, foot traffic and convenience in the City of Fayetteville Entertainment District.

1. Southwest corner Maple Street & Vandeventer Avenue
2. Northeast corner Lafayette Street & Vandeventer Avenue
3. Southwest corner Lafayette Street & Campbell Avenue
4. Southeast corner Lafayette Street & West Avenue
5. Northeast corner Watson Street & Campbell Avenue (optional)
6. Northeast corner Watson Street & West Avenue (optional)
7. Lot 55; between ADA parking stalls at center of lot across from Legacy Building Lobby
8. Lot 55; Adjacent to ADA in planter in front of You Know Uno
9. Northwest corner Dickson Street & Saint Charles Avenue
10. Planter adjacent to crosswalk at front of Underwood's Jewelry
11. Northeast corner Dickson Street & Gregg Avenue
12. Adjacent to streetlight standard at front of Common Grounds
13. Adjacent to streetlight standard at front of Dickson Street Book Shop
14. Adjacent to streetlight standard at front of 36 Club
15. Northwest corner Dickson Street & Thompson Avenue
16. Northeast corner Spring Street & West Avenue
17. Northeast corner Spring Street & School Avenue
18. Northeast corner Spring Street & Locust Avenue
19. Northeast corner Spring Street & Church Avenue
20. Lobby of Walton Arts Center

SECTION VI:

Meter Fees & Times; Public On-Street Parking including Public Lots 50, 55, 56, 60

Parking rates for on-street parking spaces and public parking spaces in Lots 50, 55, 56 and 60 shall be set at the following rates and times:

Time Period 1

- Monday through Friday: 2:00am to 10:00 am – Free

Time Period 2

- Monday through Friday: 10:00am to 5:00pm - \$0.50/hour, \$3.00 max.

Time Period 3

- Monday through Friday: 5:00pm to 2:00am the following day – \$1.00/hour, \$5.00 max.

Time Period 4

- Saturday: 2:00am to 10:00am – Free

Time Period 5

- Saturday: 10:00am to 6:00pm - \$0.50/hour, \$3.00 max.

Time Period 6

- Saturday: 6:00pm to 2:00am the following day – \$1.00/hour, \$5.00 max.

Time Period 7

- Sunday: 2:00am to 1:00pm – Free

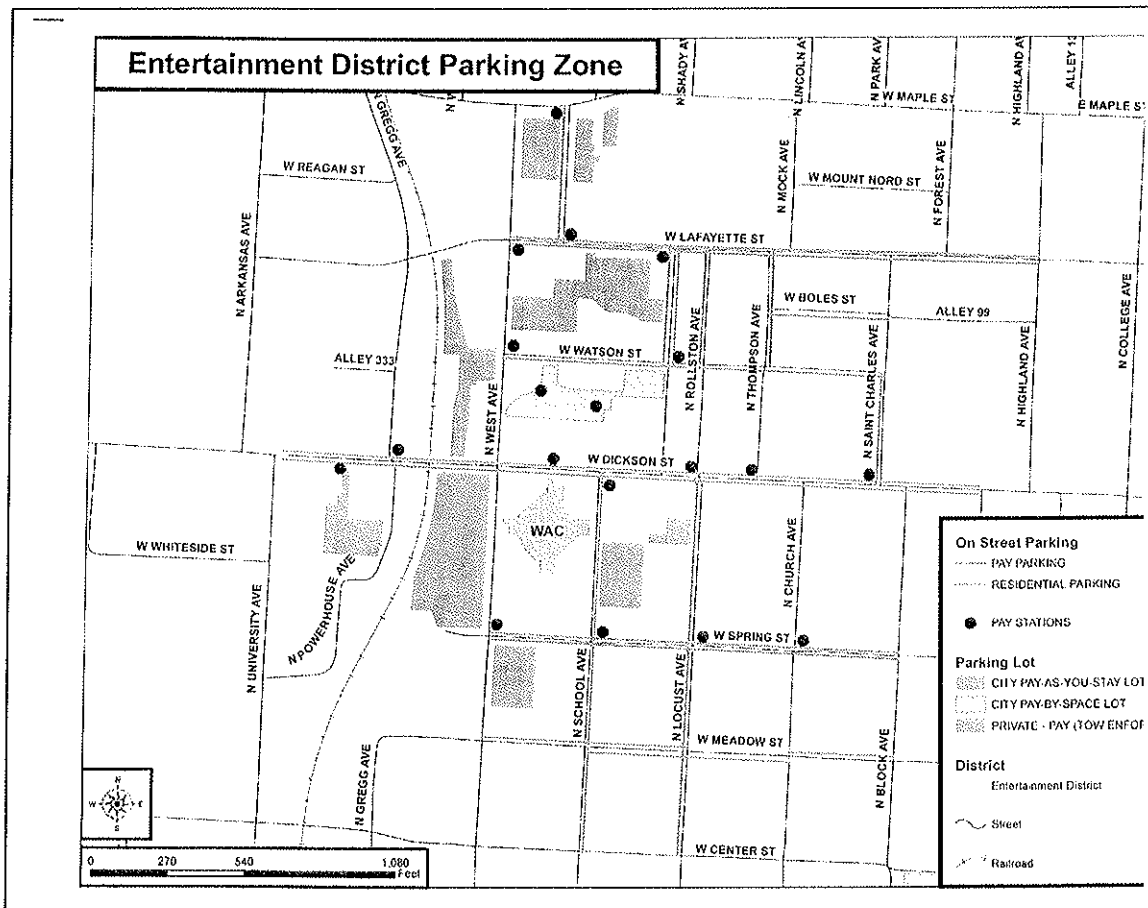
Time Period 8

- Sunday: 1:00pm to 6:00pm - \$0.50/hour

Time Period 9

- Sunday: 6:00pm to 2:00am the following day – \$1.00/hour, \$5.00 max.

EXHIBIT A



Summary of Parking Spaces:	Count:
Pay Parking – Public Parking Lots	521
Pay Parking – Public On-Street	210
Mixed Use – Public Pay + Residential South	59
Residential Parking Zone South	79
Residential Parking Zone North	116
TOTAL SPACES	985

City of Fayetteville
Parking Management Office
113 W. Mountain St.
Fayetteville, Arkansas
Phone: 479-575-8280
Fax: 479-575-8250
Email: parking@ci.fayetteville.ar.us
Website: www.accessfayetteville.org

City of Fayetteville Staff Review Form

C. 8
Parking Program Personnel
Page 1 of 8City Council Agenda Items
and
Contracts, Leases or Agreements

6

5/4/2010

City Council Meeting Date
Agenda Items Only

Sharon Crosson

Submitted By

Parking Management

Division

Transportation Services

Department

Action Required:

A Resolution to approve a budget adjustment for \$498,542 for the addition of 2.5 full-time equivalent positions in the Parking Management Division and approval of all operating expenses for the implementation and funding of the Parking Program in the Entertainment District Parking Zone.

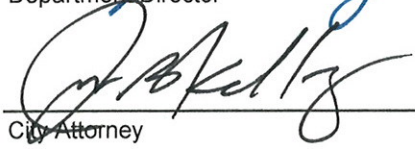
_____	\$ _____ -	Entertainment Dist. Parking Program
Cost of this request	Category / Project Budget	Program Category / Project Name
_____	\$ _____ -	(multiple)
(multiple)	Funds Used to Date	Program / Project Category Name
Account Number		
_____	\$ _____ -	Off-Street Parking
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

 Department Director

4-16-10
 Date

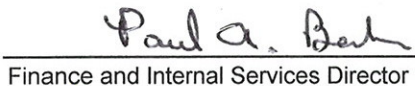
Previous Ordinance or Resolution # _____


 City Attorney

4-19-10
 Date

Original Contract Date: _____

Original Contract Number: _____


 Finance and Internal Services Director

4-22-2010
 Date
Received in City
Clerk's Office

 Chief of Staff

4-22-10
 Date
Received in
Mayor's Office

Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Terry Gulley, Director of Transportation

From: Sharon Crosson, Parking and Telecom Manager

Date: April 16, 2010, 2010

Subject: A Resolution to Approve a Budget Adjustment in the Amount of \$498,542.00 and the Approval of the Addition of **2.5 Full-Time Equivalent Positions** Including all Related Operating Expenses for the Entertainment District Parking Program

PROPOSAL:

City staff is recommends the approval of a resolution to approve the addition of 2.5 full-time equivalent positions including all related operating expenses for the Entertainment District Parking Program.

RECOMMENDATION:

The City Parking Management Division currently has 1 full-time and 1 half-time Parking Enforcement Officers that provide parking enforcement services to 859 monitored parking spaces. These spaces are monitored 50 hours per week; 7:00am to 5:00pm weekdays. The new parking program will add an additional 985 monitored parking spaces and increase enforcement hours up to 112 hours per week. Enforcement during evening hours in the Entertainment District will also require two employees on the job during the same hours.

Normal work hours for the parking staff are as follows:

Monday, Tuesday – 7:00am to 10:00pm

Wednesday, Thursday, Friday – 7:00am to 2:00am the following day

Saturday – 9:00am to 2:00am the following day

Sunday – 1:00pm to 9:00pm

(Note: Work hours will vary depending on special events and Walton Arts Center show times.)

BUDGET IMPACT:

Implementation of the new Entertainment District Parking Program will require an additional 2.5 positions, operating expenses and startup costs totaling \$402,433.00 to cover expenses for the remaining 6 months of 2010. This program will generate revenues projected at \$498,542.00 for the remaining 6 months of 2010.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$498,542.00 FOR THE IMPLEMENTATION AND FUNDING OF THE PARKING PROGRAM IN THE ENTERTAINMENT DISTRICT PARKING ZONE AND APPROVING THE ADDITION OF 2.5 FULL-TIME EQUIVALENT POSITIONS IN THE PARKING MANAGEMENT DIVISION FOR THE 2010 BUDGET

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, a copy of which is attached to this Resolution and incorporated herein as Exhibit "A," in the total amount of \$498,542.00 for the implementation and funding of the parking program in the Entertainment District Parking Zone.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the creation of two and a half (2.5) full-time equivalent positions in the Parking Management Division of the 2010 Budget as indicated on the attached Exhibit "B" which is incorporated herein.

PASSED and **APPROVED** this 4th day of May, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville, Arkansas

2010 Budget: Total Program Expenses

Parking & Telecommunications Division

Division	Fund/Prog	GLAccount	Class	BudgetDescription	Units	Unit Desc	Amount/ Unit	Amount Desc	Total Budget	
D840	2130.9130	2130.9130.5100.00	EX20	SALARIES	1	EACH	63365	RECU	63,365	50%
D840	2130.9130	2130.9130.5103.00	EX20	OVERTIME	1	EACH	5521	RECU	5,521	50%
D840	2130.9130	2130.9130.5105.00	EX20	FICA TAXES	1	EACH	5305	RECU	5,305	50%
D840	2130.9130	2130.9130.5107.00	EX20	LIFE INSURANCE	1	EACH	222	RECU	222	50%
D840	2130.9130	2130.9130.5108.00	EX20	HEALTH INSURANCE	1	EACH	19071	RECU	19,071	50%
D840	2130.9130	2130.9130.5108.01	EX20	LTD INSURANCE	1	EACH	238	RECU	238	50%
D840	2130.9130	2130.9130.5108.02	EX20	ADD INSURANCE	1	EACH	27	RECU	27	50%
D840	2130.9130	2130.9130.5109.06	EX20	RETIREMENT SAVINGS	1	EACH	9184	RECU	9,184	50%
D840	2130.9130	2130.9130.5111.00	EX20	WORKERS COMP INSURANCE (Beginning in 2011)	1	EACH	1197	RECU	1,197	50%
D840	2130.9130	2130.9130.5200.00	EX20	Hang tags and permit stickers	1	EACH	1000	RECU	1,000	50%
D840	2130.9130	2130.9130.5200.00	EX20	Parking ticket envelopes and rolls	1	EACH	1500	RECU	1,500	50%
D840	2130.9130	2130.9130.5200.01	EX20	Copies	1	EACH	800	RECU	800	50%
D840	2130.9130	2130.9130.5210.00	EX20	Handheld citation devices	2	EACH	3000	START	6,000	100%
D840	2130.9130	2130.9130.5213.04	EX20	Unleaded Fuel	300	GALS	3.25	UNLF	975	50%
D840	2130.9130	2130.9130.5301.00	EX30	Advertisement of Entertainment District Parking Program	1	EACH	800	RECU	800	50%
D840	2130.9130	2130.9130.5302.00	EX30	Uniforms	1	EACH	700	RECU	700	50%
D840	2130.9130	2130.9130.5307.00	EX30	Annual Audit Allocation	1	EACH	350	NDIS	350	50%
D840	2130.9130	2130.9130.5310.00	EX30	AEP Electric	1	EACH	1000	RECU	1,000	50%
D840	2130.9130	2130.9130.5315.00	EX30	Electrical services	1	EACH	25000	START	25,000	100%
D840	2130.9130	2130.9130.5315.00	EX30	Signage installation services	1	EACH	5000	START	5,000	100%
D840	2130.9130	2130.9130.5315.00	EX30	Striping services	1	EACH	2000	START	2,000	100%
D840	2130.9130	2130.9130.5331.00	EX30	PTELF005_MP9999_Electric Scooter	12	MPUN	223.41	MPUN	2,681	50%
D840	2130.9130	2130.9130.5331.01	EX33	PTELF005_MP9999_Electric Scooter	12	MPUN	42.99	MPUN	516	50%
D840	2130.9130	2130.9130.5331.02	EX33	PTELF005_MP9999_Electric Scooter	12	MPUN	42.58	MPUN	511	50%
D840	2130.9130	2130.9130.5331.03	EX33	PTELF005_MP9999_Electric Scooter	12	MPUN	12.67	MPUN	152	50%
D840	2130.9130	2130.9130.5404.00	EX40	Cards/tokens for gate access	1	EACH	500	RECU	500	50%
D840	2130.9130	2130.9130.5404.00	EX40	Gate arms	1	EACH	1000	RECU	1,000	50%
D840	2130.9130	2130.9130.5404.00	EX40	Parking signs and related materials	1	EACH	1500	START	1,500	100%
D840	2130.9130	2130.9130.5404.00	EX40	Pavement markings and supplies	1	EACH	500	RECU	500	50%
D840	2130.9130	2130.9130.5407.00	EX40	Hardware maintenance on handhels	1	EACH	800	RECU	800	50%
D840	2130.9130	2130.9130.5407.00	EX40	Maintenance on revenue machines and gate controllers	1	EACH	2500	RECU	2,500	50%
D840	2130.9130	2130.9130.5802.00	EX40	Electric vehicle	1	EACH	20000	START	20,000	100%
D840	2130.9130		EX40	Equipment lease \$700,000	12	MONTH	14804	RECU	177,648	50%
D840	2130.9130		EX40	Transfer to Walton Arts Center	1	EACH	289000	RECU	289,000	50%
D840	2130.9130		EX40	Infrastructure provided by Transportation	1	EACH	50000	RECU	50,000	100%

TOTAL RECURRING COSTS FOR 2010 587,063 292,933
TOTAL STARTUP COSTS FOR 2010 109,500 109,500

6 Months In 2010:

\$402,433

\$696,563

2010 PARKING REVENUE PROJECTIONS ENTERTAINMENT DISTRICT PARKING PROGRAM

Parking Lots	Location	Number of Spaces	Citation Revenue 7 days/week	Parking Fee Revenue 300 days/year 16 hours/day	Annualized Recurring	2010 Remaining 6 Months
			7am - 10pm MT 7am - 2am WTF 9am - 2am Sat 1pm - 9pm Sun Avg. \$275/space 112 hours/week	\$0.50/hr + \$1.00/hr 50% capacity City Lots = 100% Revenue		
Lot 50 - City owned	West of WAC	293	\$80,575	\$351,600		
Lot 55 - City owned	Behind Brew Pub	105	\$28,875	\$126,000		
Lot 56 - City owned	South of Grubs	65	\$17,875	\$78,000		
Lot 60 - City owned	East of WAC	58	\$15,950	\$69,600		
On-Street Spaces	Entertainment District	210	\$57,750	\$252,000		
	Less Sales Tax 9.25%			-\$81,141		
Total Revenues:		731	\$201,025	\$796,059	\$997,084	\$498,542
Total Expenses:			\$700,000 Equipment	Recurring Exp.	\$587,063	\$402,433 *
Net Revenues:					\$410,021	\$96,109

* Includes Startup Costs of \$109,500

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

C. 8
Parking Program Personnel
Page 6 of 8

Budget Year	Department: Transportation Services	Request Date	Adjustment Number
2010	Division: Parking & Telecommunications Program: Off-Street Parking	4/21/2010	

JUSTIFICATION TO INCREASE PROJECT / ITEM:

\$498,542 in the Off-Street Parking Fund Expense Program for the establishment of a New Parking Program.

JUSTIFICATION TO DECREASE PROJECT / ITEM (OR RECOGNIZING REVENUE):

Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
SEE ATTACHED				.
				.
				.
				.
				.
				.
				.
TOTAL		-	-	

Sharon Crossen 4-22-10
Division Head Date

[Signature] 4-22-2010
Budget Director Date

Tracy Gully 4-22-10
Department Director Date

Paul A. Baker 4-22-2010
Finance Director Date

Chief of Staff _____ Date _____

Mayor _____ Date _____

Requested By _____
kspringer

Budget & Research Use Only

Type: A B C D E

Description: _____
0

General Ledger 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
Rent - West Avenue Lot	2130.0913.4426.50					
Rent - Lot 55 Watson St	2130.0913.4426.55		71,600			
Rent - Lot 56 Spring&West	2130.0913.4426.56		44,300			
Rent - Lot 60 School Ave.	2130.0913.4426.60		39,600			
Rent (Entertainment District)	2130.0913.4426.XX		143,242			
Use of Fund Balance	2130.0913.4999.99	96,109				
Salaries & Wages	2130.9131.5100.00	31,683				
FICA Taxes	2130.9131.5105.00	2,653				
Overtime	2130.9131.5103.00	2,761				
Life Insurance	2130.9131.5107.00	111				
Health Insurance	2130.9131.5108.00	9,536				
LTD Insurance	2130.9131.5108.01	119				
ADD Insurance	2130.9131.5108.02	14				
Retirement Savings Plan	2130.9131.5109.06	4,592				
Office Supplies/Printing	2130.9131.5200.00	500				
Office Supplies/Printing	2130.9131.5200.00	750				
Copies And Lease	2130.9131.5200.01	400				
Minor Equipment	2130.9131.5210.00	6,000				
Fuel	2130.9131.5213.04	488				
Public Notification	2130.9131.5301.00	400				
Uniforms/Personal Equipment	2130.9131.5302.00	350				
Utilities	2130.9131.5310.00	500				
Audit Expense	2130.9131.5307.00	173				
Contract Services	2130.9131.5315.00	25,000				
Contract Services	2130.9131.5315.00	5,000				
Contract Services	2130.9131.5315.00	2,000				
Motor Pool Charges	2130.9131.5331.00	1,340				
Replacement Charges	2130.9131.5331.01	258				
Shop Overhead Charges	2130.9131.5331.02	255				
Shop Overhead Insurance	2130.9131.5404.00	76				
Traffic Control Maint	2130.9131.5404.00	250				
Traffic Control Maint	2130.9131.5404.00	500				
Traffic Control Maint	2130.9131.5404.00	1,500				
Traffic Control Maint	2130.9131.5404.00	250				
Small Equipment Maint	2130.9131.5407.00	400				
Small Equipment Maint	2130.9131.5407.00	1,250				
Vehicles And Equipment	2130.9131.5802.00	20,000				
Lease Expense	2130.9131.5309.00	88,824				
Transfer to Walton Arts Center	2130.9131.5719.00	144,500				
Parking Lot Improvements	2130.9131.5819.00	50,000				
		498,542	498,542			

Aldermen

Mayor Lioneld Jordan
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 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
May 4, 2010**

A meeting of the Fayetteville City Council will be held on May 4, 2010 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:

- Don will
Contact the
Chamber*
- ~~1. Fayetteville Chamber of Commerce Economic Development Contract Quarterly Report~~
 - 1. Sales Tax Report – Paul Becker**
 2. Capital Improvements Plan Presentation – Paul Becker

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

- ☒ Approval of the April 20, 2010 City Council meeting minutes.
- ☒ **Arkansas Western Gas Co.:** A resolution to approve an additional payment of \$85,195.89 to Arkansas Western Gas Company for relocation of its gas mains along Mount Comfort Road.

Paul has 3. **Dean Crowder Construction:**

4. **Williams Tractor, Inc. Bid #10-22:** A resolution awarding Bid #10-22 and approving the purchase of one (1) four-wheel drive New Holland T6050 Plus diesel tractor from Williams Tractor, Inc. in the net amount of \$39,191.00 after trade-in, for use by the Fayetteville Executive Airport-Drake Field.

Remove
add to
next agenda

- X **McClelland Consulting Engineers Task Order #2:** A resolution approving task order #2 with McClelland Consulting Engineers, Inc. in the amount of \$12,300.00 for development and bidding of the Airport Security Improvements Project at Fayetteville Executive Airport-Drake Field and approving a budget adjustment. *Paul has this item.*

B. Unfinished Business:

1. **Capital Improvements Plan:** A resolution adopting the 2010-2014 five year Capital Improvements Plan. *This resolution was tabled at the April 20, 2010 City Council meeting to the May 4, 2010 City Council meeting.*

C. New Business:

1. **VAC 10-3539 (Laura McKinnon):** An ordinance approving VAC 10-3539 submitted by Jorgensen and Associates for property located along the eastern property line of 740 Lollar Lane to vacate a portion of a 15-foot alley that runs from College Avenue to the subject property, a total of 1,875 square feet.
2. **VAC 10-3540 (First State Bank of NWA):** An ordinance approving VAC 10-3540 submitted by First State Bank of Northwest Arkansas for property located at 2292 North Covington Park Boulevard to vacate utility easement, a total of 33 square feet.
3. **#1 Amend Chapter 72:** An ordinance to amend Chapter 72 Parking Regulations of the Fayetteville Code to enact regulations for nonconsensual towing of vehicles within the Entertainment District Parking Zone.
4. **#2 Amend Chapter 72:** An ordinance to amend Chapter 72 Parking Regulations by enacting §72.18 Residential Parking Permit Program for Entertainment District Parking Zone.

Kit has 5. **#3 Amend Chapter 72:**

6. **#4 Amend Chapter 72:** An ordinance to amend Article III Parking Meters and Electronic Payment Stations of Chapter 72 Parking Regulations by amending §72.99 Penalties.

Changing
to a
resolution.

7. **#5 Amano/McGann Access and Revenue Control Equipment:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Amano McGann in the amount of \$880,000.00 for the purchase of access and revenue control

equipment for the Entertainment District Parking Zone, and approving a budget adjustment.

Paul
has

- ⑧. **#6 Amend Chapter 72:** A resolution approving a budget adjustment in the amount of \$212,530.00 for the implementation and funding of the parking program in the Entertainment District Parking Zone and approving the addition of 2.5 full-time equivalent positions in the Parking Management Division for the 2010 budget.

Remove
add to
the next
agenda

- ⑨. **Amend Chapter 163:** An ordinance to amend §163.14 Revocation or Change of Conditional Use of the Unified Development Code of Fayetteville to enact a new subsection (E) Periodic Reviews.

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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Interpreters or TDD for hearing impaired are available for all City Council meetings, a 72 hour advance notice is required. For further information or to request an interpreter, please call 575-8330.

As a courtesy please turn off all cell phones and pagers.

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Agenda Session 4/27/10

Aldermen

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



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Ward 1 Position 2 – Brenda Thiel
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Presentations, Reports and Discussion Items:

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2. **Arkansas Western Gas Company – Mount Comfort Road:** A resolution to approve an additional payment of \$85,195.89 to Arkansas Western Gas Company for relocation of its gas mains along Mount Comfort Road.

*Remove
check with
Chris to see
when goes back on*

- ✓ 3. **Dean Crowder Construction, Inc.:** A resolution awarding Bid #10-23 and approving a contract with Dean Crowder Construction, Inc. in the amount of \$4,963,386.00 for construction of biosolids management solar dryers, WSIP Subproject Bio-1, and approval of a \$150,000.00 contingency.
- ✓ 4. **Williams Tractor, Inc. Bid #10-22:** A resolution awarding Bid #10-22 and approving the purchase of one (1) four-wheel drive New Holland T6050 Plus diesel tractor from Williams Tractor, Inc. in the net amount of \$39,191.00 after trade-in, for use by the Fayetteville Executive Airport-Drake Field.

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- ✓ 3. **Amend Chapter 72 (Nonconsensual Towing):** An ordinance to amend Chapter 72 Parking Regulations of the Fayetteville Code to enact regulations for nonconsensual towing of vehicles within the Entertainment District Parking Zone.
- ✓ 4. **Amend Chapter 72 (§72.18 Residential Parking Permit):** An ordinance to amend Chapter 72 Parking Regulations by enacting §72.18 Residential Parking Permit Program for Entertainment District Parking Zone.
- ✓ 5. **Amend Chapter 72 (Electronic Payment Station Program):** An ordinance to amend Article III Parking Meters of Chapter 72 Parking Regulations by changing its name and adding provisions for an electronic payment station program for paid parking lots and paid on-street parking and for other reasons.
- ✓ 6. **Amend Chapter 72 (§72.99 Penalties):** An ordinance to amend Article III Parking Meters and Electronic Payment Stations of Chapter 72 Parking Regulations by amending §72.99 Penalties.

Need
new
resolution
from Kit

7. **The Parking Consultants, Inc.:** A resolution to authorize negotiations with Amano McGann for the lease/purchase of up to 19 electronic pay stations and 3 digital gate pay stations and other equipment needed if the City Council approves paid parking lots and on-street parking spaces in the Entertainment District Parking Zone.

8. **Parking Program Personnel:** A resolution approving a budget adjustment in the amount of \$498,542.00 for the implementation and funding of the parking program in the Entertainment District Parking Zone and approving the addition of 2.5 full-time equivalent positions in the Parking Management Division for the 2010 budget.

Announcements:

Adjournment:

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