

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 June 15, 2010

A meeting of the Fayetteville City Council will be held on June 15, 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

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

- 1. Nominating Committee Report – Alderman Cook APPROVED**

Agenda Additions:

A. Consent:

- 1. Approval of the June 1, 2010 City Council meeting minutes. APPROVED**
- 2. Bid #10-36 Dynamic Lighting Solutions:** A resolution awarding Bid #10-36 and approving the purchase of thirty-two (32) LED light fixtures and poles in the amount of \$60,935.28 from Dynamic Lighting Solutions for installation as part of the Block Street Improvement Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 102-10

3. **Bid #10-39 Chevrolet of Fayetteville:** A resolution awarding Bid #10-39 and approving the purchase of one (1) 2011 Chevrolet Tahoe K-9 unit from Chevrolet of Fayetteville in the amount of \$26,997.00 for use by the Fayetteville Police Department.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 103-10

4. **Bid #10-40 Dynamic Lighting Solutions:** A resolution awarding Bid #10-40 and approving the purchase of thirty-three (33) LED light fixtures and poles in the amount of \$60,351.89 from Dynamic Lighting Solutions for installation on Scull Creek Trail between North Street and Maple Avenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 104-10

5. **Vermeer Corporation:** A resolution authorizing the purchase of one (1) 521 Wildcat Trommel Screener from Vermeer Corporation through an NJPA bid in the amount of \$195,693.65 for use by the Solid Waste Division, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 105-10

6. **2009 Edward Byrne Memorial Justice Assistance Grant:** A resolution authorizing acceptance of a 2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$30,000.00 for drug enforcement equipment and supplies for the Fayetteville Police Department, and approving a budget adjustment recognizing the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 106-10

7. **Garver, LLC Amendment No. 2:** A resolution approving Amendment No. 2 to the contract with Garver, LLC in the amount of \$196,350.00 for additional design and construction phase services for the Cato Springs Road Improvement Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 107-10

8. **Fayetteville Expressway Economic Development Corridor Project:** A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for expansion of Van Asche Drive from Garland Avenue to Gregg Avenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 108-10

9. **Off Street Parking Development Appointment:** A resolution to approve the appointment of four members of the Board of Improvement of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 109-10

B. Unfinished Business:

1. **Amend Chapter §163.14 Revocation or Change of Conditional Use:** An ordinance amending §163.14 of the Unified Development Code to permit a periodic review of conditional use permits as described herein. *This ordinance was left on the First Reading at the May 18, 2010 City Council meeting. This ordinance was left on the Second Reading at the June 1, 2010 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5330

C. New Business:

1. **Home Depot Foundation/SCI Pilot Cities Grant:** A resolution authorizing application and acceptance of a Home Depot Foundation/SCI Pilot Cities Grant in the amount of \$500,000.00 with a city matching amount of \$100,000.00 to complete an affordable housing project, develop a sustainability initiative, and perform an assessment of current sustainability efforts.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 110-10

2. **Highway 16 Improvements Project:** A resolution amending resolution 101-06 expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 111-10

3. **RZN 10-3566 (932 Garland):** An ordinance rezoning that property described in rezoning petition RZN 10-3566, for approximately 0.84 acres, located at 932 Garland Avenue from R-PZD, Residential Planned Zoning District 06-2256 (932 Garland), to R-O, Residential Office and RMF-40, Residential Multi-family, 40 units per acre.

THIS ORDINANCE WAS LEFT ON THE SECOND READING.

4. **ADM 09-3273 (Business Registry and License Program:** An ordinance to amend the Fayetteville code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations within Fayetteville.

THIS ORDINANCE WAS LEFT ON THE SECOND READING.

5. **Amend Chapter 97 Parks and Recreation:** An ordinance to amend Chapter 97 Parks and Recreation of the Code of Fayetteville to permit and regulate signs recognizing donor contributions.

THIS ORDINANCE WAS LEFT ON THE SECOND READING.

6. **Johnson Enhanced Water Service Contract:** A resolution to approve a 15 year contract for enhanced water service between Fayetteville and Johnson.

THIS ITEM WAS TABLED TO JULY 6, 2010 CITY COUNCIL MEETING

7. **Johnson Sanitary Sewer Service Contract:** A resolution to approve a 15 year contract for sanitary sewer service between Fayetteville and Johnson.

THIS ITEM WAS TABLED TO JULY 6, 2010 CITY COUNCIL MEETING

8. **Appeal of the Planning Commission's approval of ADM 10-3559 Weir Road Subdivision.**

THIS APPEAL WAS DENIED.

Announcements:

Adjournment: 8:35 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.

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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.

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

9-0

Subject:	Nominating Committee Report				
Motion To:		<i>Approve Ferrell Lucas</i>			
Motion By:					
Seconded:					
<u>Approved</u>	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Jordan				

8-0

Subject:	Consent				
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Rhoads			
Minutes Approved <u>Passed</u> 102-10 thru 109-10	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Jordan				

8-0

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

Subject:		Amend Chapter §163.14 Revocation or Change of Conditional Use			
Motion To:			3rd Read	Pass	
Motion By:			Thiel		
Seconded:			Gray		
B. 1 Unfinished Business <u>Passed</u> 5330	Cook	✓	✓		
	Petty	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	N		
	Lucas	✓	N		
	Lewis	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Mayor Jordan				

8-0

6-2

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

Subject:		Home Depot Foundation/SCI Pilot Cities Grant			
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Lewis			
C. 1 New Business <u>Passed</u> 110-10	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
Mayor Jordan					

8-0

Subject:		Highway 16 Improvements Project			
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Thiel			
C. 2 New Business <u>Passed</u> 111-10	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
Mayor Jordan					

8-0

Subject:	RZN 10-3566 (932 Garland)				
Motion To:		2nd Read			
Motion By:		Ferrell			
Seconded:		Lucas			
C. 3 New Business Left on the Second Reading	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Jordan				

8-0

Subject:	ADM 09-3273 (Business Registry and License Program)				
Motion To:		2nd Read			
Motion By:		Lucas			
Seconded:		Lewis			
C. 4 New Business Left on the Second Reading	Cook	✓			
	Petty	N			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Jordan				

7-1

Subject:		Amend Chapter 97 Parks and Recreation			
Motion To:			2nd Read	3rd Read	
Motion By:			Fernell	Fernell	
Seconded:			Rhoads	Rhoads	
C. 5 New Business Left On the Second Reading	Cook	✓	✓		
	Petty	✓	N		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	N		
	Lewis	N	N		
	Gray	✓	✓		
	Thiel	✓	N		
	Mayor Jordan				

7-1

4-4 (Failed)

Subject:		Johnson Enhanced Water Service Contract			
Motion To:			Table to July 6, 2010		
Motion By:			Thiel		
Seconded:			Petty		
C. 6 New Business Tabled to July 6, 2010	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Jordan				

8-0

Subject:		Johnson Sanitary Sewer Service Contract			
Motion To:		<i>Table to July 6, 2010</i>			
Motion By:		<i>Thiel</i>			
Seconded:		<i>Petty</i>			
C. 7 New Business <i>Tabled to July 6, 2010</i>	Cook	<i>✓</i>			
	Petty	<i>✓</i>			
	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Lucas	<i>✓</i>			
	Lewis	<i>✓</i>			
	Gray	<i>✓</i>			
	Thiel	<i>✓</i>			
	Mayor Jordan				

8-0

Subject:		Appeal of the Planning Commission's approval of ADM 10-3559 Weir Road Subdivision			
Motion To:		<i>Approve the appeal & deny the request for an extension.</i>			
Motion By:		<i>Lewis</i>			
Seconded:		<i>Lucas</i>			
C. 8 New Business <i>Appeal was denied.</i>	Cook	<i>N</i>			
	Petty	<i>✓</i>			
	Rhoads	<i>N</i>			
	Ferrell	<i>N</i>			
	Lucas	<i>✓</i>			
	Lewis	<i>✓</i>			
	Gray	<i>N</i>			
	Thiel	<i>N</i>			
	Mayor Jordan				

3-5 Appeal was denied

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: **June 16, 2009-2010** KJ

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of June 15, 2010**

1. **Bid #10-36 Dynamic Lighting Solutions:** A resolution awarding Bid #10-36 and approving the purchase of thirty-two LED light fixtures and poles in the amount of \$60,935.28 from Dynamic Lighting Solutions for installation as part of the Block Street Improvement Project.
2. **Bid #10-39 Chevrolet of Fayetteville:** A resolution awarding Bid #10-39 and approving the purchase of one 2011 Chevrolet Tahoe K-(Unit form Chevrolet of Fayetteville in the amount of \$26,997.00 for use by the Fayetteville police Department.
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5. **2009 Edward Byrne Memorial Justice Assistance Grant:** A resolution authorizing acceptance of a 2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$30,000.00 for drug enforcement equipment and supplies for the Fayetteville Police Department and approving a budget adjustment recognizing the grant revenue.

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10. **Highway 16 Improvements:** A resolution amending Resolution 101-06 expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16.

Aldermen

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Announcements:

Adjournment:

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City of Fayetteville Staff Review Form

A. 2
 Bid #10-36 Dynamic
 Lighting Solutions
 Page 1 of 6

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

6/15/2010

City Council Meeting Date
 Agenda Items Only

John Coleman
 Submitted By

Division

Sustainability
 Department

Action Required:

Approve the purchase of 32 LED fixtures and 32 poles from Dynamic Lighting Solutions for Block Avenue project.

\$39,399.92 (lights)	\$150,000	Energy Block Grant
\$21,535.36 (poles)	\$ 525,860.00	Block Avenue
Cost of this request	Category / Project Budget	Program Category / Project Name
2240.9240.5315.00 (lights)	\$18,483.27 (lights)	Energy Block Grant
4470.9470.5210.00 (Poles)	\$ 81,797.61	Block Avenue
Account Number	Funds Used to Date	Program / Project Category Name
09011.0030 (lights)	\$131,516.73 (lights)	Energy Block Grant
02053.001 (Poles)	\$ 444,062.39	Block Avenue
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐


 Department Director 6/3/10
 Date

Previous Ordinance or Resolution # _____


 City Attorney 6-3-10
 Date

Original Contract Date: _____

Original Contract Number: _____


 Finance and Internal Services Director 6-3-2010
 Date

Received in City
 Clerk's Office




 Chief of Staff 6-3-10
 Date

Received in
 Mayor's Office




 Mayor 6/4/10
 Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8272

CORRESPONDENCE

TO: Mayor Jordan and City Council
FROM: John Coleman, Sustainability Director *J*
Thru: Jeremy Pate, Development Services Director
Don Marr, Chief of Staff
DATE: May 28, 2010
SUBJECT: Block Avenue Lights

Project Description

Using funds from the Energy Efficiency and Conservation Block Grant (EECBG) as part of the American Recovery and Reinvestment Act (ARRA), the City is set to purchase 32 LED lights at a cost of \$9,399.92 from Dynamic Lighting Solutions. Funds from the Block Avenue project will cover the \$21,535.36 cost for the 32 poles. The lights and poles will be installed on Block Avenue.

Background

In September 2009, the City was awarded \$724,900 for energy efficiency and renewable energy projects. As part of the grant application, the City committed \$150,000 from the grant towards the installation of LED street, pedestrian, and trail lights as part of a gradual transition towards using this technology exclusively.

The intent of the EECBG program is to push the market towards emerging technologies such as LEDs. As we have seen with LED traffic lights in Fayetteville, the Block Avenue LEDs are expected to last ten years or more, reduce energy consumption by greater than fifty percent, and reduce long-term maintenance requirements.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #10-36 AND APPROVING THE PURCHASE OF THIRTY-TWO (32) LED LIGHT FIXTURES AND POLES IN THE AMOUNT OF \$60,935.28 FROM DYNAMIC LIGHTING SOLUTIONS FOR INSTALLATION AS PART OF THE BLOCK STREET IMPROVEMENT PROJECT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #10-36 and approves the purchase of thirty-two (32) LED light fixtures and poles in the amount of \$60,935.28 from Dynamic Lighting Solutions for installation as part of the Block Street Improvement Project.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

P-Cards shall be used when possible. If a vendor does not accept P-Card, please note at the bottom (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Vendor #: NEW Vendor Name: DYNAMIC LIGHTING SOLUTIONS						Requisition No.: _____		Date: _____	
						P.O Number: _____		Expected Delivery Date: _____	
Address: 5220 SHANK ROAD						Fob Point: _____		Mail Yes:_____ No:_____	
City: PEARLAND State: TX						Zip Code: 77581		Ship to code: 217	
Requester: JOHN COLEMAN						Requester's Employee #: 2974		Extension: 272	
Divison Head Approval: _____						Quotes Attached Yes:_____ No:_____		Block Avenue Lights	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Lights for Block Ave.	32	each	1,127.00	\$36,064.00	2240.9240.5315.00	09011.0030		
2									
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				
Special Instructions: Per Bid 10-36, Block Ave. LED Lighting Equipment						Subtotal: \$36,064.00 Tax: \$3,335.92 Total: \$39,399.92			
Approvals: Mayor: _____ Department Director: _____ Purchasing Manager: _____ Finance & Internal Services Director: _____ Budget Manager: _____ Chief Of Staff: _____ Dispatch Manager: _____ Utilities Manager: _____ Other: _____									

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(Not a Purchase Order)

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All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Vendor #: NEW Vendor Name: DYNAMIC LIGHTING SOLUTIONS						Requisition No.:		Date:	
						P.O Number:		Expected Delivery Date:	
Address: 5220 SHANK ROAD						Fob Point:		Mail Yes:_____ No:_____	
City: PEARLAND State: TX Zip Code: 77581 Ship to code: 217						Taxable Yes: x No:_____		Quotes Attached Yes:_____ No:_____	
Requester: JOHN COLEMAN						Requester's Employee #: 2974		Division Head Approval:	
						Extension: 272			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	POLES for street lights on Block Ave.	32	each	616.00	\$19,712.00	4470.9470.5210.00	02053.1001		
2									
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				
Special Instructions: Per Bid 10-36, Block Ave. LED Lighting Equipment; POLES for street lights							Subtotal: \$19,712.00		
							Tax: \$1,823.36		
							Total: \$21,535.36		
Approvals:									
Mayor: _____			Department Director: _____			Purchasing Manager: _____			
Finance & Internal Services Director: _____			Budget Manager: _____			Chief Of Staff: _____			
Dispatch Manager: _____			Utilities Manager: _____			Other: _____			

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

8/1/2010 6-15-10

City Council Meeting Date
Agenda Items Only

A. 2
Bid #10-36 Dynamic
A. Lighting Solutions
Bid #10-36 Premier
Lighting Group
Page 1 of 16

John Coleman Submitted By	Division	Sustainability Department
------------------------------	----------	------------------------------

Action Required:

Approve the purchase of 32 LED fixtures and 32 poles from Premier Lighting, Inc. for Block Avenue project.

\$36,064 (lights)	\$150,000	Energy Block Grant
\$19,712 (poles)	\$525,900.00 JC	Block Avenue
Cost of this request	Category / Project Budget	Program Category / Project Name
2240.9240.5315.00 (lights)	\$18,483.27 (lights)	Energy Block Grant
4470.9470.5314.00 (Poles)	\$ 81,397.61 JC	Block Avenue
Account Number	Funds Used to Date	Program / Project Category Name
09011.0030 (lights)	\$131,516.73 (lights)	Energy Block Grant
02053.001 (Poles)	\$ 44,002.39 JC	Block Avenue
Project Number	Remaining Balance	Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

5/28/10
Date

Previous Ordinance or Resolution #

City Attorney

5/28/10
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

5-28-10
Date

Received in City
Clerk's Office

ENTERED
5/28/10

King

Chief of Staff

5-28-10
Date

Received in
Mayor's Office

ENTERED
5/28/10

Mayor

6/1/10
Date

Comments:

City of Fayetteville Staff Review Form

A. 4
 Bid #10-40 Dynamic
 Lighting Solutions
 Page 1 of 6

City Council Agenda Items
 and
 Contracts, Leases or Agreements

6/15/2010

City Council Meeting Date
 Agenda Items Only

John Coleman

Submitted By

Division

Sustainability

Department

Action Required:

Approve purchase of 33 LED light fixtures and poles from Dynamic Lighting Solutions on Scull Creek Trail to be installed on the section from North Street to Maple Avenue

\$46,363.52 (lights)

\$13,988.37 (poles)

Cost of this request

2240.9240.5315.00 (lights)

4520.9550.5814.05 (poles)

Account Number

09011.0030 (lights)

06036.1004 (poles)

Project Number

\$150,000 (lights)

\$ 1,248,847.00

Category / Project Budget

\$18,483.27 (lights)

\$ 130,894.00

Funds Used to Date

\$131,516.73 (lights)

\$ 1,117,953.00

Remaining Balance

Energy Block Grant

Trails

Program Category / Project Name

Energy Block Grant

Trails

Program / Project Category Name

Energy Block Grant

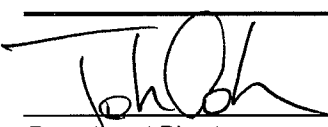
Trails

Fund Name

Budgeted Item

☒

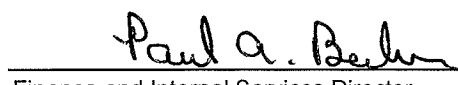
Budget Adjustment Attached

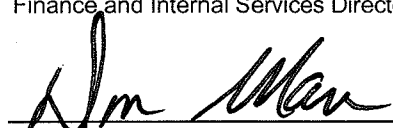
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 Department Director
6/3/10
Date

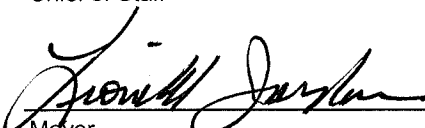
Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


 City Attorney
6-3-10
Date

 Finance and Internal Services Director
6-3-2010
Date
 Received in City
 Clerk's Office


 Chief of Staff
6-3-10
Date
 Received in
 Mayor's Office


 Mayor
6/4/10
Date

Comments:

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #10-40 AND APPROVING THE PURCHASE OF THIRTY-THREE (33) LED LIGHT FIXTURES AND POLES IN THE AMOUNT OF \$60,351.89 FROM DYNAMIC LIGHTING SOLUTIONS FOR INSTALLATION ON SCULL CREEK TRAIL BETWEEN NORTH STREET AND MAPLE AVENUE

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 #10-40 and approves the purchase of thirty-three (33) LED light fixtures and poles in the amount of \$60,351.89 from Dynamic Lighting Solutions for installation on Scull Creek Trail between North Street and Maple Avenue.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

P-Cards shall be used when possible. If a vendor does not accept P-Card, please note at the bottom (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.:	Date:
P.O Number:	Expected Delivery Date:

Vendor #: NEW	Vendor Name: DYNAMIC LIGHTING SOLUTIONS	Mail Yes:___ No:___	SCULL CREEK LIGHTS
Address: 5220 SHANK ROAD		Fob Point:	Taxable Yes: <u>x</u> No:___
City: PEARLAND	State: TX	Zip Code: 77581	Ship to code: 217
Requester: JOHN COLEMAN		Requester's Employee #: 2974	Divison Head Approval:
		Extension: 272	Quotes Attached Yes:___ No:___

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	LIGHTS FOR SCULL CREEK TRAIL	33	each	1,286.00	\$42,438.00	2240.9240.5315.00	09011.0030		
2									
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Per Bid 10-40, Trail Lighting Equipment Re-Bid - LIGHTS only - Poles on separate PO

Subtotal: **\$42,438.00**
 Tax: **\$3,925.52**
 Total: **\$46,363.52**

Approvals:

Mayor: _____	Department Director: _____	Purchasing Manager: _____
Finance & Internal Services Director: _____	Budget Manager: _____	Chief Of Staff: _____
Dispatch Manager: _____	Utilities Manager: _____	Other: _____

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

P-Cards shall be used when possible. If a vendor does not accept P-Card, please note at the bottom (Call x256 with questions)

All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.: _____ Date: _____ P.O Number: _____ Expected Delivery Date: _____						Mail Yes: _____ No: _____				SCULL CREEK POLES	
						Taxable Yes: <u>x</u> No: _____				Quotes Attached Yes: _____ No: _____	
						Divison Head Approval: _____					
Vendor #: NEW		Vendor Name: DYNAMIC LIGHTING SOLUTIONS				Address: 5220 SHANK ROAD		Fob Point: _____		City: PEARLAND	
State: TX		Zip Code: 77581		Ship to code: 217		Requester: JOHN COLEMAN		Requester's Employee #: 2974		Extension: 272	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #		
1	POLES FOR SCULL CREEK TRAIL LIGHTS	33	each	388.00	\$12,804.00	4520.9550.5814.05	06036.1004				
2											
3					\$0.00						
4					\$0.00						
5					\$0.00						
6					\$0.00						
7					\$0.00						
8					\$0.00						
9					\$0.00						
10					\$0.00						
*	Shipping/Handling		Lot		\$0.00						
Special Instructions: Per Bid 10-40, Trail Lighting Equipment Re-Bid - POLES only - LIGHTS on separate PO							Subtotal: <u>\$12,804.00</u> Tax: <u>\$1,184.37</u> Total: <u>\$13,988.37</u>				
Approvals: Mayor: _____ Department Director: _____ Purchasing Manager: _____ Finance & Internal Services Director: _____ Budget Manager: _____ Chief Of Staff: _____ Dispatch Manager: _____ Utilities Manager: _____ Other: _____											

City of Fayetteville Staff Review Form

A. 4
 Bid #10-40 Dynamic
 A. 4Lighting Solutions
 Bid #10-40 Dynamic
 Lighting Solutions
 Page 1 of 16

City Council Agenda Items
 and
 Contracts, Leases or Agreements

6/15/2010

City Council Meeting Date
 Agenda Items Only

John Coleman
 Submitted By

Division

Sustainability
 Department

Action Required:

Approve purchase of 33 LED light fixtures and poles on Scull Creek Trail to be installed on the section from North Street to Maple Avenue

\$42,438 (lights)	\$150,000 (lights)	Energy Block Grant
\$12,804 (poles)	\$ 1,248,847.00	Trails
Cost of this request	Category / Project Budget	Program Category / Project Name
2240.9240.5315.00 (lights)	\$18,483.27 (lights)	Energy Block Grant
4520.9550.5814.05 (poles)	\$ 130,894.00	Trails
Account Number	Funds Used to Date	Program / Project Category Name
09011.0030 (lights)	\$131,516.73 (lights)	Energy Block Grant
06036.1004 (poles)	\$ 1,117,953.00	Trails
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

Date

Received in City
 Clerk's Office

ENTERED

5-28-10

Kim J

Chief of Staff

Date

Received in
 Mayor's Office

ENTERED

5/28/10

7/1

Mayor

Date

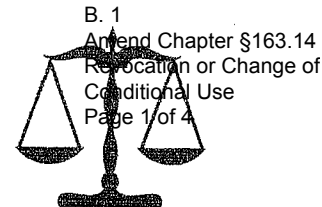
Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

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

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

FROM: **Kit Williams**, City Attorney

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

DATE: **June 7, 2010**

RE: **Revoking Conditional Use Legal Concerns**

Can the granting of a conditional use create a vested property interest in the conditional use holder which cannot be changed or revoked by the Planning Commission without the City being forced to pay for the loss of the vested property right? I informed you at the May 18th City Council meeting in response to Mr. Unser's litigation threats that I believed the granting of a conditional use would probably not mature into a vested property right for which a city would have to pay if the conditional use was later revoked. I also told you that there was no Arkansas Supreme Court decision that I could find that directly answered that question. I do agree with Mr. Bob Estes (who represents neighbors who have complained about the Stiles' operation) that a conditional use is probably not a "vested property right" such that it would be constitutionally protected.

The most recent Arkansas Supreme Court deciding whether a city would be liable for prohibiting a development project begun pursuant to a conditional approval is *Potter v. City of Tontitown*, 371 Ark. 200 (2007). The

test to establish a vested right was pronounced by the Court that "in order to obtain a vested right one must prove that the owner has in good faith substantially entered upon the performance of the series of acts necessary to accomplish (the development)."

The Supreme Court held that "the Potters had knowledge that the county's approval of their development was conditional, and would be considered null and void if Tontitown was found to have jurisdiction. Yet they began developing their property anyway. Therefore, we conclude that they did not act in good faith." *Id.*

Although this was a conditional approval and not precisely a conditional use, the most important word is "conditional." I do not believe a conditional use is permanent like a zoning which must be approved by the City Council. Conditional uses have long been approved by the Planning Commission with rare appeals to the City Council. Our Unified Development Code now requires that before a conditional use can be granted, the Planning Commission must certify in writing:

1. "The granting of the conditional use will not adversely affect the public interest; and
2. "(P)rovisions ... have been made concerning ... general compatibility with adjacent properties and other properties in the district."

No such ordinance requirements for written conditions were in existence when the City Board of Directors granted many conditional uses in the past. I do believe that compatibility with adjacent properties is an inherent part of any conditional use, not only for the initial granting of such conditional use, but throughout the utilization of the conditional use by the permittee.

In *Smith v. City of Arkadelphia*, 336 Ark. 42 (1999), Mr. Smith was issued a building permit. Arkadelphia then changed its building codes making Smith's construction plans much more expensive. Smith claimed he had a vested property right with his approved and issued building

permit such that he did not have to comply with Arkadelphia's new requirements. The Arkansas Supreme Court rejected this argument.

"The general rule is that a grant of a license by a municipality is made with the implied reservation of the right to impose reasonable police regulations, **which may go to the extent of revoking the license**, which was not done in the case before us. Therefore, the possession of a license does not exempt the licensee from the operation of ordinances and regulations that were legally enacted in the exercise of such powers **after** issuance of the license. 51 Am.Jur.2d Licenses and Permits §145p. (1970)" *Smith v. City of Arkadelphia*, 336 Ark. 42, 984 S.W. 2d 392, 394 (1999). (emphasis added)

Granting a conditional use is a granting of a privilege to the conditional use applicant. This does not create a contractual obligation for the City of Fayetteville. Nor does it create a vested property interest in the conditional use holder. Such conditional use is subject to regulations enacted after issuance of the conditional use permit.

"The permit was merely the granting of a privilege, and did not constitute a contract between the city and appellant. No vested rights were acquired by obtaining a permit, and none arose in the acquisition of property or preparations for the construction of the building prior to the enactment of the new ordinance." *Id.*

City Councils have wide discretion to make reasonable provisions for the peace, safety and welfare of its citizens. When circumstances within a city change, the City Council can enact new ordinances to regulate conduct or prescribe new procedures to meet the changing needs.

"(M)unicipalities have the power and duty to make reasonable provisions for the safety of persons and property and municipal authorities have wide discretion in these matters.

...

"As a general rule, property is not exempt from the operation of subsequent ordinances and regulations legally enacted by the corporation." *Id.*, 984 S.W. 2d at 394-395.

Even though Mr. Smith had obtained a valid building permit under the then existing ordinance, the City of Arkadelphia had the power to amend or replace the ordinance under which Mr. Smith obtained his building permit and require him to obtain a new permit or follow the new requirements for his existing permit. The Supreme Court held that Mr. Smith "did not acquire a vested property right in either the building permit, or the underlying regulatory Ordinance" *Id.*

The City Council was wise to alter the proposed amendment so as to not empower the Planning Commission to **revoke** a conditional use which has no express, written conditions. The proposed amendment will only authorize the Planning Commission to place explicit written conditions on a conditional use to ensure that the conditional use "will not adversely affect the public interest" and will protect its "general compatibility with adjacent properties and other properties in the district." §163.02 (C)(3)(c) of the *Unified Development Code*. Thus, a revocation of a conditional use will still require a violation of whatever express written conditions that the Planning Commission has placed upon the conditional use. This improves the notice to the conditional use permittee and gives the permittee better opportunity to correct possible problems or issues.

CONCLUSION

I believe the Arkansas Supreme Court would determine that a holder of a conditional use granted by the City would not acquire a vested property right in either the permit or the underlying *Unified Development Code* section regulating how such a conditional use permit could be amended or revoked. The amended version of the ordinance now before you addresses the need of our community to be able to review conditional uses if they may have become incompatible with adjoining properties and neighborhoods, but still provides substantial safeguards for holders of conditional uses.

Handed out at
agenda session
added to the 6-15-10
agenda at agenda
session.

SARAH LEWIS
City Council Member
Ward Four, Fayetteville

C. 8
Appeal of the Planning Commission's
approval of ADM 10-3559 Weir
Road Subdivision

RECEIVED

JUN 07 2010

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

June 7, 2010

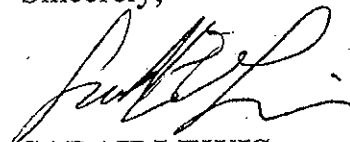
City Clerk Sondra Smith
City Clerk's Office
113 W. Mountain Street, Ste. 308
Fayetteville, AR 72701

RE: Appeal of Planning Commission decision

Dear Sondra:

I appeal the Planning Commission's approval of ADM 10-3559 which was the granting of an extension of additional time to complete the Weir Road Subdivision, PPL 06-2010, on behalf of Fayetteville resident Holly Martin, 3229 West Ika Lane, Fayetteville, AR 72704. The applicant for ADM 10-3559, Hometown Development, failed to show good cause why the tasks required in PPL 06-2010 could not reasonably be completed within the normal three year period of time.

Sincerely,



SARAH LEWIS,
Fayetteville City Council Member
for Ward Four

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Development Services Director 

From: Jesse Fulcher, Current Planner

Date: June 8, 2010

Subject: ADM 10-3559 Weir Road Subdivision Extension Appeal

RECOMMENDATION

On behalf of a Fayetteville resident, City Council member Sarah Lewis submitted a letter to the City Clerk's Office on June 7, 2010, appealing the decision of the Planning Commission to grant a one-year extension to the developer of Weir Road Subdivision. The extension is necessary to maintain the approval rights of the preliminary plat, for the developer to complete construction of the infrastructure related to the subdivision and to obtain a final inspection prior to final plat approval.

Staff and the Planning Commission recommends approval of **ADM 10-3559**, the requested extension to PPL 06-2010 (Weir Road Subdivision), to expire on May 24, 2011.

BACKGROUND

The original Preliminary Plat was approved by the Planning Commission on April 24, 2006 for the construction of a residential subdivision with 34 single-family lots and 40 townhouses (see attached site plan). The applicant received all permits and approvals necessary to complete construction of the infrastructure on April 17, 2007, within the one year time limit. These approvals were conditioned upon the applicant completing the project and receiving final inspection approval within three (3) years from the date of issuance of permits: April 17, 2010.

As of March 2010 the project had not been completed; the applicant therefore submitted a written request for a two-year extension on March 29, 2010, requesting that the project expiration be extended to April 17, 2012, the maximum of two years allowed by city codes.

The Planning Commission voted 7-1-0 on April 26, 2010 to grant a one year extension, which was the timeframe recommended by the planning staff. However, upon receiving additional information from a nearby property owner, the Planning Commission voted on May 12, 2010 to reconsider the extension request at the following meeting. After hearing from the developer and adjacent property owners, the Planning Commission voted 4-3-0 on May 24, 2010 to approve the extension request, with a new expiration date of May 24, 2011. Meeting minutes are attached to this packet.

BUDGET IMPACT

None.



PC Meeting of May 24, 2010

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: May 19, 2008 Updated May 25, 2010

ADM 10-3559: Administrative Item (WEIR ROAD SUBDIVISION, 244): Submitted by Hometown Development. The request is for an extension of the approval for PPL 06-2010, Weir Road S/D. Planner: Jesse Fulcher

BACKGROUND

April 12, 2010 Planning Commission meeting: This item was heard at the April 12, 2010 Planning Commission meeting. The Planning Commission voted 8-0-0 to table the request to the April 26, 2010 Planning Commission meeting in order to give the applicant time to supply additional justification for the requested extension. Staff e-mailed both project applicants on April 13, 2010 to inform them of the outcome of the meeting, and to request that they provide a signed letter outlining the progression of the project since it was approved in 2006, and the steps that will be taken to complete the project, including a construction time line. Staff requested that this letter be submitted on Monday, April 19, 2010. The applicant had not submitted additional information to the Planning Division as of the date of this report.

April 26, 2010 Planning Commission meeting: This item was heard at the April 26, 2010 Planning Commission meeting, at which time a project timeline was presented by the applicant (attached to report). The Planning Commission voted 7-1-0 to approve a one-year extension.

May 10, 2010 Planning Commission meeting: A member of the public submitted a letter requesting that the Planning Commission reconsider the extension approval, and included additional documentation concerning the project. The Planning Commission voted to reconsider the extension at its next meeting on May 24, 2010.

May 24, 2010 Planning Commission Meeting: This item was heard at the May 24, 2010 Planning Commission meeting. The Planning Commission voted 4-3-0 to approve the requested extension to May 24, 2011. Additional information provided by a member of the public is included with the staff report.

Property Description: The subject property is located at the southeast corner of Weir Road and Hughmount Road.

Background: The original Preliminary Plat request was approved by the Planning Commission on April 24, 2006 for the construction of a residential subdivision with 34 single-family lots and 40 townhouses. The applicant received all permits and approvals to complete construction of the infrastructure on April 17, 2007, within the one year time limit. These approvals were conditioned upon the applicant completing the project and receiving final inspection approval within three (3) years from the date of issuance of permits.

Proposal: The applicant requests a two year extension to complete construction of the project, to expire on April 17, 2012. The Planning Department received the applicant's extension request on March 29, 2010, within the three year time limit. Should this extension be granted, the applicant shall complete construction and receive final inspection approval before the end of the extended deadline.

RECOMMENDATION

Staff recommends approval of **ADM 10-3559**, the requested extension to PPL 06-2010 (Weir Road Subdivision), with the following conditions:

1. The applicant shall be allowed until ~~April 17, 2011~~ **May 24, 2010 (one year)** to complete construction of the project and receive final inspection approval, or the preliminary plat approval shall be revoked. Staff is recommending only a one (1) year extension, since the applicant has stated that work is expected to be completed within six months and because the project has been approved for four years already. The Planning Commission may extend the project by up to two (2) additional years.
2. All other conditions of approval PPL 06-2010 shall remain applicable.

DISCUSSION

The City of Fayetteville Unified Development Code (UDC) Section 166.20(C)(2) gives the Planning Commission authority to extend the three (3) year period to complete a project by up to two (2) additional years. In order to extend this approval, the applicant must: (1) request the extension prior to the three year time limit, and (2) show good cause why the tasks could not reasonably be completed within the normal three year period. If the extension is granted, it is within this time that the applicant shall complete construction of the project and receive final inspection approval. Additional extensions are not permitted.

- (1) The applicant has submitted the extension request to the Planning Division on March 29, 2010, prior to the three year time limit ending on April 17, 2010.
- (2) The applicant has stated that they are actively pursuing the physical infrastructure aspects of the project and expect completion to be within the next six (6) months and that the noticeable delay in construction timing has been due to the complicated and changing requirements on financial institutions in the current economy. Furthermore, the development contractor has equipment, materials and manpower on site and plans to aggressively continue work through

completion.

PLANNING COMMISSION ACTION:

☒ Approved

☐ Denied

☐ Tabled

Motion: Chesser

Second: Earnest

Vote: 4-3-0 (Hoskins, Winston and Cabe voted "no")

Meeting Date: May 24, 2010

Comments: The one-year extension shall be dated from the Planning Commission meeting on May 24, 2010, expiring on May 24, 2011.

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Applicant's Correspondence



Hometown Development

4378 E. Mission Blvd. Fayetteville, Arkansas 72703

April 26, 2010

To: City of Fayetteville,
Planning Commission

Re: Weir Road Development Project - Extension

Planning Commission Members,

We are requesting a construction time extension for the Weir Road development project. We have endured several delays in progression of the project physical improvements since your initial approval in 2006; some detail of the project timeline progression is included below.

- Planning Commission Approval
- Engineering details completed and approved by City Engineering
- Approval of financial institution to begin work
- 2007 Pre-construction meeting and project started
- Real Estate Market Collapse of 2007 caused original Contractor no longer available
- Delay, naturally due to need for a new Contractor
- Bank demanded a delay to review project cost, find new Contractor and evaluate market. We have no choice but to comply due to delay in funding.
- Approval of financial institution to find new Contractor and begin work again
- City Engineering requested new sewer system details, requiring all new design
- Project Engineer submitted and received approval on new sewer system design
- City Engineering requested additional storm water detention volume.
- Project Engineer worked with City Engineering to design for additional storm water volume while keeping requirements for the sewer system intact, and met the Engineering requirements
- Project Engineer submitted new sewer design to ADH and received approval in 2009
- Contractor negotiations ensued, once the design was approved and completed

- Contractor (new) chosen and contract drawn for new work to be completed within a 6 month timeframe.
- Approval of Financial institution of revised construction expense to begin.
- Project Engineering company ceased work "went belly-up"
- Negotiations and contract for new Project Engineer
- New Contractor began work in early 2010
- Washington County demanded a construction delay until several conditions are met
- Requesting construction duration extension as one of the County Requirements to continue with project

We believe that these arduous and numerous project requirements are evidence that the Developer of the project has been continually striving to bring the construction of the project through to successful completion. Each additional requirement, request or demand can, and does, consume several weeks of work and diligence to bring any one task through to its own successful completion.

At this time, we have a stable Contractor on board and ready to begin work immediately. The Contractor has verified that all construction procedures will be complete within six months of a required pre-construction meeting with the County. We have a stable Engineer on board who is ready to provide full services, along with project inspections and to address any issues that come up during construction. We have complete backing of our project financial institution, which has fully funded the project for completion.

We are trusting that you will allow an extension of the Weir Road project, and we will diligently pursue it through completion.
Thank you for your consideration,

John W. English



Hometown Development

4378 E. Mission Blvd. Fayetteville, Arkansas 72703

March 29, 2010

To: Jesse Fulcher
City of Fayetteville
Planning Department

Re: Weir Road Development Project - Extension

Mr Fulcher and Planning Commission,
We respectfully request that you allow an extension of the standard construction duration for the Weir Road development project. We are actively pursuing the physical infrastructure aspects of the project and expect completion to be within the next six months. We are not planning any home building procedures until the time at which all infrastructure is completed in order to provide services to those structures. The noticeable delay in construction timing has been due to the complicated and changing requirements on financial institutions in our current economy. Our development contractor has equipment, materials and manpower on site and plans to aggressively continue work through completion.

Thank you for your consideration,

John W. English

From: <ozarkconstruction@yahoo.com>
To: "Jesse Fulcher" <jfulcher@ci.Fayetteville.AR.us>
Date: 4/7/2010 9:12 AM
Subject: Re: Weir Rd Extension

→ We expect to have the project completed well within the one year window. I am certain, however that all original persons involved could not have anticipated the events which have transpired to this point. Please allow us to request the two-year extension, knowing that we would joyfully accept a one year extension if that limitation suited the Planning Commission better.

-----Original Message-----

From: Jesse Fulcher
To: John W English
Cc: Bob Schmitt
Subject: Re: Weir Rd Extension
Sent: Apr 7, 2010 8:56 AM

Mr. English,

Do you want to request the full two-year extension, or will one year be sufficient to complete construction?

Jesse

>>> John English <ozarkconstruction@yahoo.com> 3/30/2010 3:41 PM >>>

Mr Fulcher,

As we have discussed, it is customary for the planning commission to allow time extension on construction of projects underway when requested and reasonable.

Please review the attached letter requesting such extension for the Weir Road project.
If you foresee any difficulty with acceptance of the request, please notify me immediately.

As always, I am available to you by email or cell phone at all times.
Thank you very much.

John W. English
fax 479 - 443 - 2252
Cell 479 - 263 - 3665

Sent from my BlackBerry Smartphone provided by Alltel

**Planning Commission Minutes
April 26, 2010, May 10, 2010 and May 24, 2010**

Old Business:

ADM 10-3559: (WEIR ROAD SUBDIVISION, 244): Submitted by HOMETOWN DEVELOPMENT. The property is located at the SOUTHEAST CORNER OF WEIR ROAD AND HUGHMONT ROAD and contains approximately 17.64 acres. The request is for an extension of the approval for PPL 06-2010, Preliminary Plat Weir Road Subdivision.

Jesse Fulcher, Current Planner, gave the staff report. He discussed the letter written by the applicant that was distributed to the commissioners before the meeting. Staff recommends approval of a one year extension, not the applicant's requested two year extension. The applicant stated that they would only need six months to finish the project and have had four years so far.

John English, applicant, explained that with the changing economy and also a change in engineers on the project they have been unable to meet their deadlines.

Public Comment:

Garland Yell, adjoining property owner, stated that he has four acres immediately adjoining the subject property. He explained that the applicant had gambled that they would get this done on time but they didn't. They shouldn't get an extension.

Public comment was closed.

Commissioner Chesser asked to see the historical aerial photos of the site that were being routed among the commissioners.

Commissioner Cabe asked for the Engineering Division comments.

Glenn Newman, Staff Engineer, explained the process for approval and issuance of permits for the project. He described the start and stop of the project over the past four years and the most recent start of the project again in February 2010.

Commissioner Earnest asked if the community septic system can be connected to City sewer.

Newman said, yes, the drip field is gravity so it can connect to city lines.

Commissioner Lack said the drip field can tie-in, but that is beyond the bounds of this decision.

Commissioner Cabe discussed that the revised letter from the applicant submitted for this meeting explains the project to such a level the he feels comfortable to approve the request.

Commissioner Hoskins inquired about some of this applicant's other projects around town.

English responded that the other projects include the Paddock Lane Final Plat, Sycamore Condo project, and another project at Highway 112 and Garland Avenue.

Commissioner Hoskins discussed seeing what looked like some mixed trash and fill being deposited at the Weir Road Subdivision site. He asked about this applicant hauling waste material from other projects to this site.

English replied that no waste fill from their other sites was being taken from the subject property. He is not aware of any waste being dumped on this site. There is a meeting with the county tomorrow to discuss erosion control.

Commissioner Hoskins noted that the streets are cut, but no pipes. This is not a lot of progress in four years. But you think you can finish in six months?

English said yes.

Commissioner Chesser asked about where the fill on the project site came from.

Mark Schultz, project contractor, answered that the fill is spoils from the Mt. Comfort Road widening project.

Commissioner Chesser asked if the road cuts are done.

Schultz said yes, but no pipe is in the ground. The county asked them to stop the project before they got to that point.

Commissioner Earnest said he sees no issue with the extension.

Commissioner Hoskins discussed that has to look at how this overall project has been handled in the past. There has been no erosion control and trash looks like it has been dumped on-site. He stated that he cannot support this extension.

Kit Williams, City Attorney, discussed the criteria the commissioners should consider for this request. What have the applicants been able to prove to you as good cause as to why it couldn't be completed in three years? He discussed the applicant's letter. Are these reasonable issues as to why they couldn't complete the project?

Commissioner Lack discussed the burden of proof. The type of fill onsite is regulated by other codes. Was a reasonable effort taken to complete the project? To me, the applicant has met the standard.

Commissioner Winston asked the applicant how their finances changed so that they can now finish the job.

English answered that they have 100% funding now and that the banks have delayed this project in the

past.

Commissioner Chesser asked if another extension after this one was possible?

Williams said no, only a one-time extension may be granted.

Motion:

Commissioner Chesser made a motion to approve the request. **Commissioner Cabe** seconded the motion. **Upon roll call the motion to approve passed with a vote of 7-1-0 with Commissioner Hoskins voting "no".**

ADM 10-3559: (WEIR ROAD EXTENSION) RECONSIDERATION

Kit Williams, City Attorney, explained the rules of order to reconsider an item that has already been discussed and that public comment concerning the motion to reconsider could be permitted.

Commissioner Winston stated that more information has been presented for ADM 10-3559 and requested that the item be brought up for reconsideration at the next regularly scheduled meeting.

Public Comment:

Sharon Green, neighbor, claimed that the neighborhood was not notified of the administrative item and requested reconsideration for an opportunity to comment on the extension request.

Commissioner Chesser asked if notification was required.

Jeremy Pate, Development Services Director, stated that the ordinance does not require notification

Motion:

Commissioner Winston made a motion to reconsider. **Commissioner Hoskins** seconded the motion. Upon roll call the motion to 6-1-0 (**Commissioner Cabe** voted "no") was approved.

There being no further business, the meeting was adjourned at 6:51 PM.

ADM 10-3559: (WEIR ROAD SUBDIVISION, 244): Submitted by HOMETOWN DEVELOPMENT. The property is located at the SOUTHEAST CORNER OF WEIR ROAD AND HUGHMONT ROAD and contains approximately 17.64 acres. The request is for an extension of the approval for PPL 06-2010, Preliminary Plat Weir Road Subdivision.

Hugh Earnest, Planning Commissioner, read a statement about conflict of interest.

John English, applicant, had no additional comments.

Public Comment:

Sharon Green, member of the public, the applicant provided reasons, but these are not good cause. She discussed the new contractor designing new septic systems, new engineer began work without approval, the quality of fill is an issue. The applicant can not finish this project in 6 months. Please deny this request.

Garland Yell, neighbor, stated that this is not an appropriate use of the land. You have a chance to deny now.

Charles Tillinson, member of the public, discussed that the west side of the property is eroding, and was caused by the dirt work on the site. There is standing water on the property.

Corinda Car, member of the public, stated that the Commission should vote no. The applicant did not meet the approval date for Arkansas Health Department.

Public Comment was closed:

Commissioner Winston asked how the road widening fit into the time line.

English answered that the widening would occur during the paving of the roads.

Commissioner Lack wanted to know about a date that was not met as far as the Washington County Health Department requirements.

English replied that their letters of credit expired. The construction was stopped. His firm is working on a list of County conditions.

Commissioner Lack asked about the fill dirt. What are the regulations? He also asked about the water problems.

Glen Newman, Staff Engineer, stated that the contractor should remove the materials from the dirt during spreading. There has not been an inspection review in County. He said that he would like to see the area of concern mentioned for the erosion. The issues can be addressed with a grading permit.

Commissioner Earnest inquired about the review or approval status of the septic systems.

Newman advised that this is a single collection system, not individual septic.

Garner explained that the State Department of Health is required to sign the final plat.

Chesser stated that he understands the concerns of the public, but the Commission is only reviewing the "good cause" portion of the code, not septic systems, etc. The applicant has met requirements and shown evidence of good cause.

Commissioner Hoskins asked the applicant if the county has received the bonds. Does the bank they know about the 1 year limit?

English explained that the financial institution needs to know that the project can go forward.

Ed (unknown last name), Chambers Bank, stated that they are ready to provide the bond, and that they understand the 1 year limit. They are ready to finance.

Chesser requested that they give the project 1 year from this meeting date. They have already been delayed one month.

Winston commented that time limits are needed, so we need a high bar to grant the extension. They have good reasons for the delay, but maybe the first people involved left because they didn't believe in the project or maybe it wasn't the best idea. This project is suffering a slow death. He discussed that he feels this project is not worthy of an extension, the property is already in poor shape. Perhaps another project would be better.

Motion #1:

Commissioner Winston made a motion to deny the request.

Chesser said that he was sympathetic to the neighbors, however the commission voted to approve a month ago and nothing has really changed since then.

Commissioner Cabe seconded the motion to deny.

Winston stated that when the commission looked at this it was on staff's findings. The Commission is making a judgment call on all information. I believe that they have had financial problems.

Chesser discussed that he felt they have met criteria for an extension.

Lack asked if the previous engineer's company still exists.

English answered that they do not. The contractor and the engineer went out of business.

Upon roll call the motion to deny fails with a vote of 3-4-0 with Commissioners Lack, Earnest, Kennedy and Chessser voting “no.”

Motion #2:

Commissioner Chessser made a motion to approve with the condition that the project will expire 1 year from this meeting (May 24, 2011) be amended to August 24, 2011.

Earnest stated that he would be reluctant to go past 1 year; there needs to be an end.

Kit Williams, City Attorney, added that 1 year is it.

Chessser agreed to May 24, 2011.

Commissioner Earnest seconded the motion. **Upon roll call the motion to approve passed with a vote of 4-3-0 with Commissioners Hoskins, Winston and Cabe voting “no.”**

Neighbor Documentation

Request for Reconsideration Weir Road Development

Dear Commissioners,

Our neighborhood is requesting that you reconsider the extension of the Weir Road Development by Hometown Property for the following reasons:

1. Within the last three years the developer never received final approval from Washington County Planning Dept., Thus this project never was started.
2. You will also see documentation from the State Health Dept, where the approval of the stepp system is no longer valid, the developer was to start development within 1 year from approval, and that year was up in March 2010.
3. Commissioner Hugh Earnest, was a representative for Hometown Development, and yet he did not remove himself from comment or from the vote, we feel this is conflict of interest.
4. Developer had heavy equipment on site, and was working removing trees and dirt work, and thus Ms Richey went to the site and shut them down, today all heavy equipment has been removed.
5. Notification of Meeting - we have learned this was not in the local papers, thus we were not aware of the extension request.

For the reasons listed above and the documentation I have provided in the notebook, I ask that you consider our request, and then deny the extension.

Thank you for your time and your consideration.

Sincerely,

Sharon Green
Weir Road Neighborhood
4565 W Weir Road
Fayetteville, AR 72704
443-1535 home
263-1267 cell



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Mike Beebe

Paul K. Halverson, DrPH, FACHE, Director and State Health Officer

Engineering Section, Slot H37
www.HealthyArkansas.com/eng/

Ph 501-661-2623

Fax 501-661-2032

After Hours Emergency 501-661-2136

C-8
7673
Approval of the Planning Commission's
approval of ADM 10-3559 Weir
Soil Division
Page 22 of 44

March 20, 2009

RECEIVED
MAR 25 2009
ENGINEERING DIV.

N. Art Scott, PE, President
Project Design Consultants, Inc.
P.O. Box 8
Cave Springs, Arkansas 72718-0008

RE: Water and Sewer Line Extensions with
Wastewater Treatment Plant and Drip System
Weir Road Subdivision
Washington County
ADH# 63687

Dear Mr. Scott:

The plans and specifications for the captioned project, revised 03/03/2009, prepared by Project Design Consultants, Inc. and submitted to the Engineering Section on 03/11/2009 have been reviewed and are hereby approved with the following conditions.

1. The Engineering Section relied upon statements and representations made in the plans and specifications. In case any statement or representation in the aforementioned documents is found to be incorrect, this Approval may be revoked.
2. There shall be no deviation from the plans and specifications unless revised plans and specifications have been first submitted for review and written consent given.
3. The review and approval of the plans and specifications were or functional and sanitary features and in no way constitute an analysis of structural design.
4. If construction on this project is not started within one year of the date affixed hereto, this Letter of Approval is void.
5. Project Design Consultants, Inc. shall provide construction inspection services.

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6. If at any time the Primary Disposal Field fails, the Arkansas Dept. of Health Engineering Section reserves the right to request a reevaluation of all sewage disposal options prior to utilization of the alternate disposal field.

One set of plans and specifications will be retained for our files.

When submitting correspondence pertaining to this project, please include our reference number ADH# 63687.

Sincerely,


Jeff Stone, P.E.
Chief Engineer
Engineering Section

JS:CSC:RAD:rd:

Enclosure

cc: Washington County Sanitarian
Ody Bien, Area 1 Plumbing Inspector
Fayetteville Water
City Engineer's Office, Fayetteville



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

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Fax 501-661-2032

After Hours Emergency 501-661-2136

C. 8
Appeal of the Planning Commission's
approval of ADM 10-8539 Weir
Road Subdivision
Page 2 of 44

March 3, 2009

N. Art Scott, PE, President
Project Design Consultants, Inc.
P.O. Box 8
Cave Springs, Arkansas 72718-0008

RECEIVED

MAR 04 2009

ENGINEERING DIV.

RE: Water and Sewer Line Extensions with
Wastewater Treatment Plant and Drip System
Weir Road Subdivision
Washington County
ADHHS# 63687

Dear Mr. Scott:

To this date, we have not received a response to our letter dated, January 22, 2009. Therefore, the above-referenced project has been disapproved and discarded.

If in the future you should decide to proceed with the project, plans and specifications will have to be resubmitted in accordance with our regular procedures for new projects.

Sincerely,

Craig S. Corder, P.E.
Engineer Supervisor
Division of Engineering

CSC:RAD:rd:

cc: Washington County Sanitarian
Odie Bien Area I Plumbing Inspector
Fayetteville Water
City Engineer's Office, Fayetteville



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

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Paul K. Halverson, DrPH, FACHE, Director and State Health Officer

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After Hours Emergency 501-661-2136

C. 8 - 7673
Appeal of the Planning Commission's
approval of ADM 10-3559 Weir
Road Subdivision
Page 44

January 22, 2009

N. Art Scott, PE, President
Project Design Consultants, Inc.
P.O. Box 8
Cave Springs, Arkansas 72718-0008

RECEIVED
FEB 02 2009
ENGINEERING DIV.

RE: Water and Sewer Line Extensions with
Wastewater Treatment Plant and Drip System
Weir Road Subdivision
Washington County
ADHHS# 63687

Dear Mr. Scott:

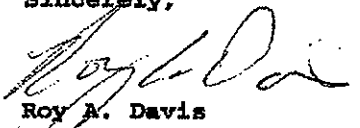
We have not received the following information to complete our review of the referenced project

1. Please provide a letter from the Fayetteville City Engineer's Office that approves drainage improvements for this property. Provide a set of plans approved by the Fayetteville City Engineer's Office showing the drainage improvements on the plans with the primary and alternate drip field areas. Show methods used to protect the fields during work on the drainage area.
2. We still do not have a letter from the Washington County Sanitarian's Office concurring with the soil pit analysis. Please provide a letter of concurrence from that office.

If no response is received by February 22, 2009, the plans will be disapproved and discarded. Review of this project will continue upon your response to this letter.

When submitting correspondence pertaining to this project, please include our reference number ADH# 63687.

Sincerely,


Roy A. Davis
District Engineer
Division of Engineering

Enclosure:

38
JS:CSC:RAD:rd

Cc: Fayetteville Water
Washington County Sanitarian's Office
City Engineer's Office, Fayetteville

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Division of Health

Paul K. Halverson, DrPH, Director

Engineering Section – Environmental Health Branch – Center for Local Public Health

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C. 8
Appeal of the Planning Commission's
approval of DM 73 Weir
Road Subdivision
Page 26 of 44



September 25, 2008

RECEIVED

N. Art Scott, PE, President
Project Design Consultants, Inc.
P.O. Box 8
Cave Springs, Arkansas 72718-0008

SEP 26 2008

ENGINEERING DIV.

RE: Water and Sewer Line Extensions with
Wastewater Treatment Plant and Drip System
Weir Road Subdivision
Washington County
ADHHS# 63687

Dear Mr. Scott:

The revised plans for the above-referenced project have been reviewed and the following comments are in order.

1. Review of the plans show that no soil pits were provided for the alternate area. Because the alternate area is at a lower elevation and subject to flooding, please provide soils data for a minimum of 2 pits in each reserve area. Space the pits no more than 100 feet apart. Please provide the soils data to the Engineering Section and the Washington County Sanitariums' Office.
2. Provide copies of the Improvement District's articles, by-laws or other documentation of it's responsibilities and powers as a sewer utility.
3. After discussions with local residents, it appears that Hughmont Road floods during heavy rains. This leads us to conclude that flood elevations normally reach 1267 feet or higher based on the road elevations shown. Please provide hydrologic information to show the Wastewater Treatment plant will be above the 25 year flood. Discuss the ability to protect the plant during a 100 year flood event.

www.healthylarkansas.com

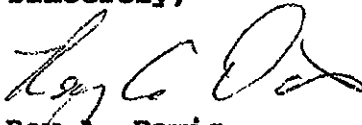
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4. We understand that changes to the plans have been submitted to the City Engineer's Office. Please provide the latest approved changes for this project.
5. Original plans and specifications were submitted for a BioClere Wastewater Treatment unit. Latest plans indicate Advantex Filters. Please provide specifications, loading criteria and standard details for installation of the filters.
6. Grading work is shown on a portion of the Drip Fields. Provide a cross section for those areas. The maximum amount of fill is limited to 14 inches. Indicate where and how the drip disposal lines will be installed relative to the fill and natural soil.

Review of this project will continue upon your response to the above comments.

When submitting correspondence please include our project number ADHHS# 63687.

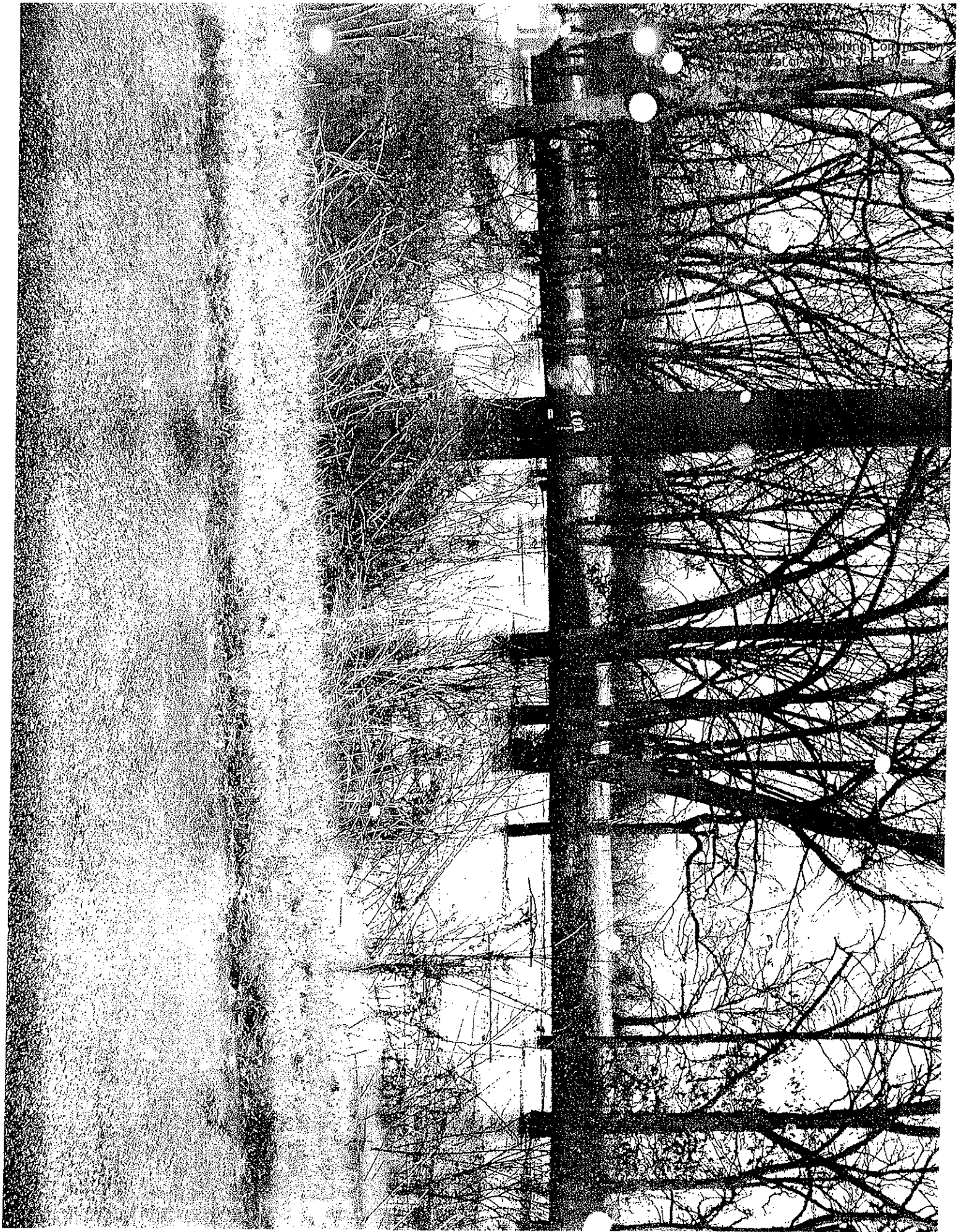
Sincerely,



Roy A. Davis
District Engineer
Engineering Section

JS:CSC:RAD:rd

Cc: Washington County Sanitarian's Office
Fayetteville Water
City Engineer's Office, Fayetteville
Juliet Richey, Planning Director, Washington County
Planning, 2615 Brink Dr., Suite 102, Fayetteville
Arkansas 72701









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Move to: Inbox

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From: Roy Davis <Roy.Davis@arkansas.gov> [?]

Date: Monday, September 8, 2008 11:15 AM

To: slgreen@cox.net [?]

Subject: RE: Subdivision Stepp System Approval- need help

Size: 6 KB

Sharon, I have talked to the Engineer and he indicates that the project has just been reactivated. We will wait and see what his response is to our past comment letters and will also evaluate the flood plain issue at that time. I will be in contact with you and set up a time to come up there after we receive his response.

Roy Davis

-----Original Message-----

From: slgreen@cox.net [slgreen@cox.net]

Sent: Monday, September 08, 2008 9:32 AM

To: Roy Davis

Subject: RE: Subdivision Stepp System Approval- need help

Mr Davis

I was just wanting to follow-up and see if you had been able to contact either the developer or the engineer and what the outcome of that conversation was.

Sincerely
Sharon Green
4565 W Weir Road
Fayetteville, AR 72704

----- Roy Davis <Roy.Davis@arkansas.gov> wrote:

> Sharon, I looked up the status of this project and it has not been
> approved. We have had no correspondence with the Engineering Firm that

> developed the plans since our comment letter to them in June of 2007.
> I do not know if the same engineer is handling the project, but I will

> send out a letter to them today. We will look into the location of
> the treatment system and the sizing again before we continue our
> review of the project. Do you have a name and phone number for Home
> Town Properties? I will try to contact them if you can give me a point

> of contact.

>
> Roy Davis
> District Engineer
> 501-661-2662
>

> -----Original Message-----

> From: slgreen@cox.net [slgreen@cox.net]

> Sent: Friday, August 29, 2008 9:31 AM

> To: Roy Davis

> Subject: Fwd: Subdivision Stepp System Approval- need help

> --

> > Subject: Subdivision Stepp System Approval- need help

> >

> > Mr. Davis

> > My name is Sharon Green, I live at 4565 W. Weir Road, Fayetteville,
> > AR., in Washington County, but the growth area of the city of
> > Fayetteville.

> > Some of our neighbors have contacted you in the past, at one point
> > this subdivision was on hold, however, he has started construction
> > once again.

> > Problem: 17 acres of property being developed with 34 single home/40
> > Town homes, with a stepp system/drip field.

> > Drip field is located in the flood zone of this property..

> >

> > Location: Weir Properties,
> > Corner of Weir Road/Hughmont Road
> > Developer: Home Town Properties

> > Washington County
> > Growth area of the city of Fayetteville, No Sewer available.,
> > Private contract trash haulers.

> >

C. 8

Appeal of the Planning Commission's
approval of ADM 10-3559 Weir
Road Subdivision
Page 32 of 44

> > We ask that you come to Fayetteville and look at this property
> > before approving this system. We have photo's proving this is in
> > the flood
> zone, This past summer the water where the drip field is located was
> over 5ft. deep. We NEED YOUR HELP.
> > I have spoken with the Washington County Planning Dept. Ms Richey,
> > and
> she told me this would be up to your Dept. for approval.
> > I also spoke with Glen Newman from the City of Fayetteville, he
> > agreed
>
> > that this system should NOT be placed in the flood zone, His number
> > 479-444-3424 We ask that you not only come and view the property in
> question, but please contact me and I will arrange for the neighbors
> to visit with you and voice our concerns on this issue, we do have
> valid concerns.
>
> > We need your help, this developer will not go for annexation prior
> > to
> building, because he does not build to code nor does he meet the city
> requirements for this area, and unfortunately the Countywide Zoning
> was past after he had gone for preliminary plat approval. Having said
> that, he has very little guidelines/rule/regulations to meet within
> the County, thus, why he chooses to build right out of the city
> limits.
>
> > In closing I look forward to hearing from you, and if for some
> > reason
> you are no longer the contact for this type of situation, I ask that
> you give this to the correct person and please let me know who I
> should be talking with. This is URGENT and time sensitive.
>
> > I want to thank you for your time and look forward to hearing from
> > you
> > soon.
>
> > Sincerely
> > Sharon Green
> > 4565 W. Weir Road
> > Fayetteville, AR 72704
> > 479-263-1267
>
> > --
>
>

--
Sharon

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Arkansas Department of Health and Human Services

Division of Health

Paul K. Halverson, DrPH, Director

Engineering Section – Environmental Health Branch – Center for Local Public Health

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C. 8 7673
Appeal of the Planning Commission's
approval DM 19 Weir
Road Subdivision
Page 33 44

September 12, 2008

N. Art Scott, PE, President
Project Design Consultants, Inc.
P.O. Box 8
Cave Springs, Arkansas 72718-0008

RECEIVED
SEP 18 2008
ENGINEERING DIV.

RE: Water and Sewer Line Extensions with
Wastewater Treatment Plant and Drip System
Weir Road Subdivision
Washington County
ADHHS# 63687

Dear Mr. Scott:

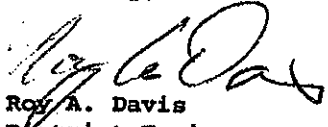
The plans for the above-referenced project have been reviewed and the following comments are in order.

1. The letter provided from the Washington County Sanitarian's Office does not appear to address the soil data submitted for the Drip System. A letter addressing the data for the Drip field is needed.
2. Provide copies of the Improvement District's articles, by-laws or other documentation of its' responsibilities and powers as a sewer utility.
3. Please show the 25 year and 100 year flood plains on the Drip Field plan sheet. All treatment processes must be out of the 100 year flood plain. The drip field must be located out of the 25 year flood.

Review of this project will continue upon your response to the above comments.

When submitting correspondence please include our project number ADHHS# 63687.

Sincerely,


Roy A. Davis
District Engineer
Engineering Section

RH:CSC:RAD:rd

Cc: Washington County Sanitarian's Office
Fayetteville Water
City Engineer's Office, Fayetteville



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Mike Beebe

Paul K. Halverson, DrPH, FACHE, Director and State Health Officer

Engineering Section, Slot H37
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Ph 501-661-2623

Fax 501-661-2032

After Hours Emergency 501-661-2136

C. 8
Appeal of the Planning Commission's
approval of ADM 10-3559 Weir
Road Subdivision
1144

September 2, 2008

Art Scott, PE
Project Design Consultants, Inc.
P.O. Box 8
Cave Springs, Arkansas 72718-0008

RECEIVED
SEP 04 2008
ENGINEERING DIV.

RE: Water and Sewer Line Extensions with
Wastewater Treatment Plant and Drip System
Weir Road Subdivision
Washington County
ADHHS# 63687

Dear Mr. Scott:

We have not received information addressed in the June 28, 2007 letter (copy enclosed) concerning the above-referenced project. Please contact this office concerning the status of this project. If no response is received by October 1, 2008, the plans will be disapproved and discarded. Review of this project will continue upon your response to our original comment letter.

When submitting correspondence pertaining to this project, please include our reference number ADH# 63687.

Sincerely,

Roy A. Davis
District Engineer
Division of Engineering

Enclosure:

JS:CSC:RAD:rd

Cc: Fayetteville Water
Washington County Sanitarian's Office
City Engineer's Office, Fayetteville

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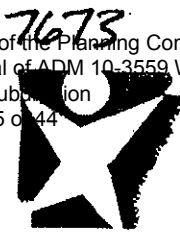
Division of Health

Paul K. Halverson, DrPH, Director

Engineering Section – Environmental Health Branch – Center for Local Public Health

Postal Address	P. O. Box 1437, Slot H-37	Little Rock, AR 72203-1437	1-501-661-2623	TDD: 1-800-234-4399
Physical Address for UPS or Fedex	4815 West Markham St., Slot H-37	Little Rock, AR 72205	Fax: 1-501-661-2032	

C. 8
Appeal of the Planning Commission's
approval of ADM 10-3559 Weir
Road Subdivision
Page 35 of 44



June 28, 2007

N. Art Scott, PE, President
Project Design Consultants, Inc.
4285 N. Shiloh Drive, Suite 104
Cave Springs, Arkansas 72703

RE: Water and Sewer Line Extensions with
Wastewater Treatment Plant and Drip System
Weir Road Subdivision
Washington County
ADHHS# 63687

Dear Mr. Scott:

The plans for the above-referenced project have been reviewed and the following comments are in order.

1. A buffer zone of 100 feet is required around all wastewater treatment tanks and treatment units. Please show a 100 foot buffer zone on plan sheet 7.3 from all residential lots including the lots on the west side of Hughmont Road.
2. Prior to completion of our review, the soil data must be reviewed by the Washington County Sanitarian's Office. If the data has not been submitted to them, please provide them a copy of the soils data and pit locations.
3. Provide copies of the Improvement District's articles, by-laws or other documentation of its' responsibilities and powers as a sewer utility.
4. Section 15001-5 3.08: Revise to reflect watertight encasement where concrete encasement is mentioned. The watertight encasement must be extended a minimum of 10 feet on each side of the water/sewer crossing.

RECEIVED
JUL 03 2007
ENGINEERING DIV.

Review of this project will continue upon your response to
the above comments.

When submitting correspondence please include our project
number ADHHS# 63687.

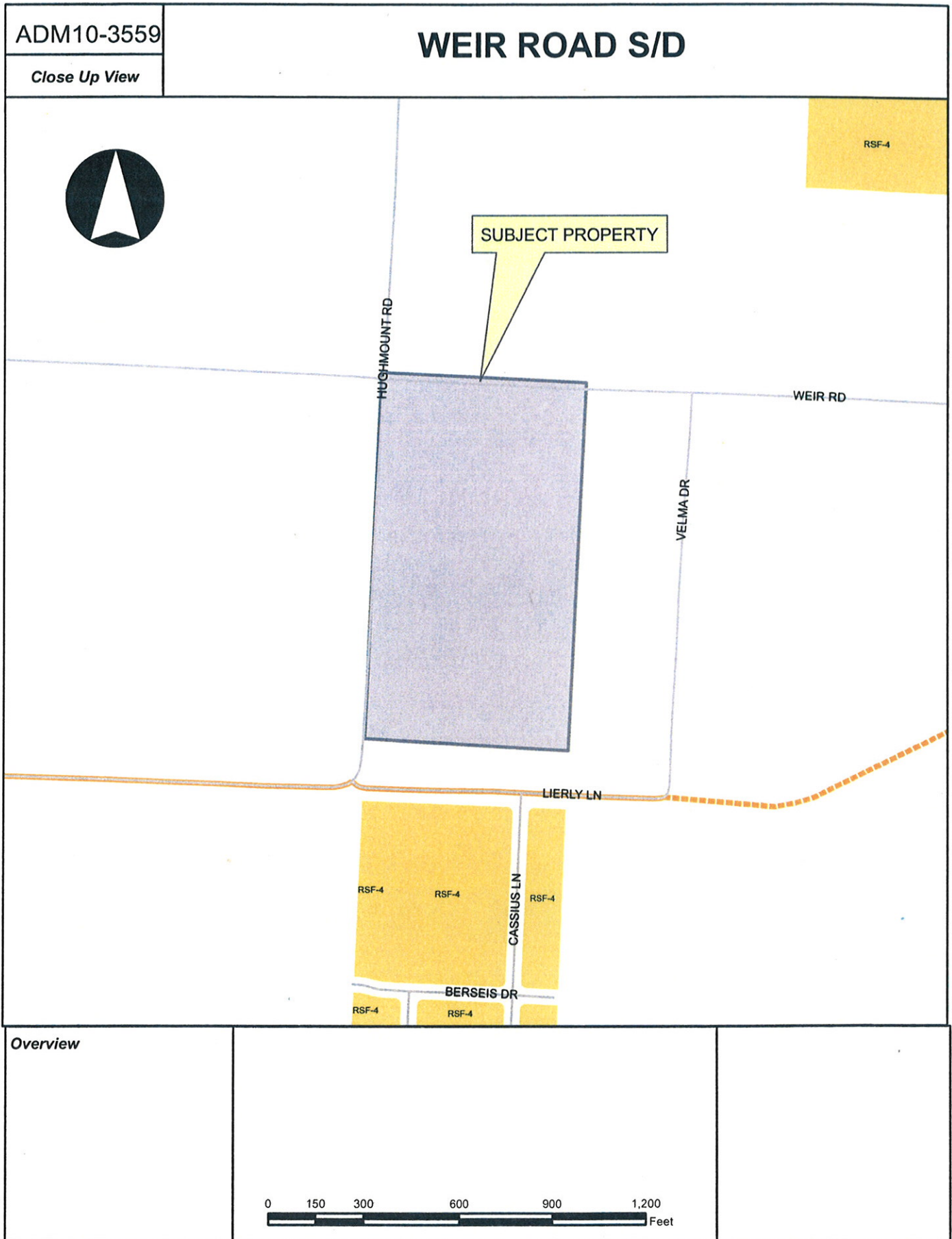
Sincerely,



Roy A. Davis
District Engineer
Engineering Section

RH:CSC:RAD:rd

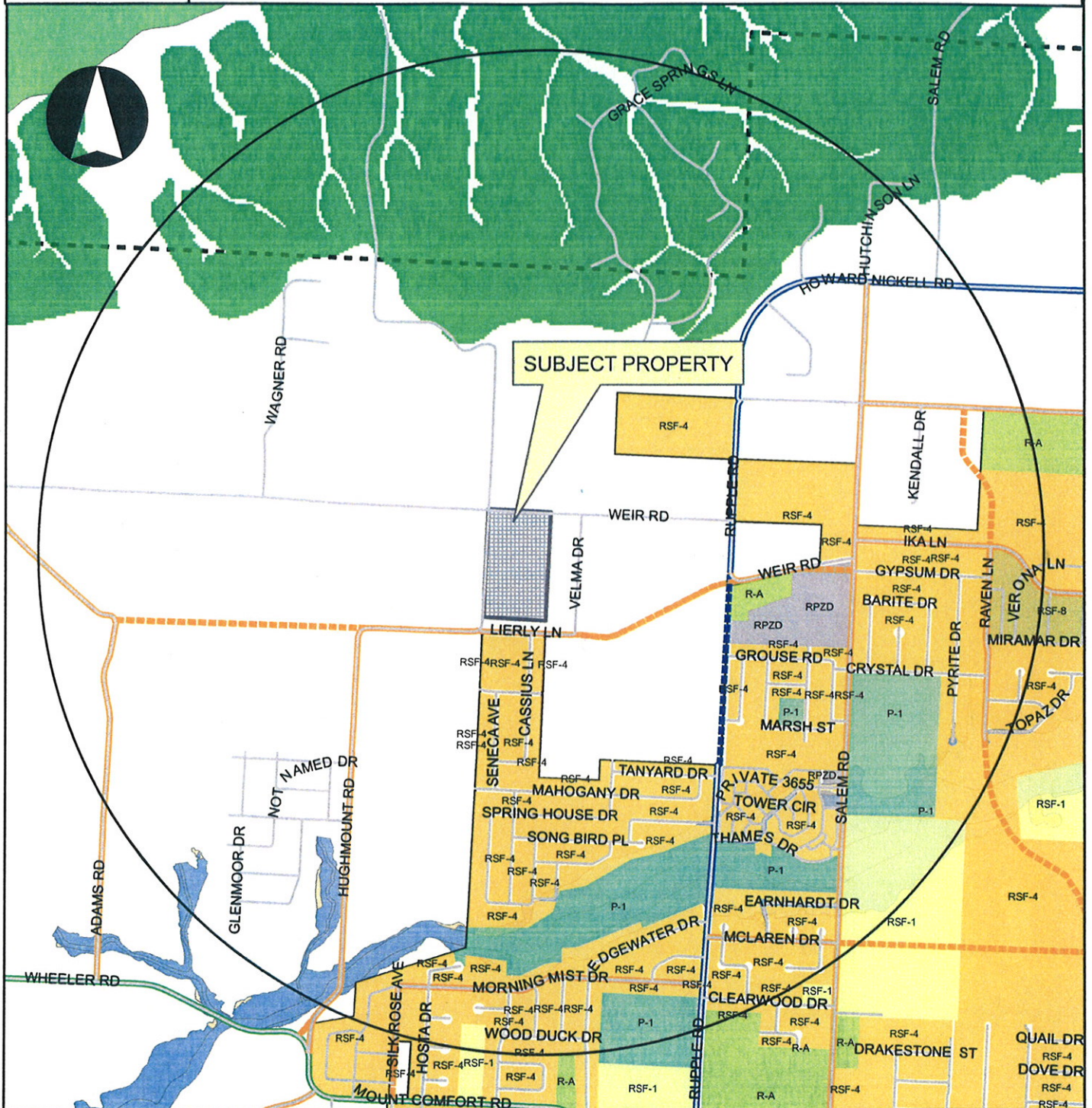
Cc: Washington County Sanitarian's Office
Fayetteville Water
City Engineer's Office, Fayetteville



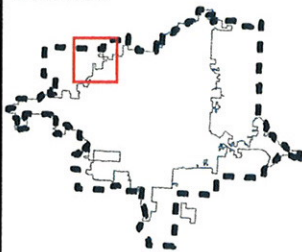
ADM10-3559

One Mile View

WEIR ROAD S/D



Overview



Legend

Subject Property

ADM10-3559

Boundary

0 0.25 0.5 1 Miles

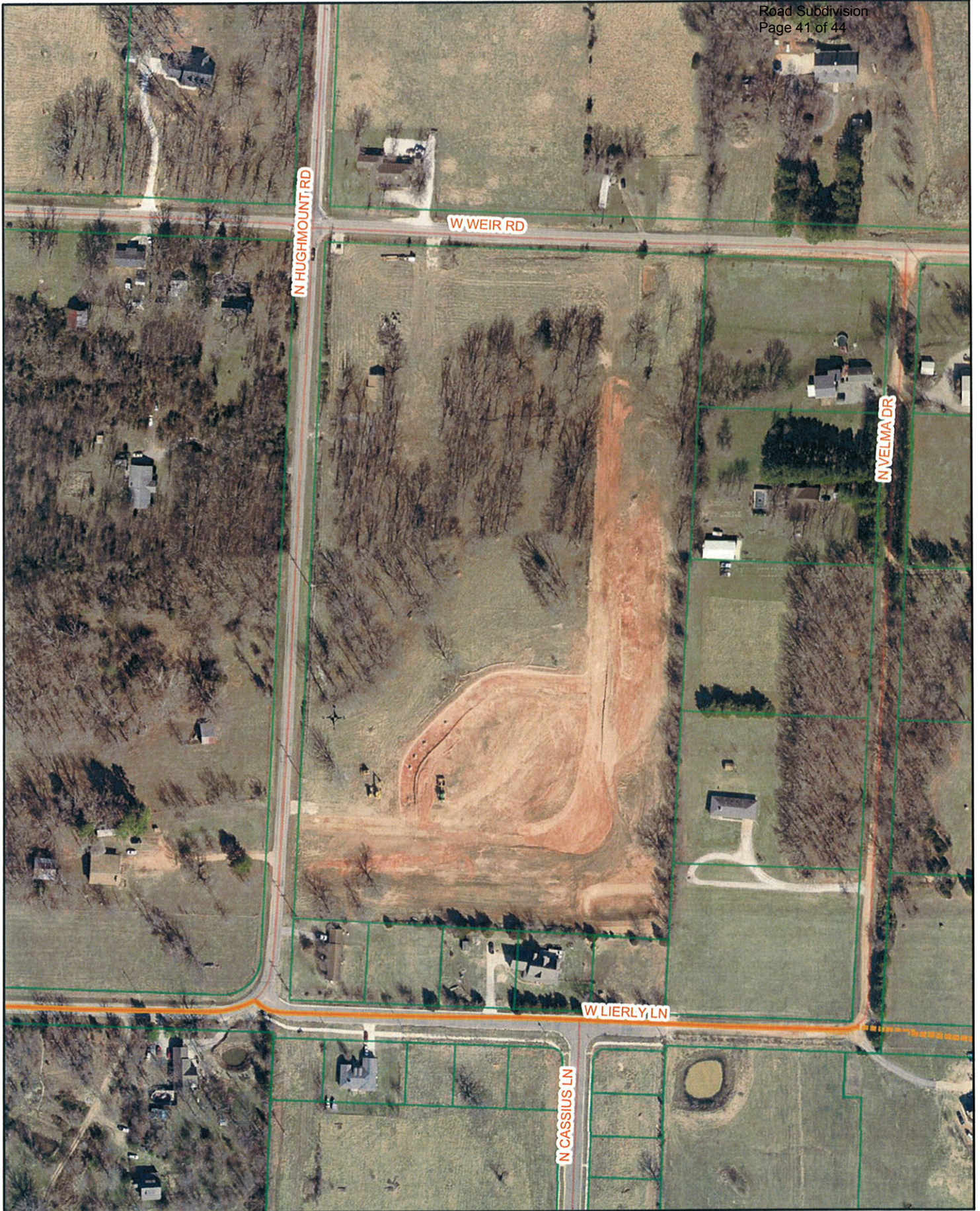
	DESIGN COUNCIL OF THE PROFESSIONAL DESIGNERS 15, COLINDALE AVENUE LONDON NW9 1NS	
PDC	NAME OF FIRM ADDRESS POST CODE TELEPHONE NO. FAX NO. E-MAIL ADDRESS WEBSITE ADDRESS DESIGNER'S NAME DESIGNER'S ADDRESS DESIGNER'S POST CODE DESIGNER'S TELEPHONE NO. DESIGNER'S FAX NO. DESIGNER'S E-MAIL ADDRESS DESIGNER'S WEBSITE ADDRESS	PROJECT NAME PROJECT ADDRESS PROJECT POST CODE PROJECT TELEPHONE NO. PROJECT FAX NO. PROJECT E-MAIL ADDRESS PROJECT WEBSITE ADDRESS PROJECT DESCRIPTION PROJECT START DATE PROJECT END DATE PROJECT STATUS PROJECT CONTACT NAME PROJECT CONTACT ADDRESS PROJECT CONTACT POST CODE PROJECT CONTACT TELEPHONE NO. PROJECT CONTACT FAX NO. PROJECT CONTACT E-MAIL ADDRESS PROJECT CONTACT WEBSITE ADDRESS

2007



0 100 200 400 600 800 Feet

2008



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2009



0 100 200 400 600 800 Feet

2010



0 100 200 400 600 800 Feet

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
June 1, 2010**

A meeting of the Fayetteville City Council was held on June 1, 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:

Alderman Cook encouraged everyone to review the board and committee applications that have been received. He stated they are in the City Clerk's Office.

Presentations, Reports and Discussion Items:

Quarterly Report of the Financial Condition of the City – City Clerk Sondra Smith, Finance Director Paul Becker.

The quarterly report was emailed to the City Council.

Paul Becker, Finance Director gave a brief summary of the quarterly report.

Agenda Additions: None

Consent:

Approval of the May 18, 2010 City Council meeting minutes.

Approved

Bid #10-32 B&H Photo/Video: A resolution awarding Bid #10-32 and approving the purchase of video editing equipment in the amount of \$39,792.00 from B&H Photo/Video/Pro-Audio for use by the government channel and public access channel.

Resolution 88-10 as recorded in the office of the City Clerk.

Bid #10-33 J. Johnson Construction Company, LLC: A resolution awarding Bid #10-33 and approving a contract with J. Johnson Construction Company, LLC in the amount of \$46,279.00 for the construction of block retaining walls for the Frisco Trail from Maple Street to Spring Street, and approving a project contingency of \$9,255.80.

Resolution 89-10 as recorded in the office of the City Clerk.

Investigate Covert Drug Transactions: A resolution authorizing the Fayetteville Police Department to accept additional funding through the 2010 Gulf Coast High Intensity Drug Trafficking Area (HIDTA) Grant in the amount of \$31,695.00 to investigate covert drug transactions and approving a budget adjustment.

Resolution 90-10 as recorded in the office of the City Clerk.

2009 Arkansas Department of Environmental Quality Recycling Grant: A resolution authorizing acceptance of a 2009 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 West Side Recycling Drop Off Facility, and approving a budget adjustment recognizing the grant revenue.

Resolution 91-10 as recorded in the office of the City Clerk.

Engineering Elements, PLLC: A resolution approving a contract with Engineering Elements, PLLC in the total amount of \$25,900.00 for energy audit services.

Resolution 92-10 as recorded in the office of the City Clerk.

Joe Perme Construction, Inc.: A resolution authorizing a contract with Joe Perme Construction, Inc. in the amount of \$21,800.00 for improvements to a public facility building (1932 S. Garland) through the Community Development Block Grant Public Facility Program.

Resolution 93-10 as recorded in the office of the City Clerk.

Rausch Coleman Holmes, LLC: A resolution approving a contract amendment with Rausch Coleman Holmes, LLC for an additional \$61,797.91 in 6" concrete pavement, and approving a budget adjustment.

Resolution 94-10 as recorded in the office of the City Clerk.

Bid #10-35 All Around Landscaping, Inc.: A resolution awarding Bid #10-35 and approving a contract with All Around Landscaping, Inc. in the amount of \$96,185.00 for planting and maintenance of trees, and providing a ten percent (10%) project contingency.

Resolution 95-10 as recorded in the office of the City Clerk.

Bid #10-38 TEECO Safety (Bullet Proof Vests): A resolution awarding Bid #10-38 and approving the purchase of Bullet Proof Vests with ballistic panels and carriers from TEECO Safety, Inc. in a total amount not to exceed \$71,672.37 through the end of 2010 and in such amount in 2011 as authorized by the 2011 City Budget.

Resolution 96-10 as recorded in the office of the City Clerk.

ASPCA Grant (Microchipping & Tagging): A resolution authorizing application and acceptance of an ASPCA Grant in the amount of \$5,000.00 for “A ticket home microchipping and tagging program” for the Fayetteville Animal Shelter and approving a budget adjustment.

Resolution 97-10 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:

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 at the May 4, 2010 City Council meeting. This ordinance was left on the Second Reading at the May 18, 2010 City Council meeting.*

Alderman Petty 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.

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

Ordinance 5322 as Recorded in the office of the City Clerk

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 at the May 4, 2010 City Council meeting. This ordinance was left on the Second Reading at the May 18, 2010 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I understand there are some amendments we need to look at.

Don Marr, Chief of Staff stated we are looking at multiple ways to establish residency in terms of issuing residential permits. He described the residential permit process. The first amendment is to broaden it from vehicle registration to give us other documents acceptable to establish residency.

City Attorney Kit Williams: I drafted the following sentence to accomplish that “The Parking Division may accept other reliable documentation of ownership or occupancy of a residence within the zone to justify issuance of a residential parking permit for a resident’s vehicle.”

Alderman Petty: This was one of the things the Dickson Street Neighborhood Association asked us to bring forward.

Alderman Petty moved to amend the ordinance by adding “The Parking Division may accept other reliable documentation of ownership or occupancy of a residence within the zone to justify issuance of a residential parking permit for a resident’s vehicle.” Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

Mayor Jordan: The other amendment that we have is for oversized vehicles.

City Attorney Kit Williams: This amendment will continue to allow an operator/owner of a moving van or other oversized vehicle that needs to park on the street, in order to serve a residence or business within the district, to have a special limited time and location parking permit issued by the Parking Division. It also states any resident within the Entertainment Parking Zone who owns a motorcycle or motorscooter with over 70 cubic centimeters displacement may be issued a residential permit which would allow free parking only in a special designated motorcycle, motor scooter, on-street parking spaces and is prohibited from parking in a standard on-street parking space reserved for resident’s cars. Operators of motorcycles and motor scooters may park in paid parking spaces at the standard parking rate. No motorcycle or motor scooter can park on a sidewalk. Operators of fuel efficient scooters and bicycles may park free at any special designated parking spaces but must pay the standard parking rate if parked in the normal paid parking space. No bicycle may be parked on a sidewalk unless it is utilizing a permanently installed and committed bicycle rack.

Alderman Cook: The State licensing cut-off is at 50cc’s. The only reason I thought that 50 cc’s would be better is because it is already out there and the State does it. It is standardized and it seems it would be easier for staff to enforce.

Mayor Jordan: The reason I went with 70cc’s is that is the highest range of scooter.

City Attorney Kit Williams: The State requires if you have 50cc’s and higher you must have a license. If you are under that you do not need a license.

Alderman Cook: There are quite a few that are over 50cc's. I have seen those myself. I know we are trying to accommodate students at the same time.

Alderman Cook moved to amend the ordinance to reduce the size of motor bikes to 50cc. Alderman Ferrell seconded the motion.

Alderman Thiel: It might be easier for whoever is enforcing this, if they are not licensed under 50cc's, then they would automatically know that they qualify. Under 50cc's wouldn't be licensed and it would be easy to recognize.

Alderman Rhoads: 70cc's would include so many scooters.

Alderman Thiel: Do you think it would be an advantage, enforcement wise, to pick out the ones that were licensed or not licensed?

Don Marr: That would probably be a training aspect for the staff to know what qualified as a 70cc. I don't think it would be any different than some of the other codes we have to train staff on.

Alderman Ferrell: Most of the ones that I see are 49cc or less because it saves them money. I think you have to have insurance if you license it too.

Alderman Lewis: Do they look any different? They basically look the same?

Alderman Cook: Yes.

Alderman Lucas: So the only difference would be if they are licensed or not.

City Attorney Kit Williams: Not always because some that should be licensed probably are not. The Parking Division will still have to recognize the ones that should be licensed.

Alderman Petty: It comes down to the intent of this amendment. For me it is to encourage fuel efficient forms of transportation that take up little space. Any reduction we can create in the demand for those spaces is really a savings that we need to pursue. That is why I support the 70cc limit because it includes more scooters.

Upon roll call the motion failed 3-5. Alderman Cook, Ferrell and Lucas voting yes. Alderman Thiel, Petty, Rhoads, Lewis and Gray voting no.

This Amendment failed.

Alderman Petty moved to amend sub-section E of the ordinance to clarify over sized vehicles. The amendment would be as the proposed final version that the City Attorney handed out at the City Council meeting. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Alderman Lewis thanked the residents in Ward 2 for working together and trying to find ways to agree on these things.

Alderman Petty: One of the other concerns that the neighborhood had was regarding the renewal periods. He asked Don Marr to restate the intentions for the record.

Don Marr: It is our intention to look at multiple renewal methods for owners of properties, to look at annual renewals and for those non-owners to look at lease document time periods on a quarterly basis. The other item that we addressed for residential was to deal with the visitor pass program. We discussed this at the last meeting also to allow two options, two hang tags that could be used and distributed by the permit holders or 30 one day passes. That is not included in the detail of the ordinance but is part of the administrative policies.

Alderman Cook: We talked about bringing this back up in 90 days.

Don Marr: At the request of all of you we are to review this in 90 days from the date of implementation and again at twelve months.

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

Ordinance 5323 as Recorded in the office of the City Clerk

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 at the May 4, 2010 City Council meeting. This ordinance was left on the Second Reading at the May 18, 2010 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I am bringing forward an amendment to this after hearing some of the discussions about the motorcycle parking on Dickson Street. He read the proposed amendment.

Don Marr: We would like to propose an amendment that would reduce or provide a 50% discount when motorcycles are parked in designated motorcycle spaces. He gave a brief description of the rates.

Alderman Thiel moved to amend the ordinance to allow a 50% discount for motorcycles. Alderman Petty seconded the motion.

Alderman Rhoads: What are we going to do as far as enforcing this during the time of Bike's, Blue's and BBQ and other large festivals?

Don Marr: The second amendment that we want to make relates to special events. We plan to address that shortly.

City Attorney Kit Williams handed out a copy of both of the proposed amendments.

Don Marr: The second amendment has to do with parking lots being assigned by the Mayor to special event holders to support festivals. This is to provide flexibility for festivals and it would also allow the Mayor to waive the enforcement in an event such as Bike's, Blues and BBQ. He read the amendment.

William Harris, resident of 258 S. Church asked the council to reconsider the parking rates that are being proposed.

Upon roll call the motion passed unanimously.

Alderman Cook: The only part I had a concern about was where it says specifically designated or all on-street paid parking spaces. That does not include residential or does it?

City Attorney Kit Williams: It does not include residential. It is paid parking.

Alderman Lewis: The 16 day, is that a flexible number?

City Attorney Kit Williams: That is the cap.

Don Marr: We did that based on looking at the events that reoccur annually and then having some allowance for those unknown items. It would put a burden on the Mayor during the special permit request to weigh it against economic impact and things for the City. Anyone that just wants to have a small event could not take away the income related to the parking lots through a special event permit request.

Alderman Thiel moved to amend the ordinance to allow the Mayor to waive enforcement during special events. Alderman Lewis seconded the motion.

City Attorney Kit Williams: This is a new subsection M.

Don Marr: This is specific to the entertainment district zone so that events in other areas of town do not have that cap where we don't have paid parking lots. If someone wanted an event on the Square it would continue as unlimited at this point.

Alderman Petty: I support it and I think it is something that is necessary. It does concern me a little because we already give so much support for festivals. I would encourage the Mayor to be critical of the requests that are received so that we don't subsidize festivals more than they need.

Upon roll call the motion passed unanimously.

City Attorney Kit Williams: There was one minor change to the definition of proximity card. It will read 7 a.m to 4 p.m.

Don Marr: That request is because, if we have a proximity card for the renters of those lots, the time that we would allow access would be as early as 7 a.m.

Alderman Thiel moved to amend the time allocation for the proximity access cards to state 7 a.m to 4 p.m. Alderman Petty seconded the motion.

Alderman Petty: If a student gets out of class and they come down after the 4 p.m. period will they be charged for an hour of use or will they be ticketed for going over the time?

Chris Pecoraro, Parking Consultant: The most effective way to handle that is we can maintain records on their overage and either charge it directly to a credit card that we keep on file for their account or we can invoice it the next month as overtime parking.

Upon roll call the motion passed unanimously.

Don Marr handed out information packets on parking rates. He gave an explanation of the rates.

Sharon Crosson gave a slide presentation on the distance measurements from the mall employee parking lots to different destinations within the mall. She compared those distances to the free parking lots on Dickson Street and different destinations along Dickson Street. She stated some of the distances at the mall were the same and took the same amount of time.

Alderman Lewis thanked Sharon Crosson for the comparison.

Alderman Thiel: I really appreciate these comparative rates with other cities and all the walking that Sharon did.

Alderman Ferrell: I think what staff and the city wanted to accomplish was to try to resolve the current problem that we have with parking for the arts and entertainment district. This is a step in that direction to do that.

William Harris: I am in favor of increasing the rates to cover costs.

Mary Ann Greenwood, a citizen stated I support this. She spoke in favor of the ordinance. She thanked the Mayor, Council and staff for their work on the parking issue.

Julie Sell, a business owner spoke on the current parking issues on Dickson Street. She stated a parking deck is needed. She stated she would like to get free parking for the employees. She spoke in favor of the ordinance.

Tina Hodne, a Fayetteville resident and board member of the Walton Arts Center Council stated I am in support of this parking plan. She stated that parking is an issue with people visiting the Walton Arts Center.

Peggy Treaver, resident of Dickson Street stated the way everyone has come together to hash this out is wonderful and this is why I live in Fayetteville, Arkansas.

Hugh Kincaid, a citizen spoke in favor of the ordinance. He commended the Council and Mayor for seizing the initiative to solve the parking programs for the Walton Arts Center and the area. He recommended that the Council vote in favor of the ordinance.

A Fayetteville resident asked the Council to consider allocation of funding to the Walton Arts Center.

Alderman Lewis: I appreciate the time that has been taken and the research that has been done. I am supportive of developing a well planned, reliable mechanism for people to park in our downtown.

Alderman Petty: I live less than one block away from Dickson. I have asked people what they think about the plans and everyone that I heard from understands why we are doing this. I support it and I have been very impressed with how detailed we have been about receiving comments and integrating them.

Alderman Lucas: I am very supportive of finding a way to develop parking for our entertainment district. I am also very supportive of the Walton arts Center. I think it is important for Fayetteville to support the Walton Arts Center and I strongly support this parking program.

Mayor Jordan spoke on the efforts made by himself and staff toward obtaining this parking program. He explained what this revenue would do for the City if approved. I support a parking deck for the downtown Dickson Street area and help for the Walton Arts Center. He thanked everyone for their hard work.

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

Ordinance 5324 as Recorded in the office of the City Clerk

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 at the May 4, 2010 City Council meeting. This ordinance was left on the Second Reading at the May 18, 2010 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Don Marr: There is no additional information from staff.

Alderman Petty: I want to encourage us to move a little more quickly than we might and upgrade the parking infrastructure downtown. That is something we need to look closely at next year if we are going to raise the rates all over.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent during the vote.

Ordinance 5325 as Recorded in the office of the City Clerk

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 resolution was tabled at the May 4, 2010 City Council meeting to the May 18, 2010 City Council meeting. This resolution was tabled at the May 18, 2010 City Council meeting to the June 1, 2010 City Council meeting.*

Paul Becker stated now that you have approved the program we need to set a budget to run the program. He gave a brief description of the resolution.

Mayor Jordan: When we do the contract with the Walton Arts Center we will bring it back to the Council before anything is signed.

Alderman Ferrell: We are talking about the number of employee jobs that we didn't fill. How many was that?

Paul Becker: 13.5 FTE's currently and 7.5 FTE's last year.

Alderman Ferrell: If those positions are filled and these two are added that would be 15 paid positions?

Paul Becker: The positions that are currently not filled are 13.5. This would be 2.5 extra. That is 16 positions.

Alderman Ferrell: It would be 16 total if we filled the positions that are open.

Paul Becker: That is correct but we do not anticipate filling those positions throughout this year. Discussions next year would revolve around what we do.

Jeff Schomberg, board member at the Walton Arts Center assured the Council that the money generated from the revenue stream will be very well spent serving the children of Northwest Arkansas and continue to bring even greater entertainment and content to the Walton Arts Center.

Terry Trotter, Chief Operating Officer at the Walton Arts Center expressed her appreciation for the financial support to the Walton Arts Center. She spoke in favor of the resolution.

Alderman Ferrell: I have no problem with the revenue stream helping the Walton Arts Center however in its current form where it is married to providing additional employees I do.

Alderman Lewis: I would like to reiterate the fact that this is an investment in a major economic driver for Fayetteville. There is so much return on this investment. It is essential that we support this.

Alderman Lucas: It bothered me that we are adding FTE's in this time where we are looking at furlough days. This is very important and we are going to have to have more people to operate this parking program. I am going to support it but I hope we don't fill the positions unless we really need them.

Don Marr thanked the Council for giving staff the support needed to go to the public and begin the dialogue. He expressed his appreciation to the Mayor, Aldermen, city offices, the Walton Arts Center and the public for their contributions and hard work on this project.

Alderman Gray: This is the reason it is so nice to be a part of Fayetteville. She thanked several individuals for their work on this project.

Alderman Gray moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed 7-1. Alderman Ferrell voting no.

Resolution 98-10 as recorded in the office of the City Clerk.

Amend §72.02 Impoundment Procedures: An ordinance to amend §72.02 Impoundment Procedures of the Code of Fayetteville to clarify when the Police may initiate a nonconsensual tow of a vehicle. *This ordinance was left on the Second Reading at the May 18, 2010 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: Everything was modified and amended at the last meeting.

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

Ordinance 5326 as Recorded in the office of the City Clerk

Amend Chapter §163.14 Revocation or Change of Conditional Use: An ordinance amending §163.14 of the Unified Development Code to permit a periodic review of conditional use permits as described herein. *This ordinance was left on the First Reading at the May 18, 2010 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: We made an amendment at the last meeting to Section E. 1 to clarify how we measure the distance.

Alderman Lewis: As it reads currently it says that review of these conditional uses only happens if there is a violation of the conditions.

Jeremy Pate: That is the current code. That would still remain in place so that would still be an option to look at a violation of a conditional use. We have a mechanism where if there is indeed a violation of a condition of approval of the conditional use permit we can work with the property owner to correct that without having to go the Planning Commission. He explained the process.

Alderman Ferrell: You visited the Stiles furniture place on more than one occasion. Do you remember the last time?

Jeremy Pate: Probably less than a year ago.

Alderman Ferrell: Did you encounter any public violations?

Jeremy Pate: Not at the time, no.

Alderman Lucas: The review that you talk about will be according to present day codes. They will be reevaluated on the present day codes.

Jeremy Pate: The review would come before the Planning Commission to review compatibility. Conditional use permits are not allowed in a zone except by special review and special conditions being placed upon that use in order to make it compatible. He gave examples of special reviews. In a case where we would have a conditional use permit that has no conditions and there is a complaint about that use we as staff would say what is the real issue or complaint. That is why we wrote this ordinance amendment as we did. They have to tell us what the problem is.

Alderman Lucas: So you could actually put them out of business.

Jeremy Pate: That is one option. That is something we would take very carefully. It could be appealed from either party to this board for review.

Alderman Lewis: We have a conditional use process now and we don't set out to put someone out of business. That is two different things. Conditional uses are intended to allow that organization to be there with the conditional uses so that it makes it compatible. That is the point of having conditional uses.

Jeremy Pate: The largest task and finding the Planning Commission makes is whether the use is compatible with that neighborhood. Often times there are certain conditions that need to be placed upon it to make it more acceptable and compatible with that neighborhood.

Alderman Ferrell: Would it be fair to say there were not any problems with the complaints on conditional use permits but a situation that exists today was really the prime mover for drafting this amendment.

Jeremy Pate: There was definitely a catalyst from one project for this particular instance. We felt it was prudent to look at many of our conditional use permits to see if it will be applicable in more than just one case.

Alderman Lucas: So this is retroactive to all conditional uses?

Jeremy Pate: That is correct. It would affect more of the older conditional use permits than it would newer conditional use permits because we have 10 to 15 conditions on almost every conditional use permit that we pass today.

Alderman Lucas: But it could affect them if there was a complaint.

Jeremy Pate: Yes. There are certainly things that we are not thinking of today that in 25 years might be an issue.

Louise Mann, resident of 629 Gray Avenue: I hope you will reinstitute the due process that we previously had with this ordinance. I think we need to leave due process in there so we can review things as times change and as compatibility in neighborhoods change.

Bob Estes, representing Melissa Terry and Flint Richter who are the adjainers to the Stiles spoke on the past review process for conditional use permits. He explained what a conditional use is. He stated we have no ordinance in place to allow for a review of a conditional use that has no conditions. Should there be a concern among the Council, that a review of a conditional use result in a revocation, an amendment to the proposed amendment before you, removing the word revocation and providing that upon review the Planning Commission may modify the conditional use with new or altered conditions or allow the conditional use to continue would be appropriate. I ask you to go to the third reading tonight and pass the proposed amendment.

Alderman Lewis: To me it's like a compromise. You are saying in order to address the unconditioned conditional uses you could have a due process, a review system, for those but offer removing revocation as an option for Planning Commission.

City Attorney Kit Williams: Initially something that would be analyzed under this, at the Planning Commission, the two parts that could be done would be either approve it as is or modify and put conditions upon it. That way the applicant would know exactly what conditions they must satisfy in order to continue having a conditional use. You could do that by simply modifying Section 2 to remove the "or revoke a conditional use permit." That would then place that conditional use like all the conditional uses that are granted now they would all have conditions.

Alderman Lewis: I would like to make that amendment because I feel you need to be sensitive to these entities that have been there a long time and they need time to become more compatible. They would have a due process and know what to expect. That way there's not a shutting down of them. If they have been there that long there are probably quite a few things that need to be addressed.

Alderman Lewis moved to amend section two of the ordinance to remove "or revoke the conditional use permit." Alderman Thiel seconded the motion.

Alderman Rhoads: In going after a conditional use and trying to get one granted the harmony of the neighborhood is a valid consideration that the Planning Commission should take into

consideration, however not in a subsequent review. Harmony with the rest of the neighborhood in a subsequent review would not be a consideration.

Mr. Estes: Compatibility is an essential criteria and element of a conditional use.

Alderman Rhoads: Whether it's in the granting or in the review?

Mr. Estes: Yes, compatibility is always salient to a conditional use.

Bill Harris, resident of Ward 2, would it be prudent to amend the word "permit" to read "require" a periodic review of the conditional use?

Sharon Stiles, resident of Ward 1 requested that the ordinance not be put on the third reading. She stated her attorney had other obligations and she would like him to answer issues that have come up. I appreciate the suggestion about removing revocation. She stated she likes the idea of reviewing once every five years. She asked the Council to add an amendment that would require the petitioner to appear before the Planning Commission. We feel we are compatible with our neighbors. We have made many changes over the years. We were reviewed by the Planning Commission in 2004 and no conditions were added at that time. She read a list of the current properties in the neighborhood and the length of time they have been in the neighborhood.

Alderman Ferrell asked that the ordinance be left on the second reading and hold off on the amendment until her attorney looks at this.

Alderman Thiel stated she disagreed. If I understood correctly Ms. Stiles felt like that would be a good amendment. That doesn't mean we are passing the ordinance tonight. You indicated that you supported the amendment?

Sharon Stiles: Yes, the way I understood it, it would mean that if this passed and the petitions were sufficient, and we were reviewed, they could add conditions at the meeting but not revoke our permit.

City Attorney Kit Williams: That's correct.

Sharon Stiles: If we didn't adhere to those conditions then at a later point they could revoke our permit.

Alderman Thiel: Do you feel like your attorney needs to be here for us to make that amendment?

Sharon Stiles: I don't have a problem with making that amendment tonight. I just don't want you to vote on it as a third reading tonight.

Alderman Thiel: Based on that I still withhold my second to the motion.

Upon roll call the motion passed unanimously.

This ordinance was left on the Second Reading.

New Business:

Stream Standards and Wastewater Discharge Requirements: A resolution authorizing participation in cooperative regional efforts to monitor, evaluate, and report the likely effects that future proposed changes to Stream Standards and Wastewater Discharge Requirements may have on Northwest Arkansas.

David Jurgens, Utilities Director gave a brief description of the resolution.

Alderman Ferrell stated in the past we didn't have the cohesiveness that we now have with our Northwest Arkansas neighbors and Mayors. I think there is strength in numbers and appreciate the way this has gone.

Mayor Jordan: Thanked Alderman Ferrell.

Alderman Lewis stated she agrees and stated Fayetteville has been a leader in looking at this at a watershed approach. She also stated she hopes we can continue that and investing in this is a way to do that. I was concerned that this would lock us into something, if the other Mayor's were going down a road that Fayetteville wasn't interested in going, and as I understand it does not.

City Attorney Kit Williams: We were very careful to draft it to make sure that this was not anything that would be used for expenditure to prepare for litigation. It doesn't require us to join any litigation.

Paul Becker, Finance & Internal Services Director stated we got a reimbursement from OMI, based on payments that we had made for expenditures that were not done. We will take a portion of that and recognize that revenue. That will provide the \$30,000.

Alderman Lewis moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 99-10 as recorded in the office of the City Clerk.

2009 General Improvement Fund Economic Development Grant: A resolution to accept a 2009 General Improvement Fund Economic Development Grant in the amount of \$100,000.00 to purchase equipment for the exclusive use and benefit of the Northwest Arkansas Community College and to approve a budget adjustment.

Karen Minkel, Strategic Planning and Internal Consulting Director gave a brief description of the resolution. She thanked several people for their support in this application. The Center of Excellence ribbon cutting is on Wednesday, June 9, 2010 at 1:00 p.m.

Mayor Jordan thanked Karen for her work on the grant. He also thanked Alderman Lewis.

Alderman Thiel moved to approve the resolution. Alderman Ferrell seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 100-10 as recorded in the office of the City Clerk.

ADM 10-3561 (Townhouse-Duplex Clarification): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville Chapter 151: Definitions and §164.11(B) to clarify the side setback requirements and definition of single family attached/townhouse dwellings.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Internal Services and Development Director gave a brief description of the ordinance. He stated staff and Planning Commission recommend approval.

Alderman Thiel stated she appreciates staff finding something that needs to be tweaked to make everything work better.

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 Ferrell moved to suspend the rules and go to the third reading. Alderman Rhoads 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 5327 as Recorded in the office of the City Clerk

Authorizing Interfund Loan for Parking Program: A resolution authorizing an interfund loan from the Replacement & Disaster Fund to the Off Street Parking Fund for the purchase of machinery and equipment necessary to implement the Entertainment District Parking Program, and providing for repayment of the loan over a sixty (60) month period at an interest rate of three percent (3%) per annum.

Paul Becker, Finance and Internal Services Director gave a brief description of the resolution. We have a choice of doing internal or external financing and I am recommending that we do internal financing. This will be borrowed from and repaid back to the Replacement & Disaster Fund

Alderman Petty: What kind of interest rate would we expect from an external loan?

Paul Becker: I don't know exactly because I haven't priced it. I would think it would be in the 4% or 4.5% range.

Don Marr, Chief of Staff: Based on preliminary inquiries if we use the amount that we were quoted verses the internal financing we would have about an \$18,500 savings per year for five years. It would be about a \$92,000 savings by internally financing.

Paul Becker: If we went to external financing there would be administrative costs as far as legal work and things of that nature because we would have to follow the legal course of Amendment 78.

Alderman Lewis: I feel strongly that if you are able to loan it to yourself and pay yourself back it's a smart way to do your financing. I also appreciate that you checked on the limits on emergency spending, it is smart to make sure we have that reserve and we do.

Alderman Thiel moved to approve the resolution. Alderman Lewis seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 101-10 as recorded in the office of the City Clerk.

Associated Time and Parking Controls: An ordinance waiving the requirements of formal competitive bidding and approving a contract with Associated Time and Parking Controls in the amount of \$810,974.00 for the purchase of access and revenue control equipment for the Entertainment District Parking Program, approving a project contingency of \$11,153.00, and approving a budget adjustment of \$774,335.00.

City Attorney Kit Williams read the ordinance.

Sharon Crosson, Parking and Telecommunications Manger stated she was going to let Chris speak upon the sole source for the bid waiver with Associated Time. We have been doing business with them for the last five years and that's who we have our equipment with now.

Chris Pecoraro, Parking Consultant stated by sole sourcing this to Associated Time we are able to expand on the existing systems that the City already owns. There is an initial savings in the new head end components and software of roughly \$120,000 to reduce our investment in this new system for the Entertainment District. It's important with these types of systems, being that they are specialized systems that we have local support that can respond to issues with the payment equipment. Associated Time is the only manufacturer representative of these systems in this area. That was a second determining factor in moving towards sole sourcing with them.

Sharon Crosson stated the University of Arkansas also uses Associated Time that would insure that we could integrate their equipment with ours.

Alderman Ferrell: You stated you had someone in the area. Is that in Northwest Arkansas?

Chris Pecoraro: They currently support your systems in the downtown monthly structures and the existing off street pay stations.

Alderman Ferrell: Are they located in Fayetteville?

Chris Pecoraro: Their technician lives locally here.

Alderman Ferrell: Sharon you were telling us there was a \$54,000 discount that was applied, was that included in the \$120,000?

Chris Pecoraro: The \$120,000 is savings we experienced because we are expanding on existing systems that we already own. The over all savings on this package exceeds \$230,000 on the final negotiated price.

Alderman Ferrell: Was there a figure of \$54,000?

Sharon Crosson: It was \$58,000 that was recognized through Associated Time and an additional \$176,000 that Chris was able to negotiate through his national accounts program.

Mayor Jordan: If possible I would like to pass this tonight because we are time sensitive on this.

Don Marr: The lead time for the equipment and installation is why it's important.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook 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.

Alderman Petty: The memo received from the City Attorney explained some cost associated with this that are excluded, the data infrastructure and electrical work, where do we plan to pay that from?

City Attorney Kit Williams: That was already included in the previous resolution as part of the program budget.

Don Marr: In the item that was 2.5 head count.

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

Ordinance 5328 as Recorded in the office of the City Clerk

§94.05 Use of Fireworks: An ordinance to amend §94.05 Use of Fireworks of the Code of Fayetteville.

City Attorney Kit Williams read the ordinance.

Chief David Dayringer gave a brief description of the ordinance.

Don Marr: At Agenda Session the question was asked about surrounding communities and whether they allowed the use of skyrockets or items attached to a stick. The Chief did a survey of the surrounding communities. He listed the cities that did not allow skyrockets and the cities that allowed skyrockets.

Alderman Thiel: Clarify the days that we can currently have fireworks in Fayetteville.

City Attorney Kit Williams: The only change is it now allows firecrackers. Before that you could have other kinds of fireworks but you couldn't have skyrockets and firecrackers. The days were only for two days, July 3rd and 4th.

Alderman Thiel: This has expanded that and also the days.

City Attorney Kit Williams: This doubles it to 1st, 2nd, 3rd, 4th and it now would allow firecrackers.

Don Marr: The new ordinance has times in it, where the other ordinance spoke to specific dates. This one adds a time frame at which they can be shot on those days.

Alderman Thiel: It could be argued that they didn't make noise either. I would not support an amendment to add the use of fireworks on a stick.

Mayor Jordan: When we brought forward the ordinance to begin with we didn't have the bottle rocks and stuff on a stick but you all amended it and put it on there. I think they are dangerous.

Don Marr: The communities that are restricting their use also allow the sell of them just as you have.

Alderman Cook: I advocate the safe use of fireworks. The one thing I would possibly change is the time. I wonder if anybody would consider starting at 10:00 a.m. as opposed to 8:00 a.m. I completely agree with fireworks on a stick I don't think that is a good choice.

City Attorney Kit Williams: Does that apply not only to private but also public displays?

Alderman Cook: Yes.

Alderman Cook moved to amend the morning start time of the ordinance from 8:00 a.m. to 10:00 a.m. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Alderman Thiel: We are going to go through three readings tonight because otherwise we wouldn't be able to allow this?

City Attorney Kit Williams: That's correct normally it takes 31 days for most ordinances to go into effect including this one to change the code.

Alderman Thiel: It concerns me because we have no public here.

Alderman Lewis: At the last discussion of selling them there was something about a sign the vendors had to put up. Is that part of the permitting process for vendors?

Alderman Ferrell: We amended that out.

Alderman Lewis: Can we reinstall that?

City Attorney Kit Williams: You can't put it in use of fireworks. You have to put it in sale of fireworks.

Alderman Lewis: I thought that was going to be part of the process.

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

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: We could put it into Ordinance 5320 that you passed. We could amend that. We would have to suspend the rules to put it on the agenda and then it is 31 days before its effective so it would be effective about a day before July 4th. It's probably too late to effectively do it for the sale.

Alderman Lewis: Can it be an administrative process as part of their permitting process?

Don Marr: When applicants come in to apply for a permit we could make the notice part of the packet the Fire Marshall gives when he does the inspection, they could give it to customers. We are already going to be on site with the Fire Marshall to do an inspection.

Alderman Lewis: That's okay with me.

Don Marr: We will also put an announcement on the Government Channel.

Alderman Ferrell: In the passage of this all things considered this is a hallmark gigantic step for Fayetteville in the passage of this.

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.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5329 as Recorded in the office of the City Clerk

Announcements:

Alderman Lucas welcomed Wal-Mart associates, vendors, and shareholders to Fayetteville and Ward 4.

Don Marr: There will be visitors coming this weekend for the NCAA Regional Tournament that the Razorbacks will be hosting.

Meeting adjourned at 9:05 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

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 June 15, 2010

A meeting of the Fayetteville City Council will be held on June 15, 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. Approval of the June 1, 2010 City Council meeting minutes.
2. **Bid #10-36 Premier Lighting Group:** A resolution awarding Bid #10-36 and approving the purchase of thirty-two (32) LED light fixtures and poles in the amount of \$55,776.00 from Premier Lighting Group for Installation as part of the Block Street Improvement Project.

3. **Bid #10-39 Chevrolet of Fayetteville:** A resolution awarding Bid #10-39 and approving the purchase of one (1) 2011 Chevrolet Tahoe K-9 unit from Chevrolet of Fayetteville in the amount of \$26,997.00 for use by the Fayetteville Police Department.
4. **Bid #10-40 Dynamic Lighting Solutions:** A resolution awarding Bid #10-40 and approving the purchase of thirty-three (33) LED light fixtures and poles in the amount of \$55,242.00 from Dynamic Lighting Solutions for installation on Scull Creek Trail between North Street and Maple Avenue.
5. **Vermeer Corporation:** A resolution authorizing the purchase of one (1) 521 Wildcat Trommel Screener from Vermeer Corporation through an NJPA bid in the amount of \$195,693.65 for use by the Solid Waste Division, and approving a budget adjustment.
6. **2009 Edward Byrne Memorial Justice Assistance Grant:** A resolution authorizing acceptance of a 2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$30,000.00 for drug enforcement equipment and supplies for the Fayetteville Police Department, and approving a budget adjustment recognizing the grant revenue.
7. **Garver, LLC Amendment No. 2:** A resolution approving Amendment No. 2 to the contract with Garver, LLC in the amount of \$196,350.00 for additional design and construction phase services for the Cato Springs Road Improvement Project.
8. **Fayetteville Expressway Economic Development Corridor Project:** A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for expansion of Van Asche Drive from Garland Avenue to Gregg Avenue.
9. **Off Street Parking Development Appointment:** A resolution to approve the appointment of four members of the Board of Improvement of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville.

B. Unfinished Business:

1. **Amend Chapter §163.14 Revocation or Change of Conditional Use:** An ordinance amending §163.14 of the Unified Development Code to permit a periodic review of conditional use permits as described herein. *This ordinance was left on the First Reading at the May 18, 2010 City Council meeting. This ordinance was left on the Second Reading at the June 1, 2010 City Council meeting.*

Left on the Second Reading.

C. New Business:

1. **Home Depot Foundation/SCI Pilot Cities Grant:** A resolution authorizing application and acceptance of a Home Depot Foundation/SCI Pilot Cities Grant in the amount of \$500,000.00 with a city matching amount of \$100,000.00 to complete an affordable housing project, develop a sustainability initiative, and perform an assessment of current sustainability efforts.

2. **Highway 16 Improvements Project:** A resolution amending resolution 101-06 expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16.
3. **RZN 10-3566 (932 Garland):** An ordinance rezoning that property described in rezoning petition RZN 10-3566, for approximately 0.84 acres, located at 932 Garland Avenue from R-PZD, Residential Planned Zoning District 06-2256 (932 Garland), to R-O, Residential Office and RMF-40, Residential Multi-family, 40 units per acre.
4. **ADM 09-3273 (Business Registry and License Program:** An ordinance to amend the Fayetteville code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations within Fayetteville.
5. **Amend Chapter 97 Parks and Recreation:** An ordinance to amend Chapter 97 Parks and Recreation of the Code of Fayetteville to permit and regulate signs recognizing donor contributions.
6. **Johnson Enhanced Water Service Contract:** A resolution to approve a 15 year contract for enhanced water service between Fayetteville and Johnson.
7. **Johnson Sanitary Sewer Service Contract:** A resolution to approve a 15 year contract for sanitary sewer service between Fayetteville and Johnson.

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

A. 2
 Bid #10-36 Premier
 Lighting Group
 Page 1 of 16

City Council Agenda Items
 and
 Contracts, Leases or Agreements

6/1/2010 6-15-10
 City Council Meeting Date
 Agenda Items Only

John Coleman
 Submitted By

Division

Sustainability
 Department

Action Required:

Approve the purchase of 32 LED fixtures and 32 poles from Premier Lighting, Inc. for Block Avenue project.

\$36,064 (lights)

\$150,000

Energy Block Grant
 Block Avenue

\$19,712 (poles)

~~\$150,000~~ \$525,800.00 JC
 Category / Project Budget

Program Category / Project Name

Cost of this request

\$18,483.27 (lights) JC

Energy Block Grant

2240.9240.5315.00 (lights)

Block Avenue

4470.9470.5314.00 (Poles)

\$ ~~\$18,483.27~~ \$81,397.61 JC

Program / Project Category Name

Account Number

Funds Used to Date

Energy Block Grant

09011.0030 (lights)

\$131,516.73 (lights)

Block Avenue

02053.001 (Poles)

\$ 444,002.39 JC

Fund Name

Project Number

Remaining Balance

Budgeted Item ☒

Budget Adjustment Attached ☐

Department Director

5/28/10
 Date

Previous Ordinance or Resolution #

City Attorney

5/28/10
 Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

5-28-2010
 Date

Received in City
 Clerk's Office



Chief of Staff

5-28-10
 Date

Received in
 Mayor's Office



Mayor

6/1/10
 Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8272

CORRESPONDENCE

TO: Mayor Jordan and City Council
FROM: John Coleman, Sustainability Director *JC*
Thru: Don Marr, Chief of Staff
DATE: May 28, 2010
SUBJECT: Block Avenue Lights

Project Description

Using funds from the Energy Efficiency and Conservation Block Grant (EECBG) as part of the American Recovery and Reinvestment Act (ARRA), the City is set to purchase 32 LED lights at a cost of \$36,064 from Premier Lighting, Inc. Funds from the Block Avenue project will cover the \$19,712 cost for the 32 poles. The lights and poles will be installed on Block Avenue.

Background

In September 2009, the City was awarded \$724,900 for energy efficiency and renewable energy projects. As part of the grant application, the City committed \$150,000 from the grant towards the installation of LED street, pedestrian, and trail lights as part of a gradual transition towards using this technology exclusively.

The intent of the EECBG program is to push the market towards emerging technologies such as LEDs. As we have seen with LED traffic lights in Fayetteville, the Block Avenue LEDs are expected to last ten years or more, reduce energy consumption by greater than fifty percent, and reduce long-term maintenance requirements.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #10-36 AND APPROVING THE PURCHASE OF THIRTY-TWO (32) LED LIGHT FIXTURES AND POLES IN THE AMOUNT OF \$55,776.00 FROM PREMIER LIGHTING GROUP FOR INSTALLATION AS PART OF THE BLOCK STREET IMPROVEMENT PROJECT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #10-36 and approves the purchase of thirty-two (32) LED light fixtures and poles in the amount of \$55,776.00 from Premiere Lighting Group for installation as part of the Block Street Improvement Project.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: 479.575.8220
TDD (Telecommunication Device for the Deaf): 479.521.1316

INVITATION TO BID

INVITATION TO BID: BID 10-36, Block Avenue LED Lighting Equipment
DEADLINE: Friday, April 9, 2010 at 2:00 PM, Central Standard Time
DELIVERY LOCATION: Room 306 – 113 W. Mountain, Fayetteville, AR 72701
PURCHASING AGENT: Andrea Foren, CPPB, aforen@ci.fayetteville.ar.us, 479.575.8220
DATE OF ISSUE AND ADVERTISEMENT: Wednesday, March 17, 2010

INVITATION TO BID **BID 10-36, Block Avenue LED Lighting Equipment**

No late bids will be accepted. All bids shall be submitted in sealed envelopes labeled "Bid 10-36, Block Avenue LED Lighting Equipment" with the name and address of the bidder.

All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection. Any bid, proposal, or statements of qualification will be rejected that violates or conflicts with state, local, or federal laws, ordinances, or policies.

The undersigned hereby offers to furnish & deliver the articles or services as specified, at the prices & terms stated herein, and in strict accordance with the specifications and general conditions of bidding, all of which are made a part of this offer. This offer is not subject to withdrawal unless upon mutual written agreement by the Proposer/Bidder and City Purchasing Manager.

Name of Firm: DYNAMIC LIGHTING SOLUTIONS THROUGH PREMIER LIGHTING GROUP
Contact Person: HAROLD BELOTE Title: VICE PRES/PREMIER LIGHTING GROUP AGENT
E-Mail: harold@premier-ltg.com Phone: 479-466-4967
Business Address: 8040 B Counts MASSIE ROAD
City: NORTH LITTLE ROCK State: AR Zip: 72113
Signature: [Signature] Date: 5/7/10

City of Fayetteville
Bid 10-36, Block Avenue LED Lighting Equipment
Bid Proposal Form (shall be submitted with bid)

*GUARANTEED DELIVERY DATE: 4 to 6 WEEKS AFTER RECEIPT OF ORDER
Days from notice of award

F.O.B. 1455 South Happy Hollow Road, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:	*TOTAL PRICE
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1.	<u>Pole (12 feet)</u>	32	\$ <u>616⁰⁰</u>	\$ <u>19,712⁰⁰</u>
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Please Specify for Unit(s) Bid:

*MANUFACTURER: DYNAMIC LIGHTING MODEL: D1305-12/CST

2.	<u>Arm, fixture, and LED unit</u>	32	\$ <u>1127⁰⁰</u>	\$ <u>36,064⁰⁰</u>
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Please Specify for Unit(s) Bid:

*MANUFACTURER: DYNAMIC LIGHTING MODEL: D733 A0/AC-T3/LED72-T3/CST

TOTAL BID PRICE: \$ 55,776⁰⁰

Vendors shall provide the following pricing:

This bid form continues on the next page...

EXECUTION OF BID -

Bidders are requested to indicate by check mark or "Yes/No" on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option. The City reserves the right to award by all, none, or line item.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

*NAME OF FIRM: DYNAMIC LIGHTING SOLUTIONS
Purchase Order and /Payments shall be issued to this name

*BUSINESS ADDRESS: 5220 SHANK ROAD

*CITY: PEARLAND *STATE: TX *ZIP: 77581

*PHONE: 479-466-4967 FAX: 501-753-6567

*E-MAIL: harold@premier-ltg.com

*BY: (PRINTED NAME) HAROLD BELOTE

*AUTHORIZED SIGNATURE: [Signature]

*TITLE: VICE PRESIDENT PREMIER LIGHTING GROUP agent for DYNAMIC LIGHTING

City of Fayetteville
Bid 10-36, Block Avenue LED Lighting Equipment
Statement of Disclosure – To Be Submitted With ALL Bids

This page does not count towards page limitations set forth in this request for proposal or bid.

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

- ☒ 1.) NO KNOWN RELATIONSHIP EXISTS
- ☐ 2.) RELATIONSHIP EXISTS (Please explain)

PLEASE FILL OUT THE SECTION BELOW AND SUBMIT THIS FORM WITH YOUR BID OR PROPOSAL:

- 1.) I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and
- 2.) My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

HAROLD BELOTE

Printed Name

[Signature]

Signature

5/7/10

Date



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

A. 2
Bid #10-36 Premier
Lighting Group
Page 8 of 16

BID 10-36, Addendum 1

Bid 10-36, Block Avenue LED Lighting Equipment

City of Fayetteville – Purchasing Division
113 W. Mountain – Room 306
Fayetteville, AR 72701
Phone: 479.575.8220
E-Mail: aforen@ci.fayetteville.ar.us

Date: Thursday, April 22, 2010

To: All interested parties

From: Andrea Foren, CPPB, Purchasing Agent

Notice: This addendum is hereby made a part of the bid documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject vendor to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

1. The deadline to submit a bid is **Friday, May 7, 2010 before 3:00 PM, CST**. All bids shall be sealed and delivered to City Hall, 113 W. Mountain, Suite 306, Fayetteville, AR 72701.

Acknowledge Addendum #1:

Printed Name: HAROLD BELORE

Signature: [Handwritten Signature]

Title: VICE PRESIDENT Date: 5/7/10

Company: PREMIER LIGHTING GROUP
FOR DYNAMIC LIGHTING



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

BID 10-36, Addendum 2

Bid 10-36, Block Avenue LED Lighting Equipment

City of Fayetteville – Purchasing Division
113 W. Mountain – Room 306
Fayetteville, AR 72701
Phone: 479.575.8220
E-Mail: aforen@ci.fayetteville.ar.us

Date: Monday, May 3, 2010

To: All interested parties

From: Andrea Foren, CPPB, Purchasing Agent

Notice: This addendum is hereby made a part of the bid documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject vendor to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

- 1) The above referenced bid shall be for 12 foot poles only as stated on the bid form.

Acknowledge Addendum #1:

Printed Name: HAROLD BELOTE

Signature: [Signature]

Title: Vice President Date: 5/7/10

Company: PREMIER LIGHTING GROUP
for Dynamic Lighting

City of Fayetteville
Bid 10-36, Block Ave. LED Lighting Equipment
Terms and Conditions

1. All interested parties shall return the form titled "Statement of Disclosure" with bid or proposal documents.
2. All bids shall be submitted in a sealed envelope and must be submitted on forms acquired by the vendor from the City of Fayetteville Purchasing website (www.accessfayetteville.org). Bids with missing pages or missing any requested attachment are subject to being deemed incomplete.
3. The item bid and the bid number shall be stated on the face of the sealed bid envelope.
4. Bids received after the date and time set for receiving bids will not be considered.
5. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City.
6. Bidder is presumed to be familiar with all federal, state, and city laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials or equipment used, or that in any way affect the Work and shall in all respects comply with said laws, ordinances, and regulations. No claim of misunderstanding or ignorance on the part of Bidder or Proposer will in any way serve to modify the provisions of the contract. No representations shall be binding unless embodied in the contract.
7. The quantities listed are based on the needs of the City and availability of funds at the time bids are posted. The City shall be able to purchase more or less than the quantity indicated subject to availability of funds or change in needs.
8. The bid price shall remain good and firm until project is completed. Payment to the vendor by the City will be made within 30 days following delivery and acceptance in accordance with these specifications and the City's Purchase Order to the vendor. Faster payment is offered through acceptance of Visa.
9. All products delivered shall comply with applicable standards of quality.
10. Any exceptions to the specification requirements of the City of Fayetteville must be noted on the Bid Form.
11. Prices shall include all labor, materials, overhead, profit, insurance, shipping, freight, etc., to cover the furnishing of the items bid. ***Sales tax is not to be included in the bid price.*** Applicable Arkansas sales tax laws will apply to this bid, but will not be considered in award of the bid.
12. Each bidder shall state on the face of the bid form the anticipated number of days from the date of receipt of an order for delivery of equipment and installation to the City of Fayetteville.

Failure to deliver on or before the time specified in the contract may subject the contractor to payment of damages or other appropriate sanctions.

13. Copy of the warranty shall accompany the bid, and any exceptions to the warranty shall be clearly noted on the bid form. Written warranties shall specify the greater of the manufacturer's standard warranty or the minimum warranty specified herein by the City.
14. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
15. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
16. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation of bid.
17. If products and/or components other than those described in this bid document are proposed, the bidder must include complete descriptive literature and technical specifications. All requests for additional information must be received within five working days following the request. Each apparent low bid will be reviewed line by line to ensure compliance with specifications prior to recommendation for award.
18. Bids must be received by mail or hand delivery in the ***Purchasing Office, Room 306, 113 W. Mountain St. Fayetteville, AR 72701***, on or before the time of closing listed on the face of the bid. **No bids shall be accepted via e-mail or fax.**
19. The City will not be responsible for misdirected bids. Vendor 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.
20. Items bid must be delivered FOB City of Fayetteville Transportation Division, 1455 S. Happy Hollow Road, Fayetteville, AR 72701. Units must be fully assembled, serviced, and ready for operation as delivered unless otherwise specified. No dealer/distributor logo or other identification will be installed other than standard manufacturer name badges and specification plates.
21. Any discrepancy between the specifications and plans should be brought to attention immediately, in writing, to Andrea Foren at aforen@ci.fayetteville.ar.us.
22. Any reference to a particular brand or manufacturer is done in an effort to establish an acceptable level of quality for this project. Brands or manufacturers that are included in bid that are of at least equal quality, size, design, and specification as to what has been specified, will be acceptable for consideration only if approved by the City of Fayetteville Purchasing Division. The City of Fayetteville reserves the right to accept or reject any requested equal.
23. Price bid shall include warranty, including but not limited to parts and labor, at no additional cost to the City of Fayetteville, as specified herein.

24. **NOTE: Any uncertainties shall be brought to the attention to Andrea Foren immediately via telephone (479.575.8220) or e-mail (aforen@ci.fayetteville.ar.us). It is the intent and goal of the City of Fayetteville Purchasing Division to provide bid packets that provide a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all bidders to be on equal bidding terms & documents.**

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

26. The City of Fayetteville shall take ownership of product when products bid arrive undamaged at the specified shipping location.

27. **ANY EXCEPTION TAKEN TO THESE SPECIFICATIONS AND BID DOCUMENTS SHALL BE NOTED ON THESE DOCUMENTS. BIDDERS SHALL NOTE THE DIFFERENCE NEXT TO THE RELATED SPECIFICATION. THE CITY RESERVES THE RIGHT TO ACCEPT OR REJECT EXCEPTIONS TO SPECIFICATIONS.**

28. American Recovery and Reinvestment Act (ARRA) Provisions:

Buy American Clause – Section 1605 of the Recovery Act requires that all iron, steel, and manufactured goods used in the project must be produced within the United States except as provided in the following:

- a. The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
- b. The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- c. The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

If all received quotes do not meet the Section 1605 of the Recovery Act the City of Fayetteville is required to receive independent verification from the Federal Government to move forward.

29. Diagrams are included with these bid documents (Attachment A – Drawings: Pole and Fixture).

30. Vendors are encouraged to submit multiple bids for multiple options. Bid SHALL not be submitted with alternatives. Each different option shall be submitted as a separate bid. The City will begin the evaluation process with the low bidder for a complete unit (pole, arm, fixture, and LED). In the event the low bidder does not pass testing or does not meet specifications, the City will proceed to the next low bidder and so on.

31. The City is not requiring pre-approval for equals; therefore, vendors are encouraged to research manufacturers and submit bids on units of equal quality to manufacturers that have been specified. The City desires a fixture equal to the Dynamic both in appearance and specification. The City reserves the right to reject products that are not considered equal.
32. Prices bid shall include the following to allow the City to test LED/fixture:
- a. Shipping a fixture with LED to the City at no additional cost
 - b. Paying for shipping cost associated with returning the fixture with LED to the Vendor.
 - c. All of the costs for shipping the testing products shall be the responsibility of the bidder.
 - d. All products that are sent for testing SHALL be the exact same as the items bid.
33. All units shall arrive at the City of Fayetteville with the fixture and LED completely assembled. Bidders are allowed to ship the arm and pole not attached to the fixture or to each other.
34. The City reserves the right to award by all, none, or line item.
35. All fixtures shall remain Dark-Sky Compliant.
36. All products bid must comply with Buy American requirements as reviewed and determined by the Department of Energy (DOE) and City of Fayetteville. Bidders will be required to submit documentation justifying the Buy American requirement before award of bid. The City of Fayetteville reserves the right to reject bids based on non-approval (DOE not approving the products as meeting Buy American) from the DOE.
37. Bidders are **strongly encouraged** to submit products equal to the fixture specified in the bid documents. Bidders are encouraged to match the current design of the fixture as close as possible. Items bid that are comparable to the specified equipment will be acceptable for consideration.
38. All products bid are required to meet specification listed.
39. Attachment A – Lighting Unit Diagram is provided with this bid packet in order to provide all interested parties with a picture of the desired design and requirements of this bid.

City of Fayetteville
Bid 10-36, Block Avenue LED Lighting Equipment
Technical Specifications:

Project Description:

- Provide 29 (twenty-nine) complete Light Emitting Diodes (LED) fixtures **to match** a D733 AO Dynamic Lighting, Inc. Luminaire fixture -- Model #D733AO/AC-T3/175 MH -- 240V/CC/FDR.
- **Metal Halides shall NOT be bid. All products bid shall have LED lighting.**

Details of Existing Equipment:

- Pole (29) -- D1305-14 -- 5" OD Fluted -- 3" Tenon -- Custom color to match the lights installed around the Fayetteville Square. Sample color chip is on file with Dynamic Lighting.

Specifications for LED Inserts:

- LED luminaire
- Power Factor of > .90
- Thermal losses should be less than 10% when operated at a steady state at an average ambient operating temperature of 25°C (77°F), and optical losses should be less than 15%. A thermal management system shall be included.
- Luminaire Efficacy > 70 lm/W - A certified LM 79 report with Photometric/IES file shall be provided.
- LED retrofit shall not alter the exterior dimensions of the fixture and shall insure the fixture remains dark sky compliant.
- Minimum .25 ft candle at 37.5 feet from pole.
- Nominal CCT - 5700K = CCT 5665K ± 355K
- CRI >70
- 3- Year full warranty on manufacturer defects and 5-Year Limited Warranty covering LEDs, power supply and combined performance of the two -- warranty documentation required for file.
- All LED and power supply components shall be rated for 100,000 hours.
- Average delivered lumens over 50,000 hours should be minimum of 70% of initial delivered lumens. Lumen maintenance must be approved through one of two LM80 validation methods.
- Ingress Protection (Dust and Water Intrusion) -- IP 65 or 66 for fixture and luminaire. Fixture shall not have any openings where insects can enter. Unit shall be rated "WET LOCATION" by United Laboratories or other Nationally Recognizes Testing Laboratory (NRTL) listed for wet locations.
- LED specification sheet required to be submitted with all bids.
- Wiring cavity shall be field accessible for service or repair needs
- Optical cavity shall be minimum IEC60529/IP65

City of Fayetteville
Bid 10-36, Block Avenue LED Lighting Equipment
Statement of No Bid – If Applicable

In order to assist the Purchasing Division of Fayetteville in evaluating and improving our solicitation process, we are asking for completion of this form and returning via fax or e-mail. By submitting this form, it will assist us in evaluating all response, improving our bid solicitation process, and to maintain a positive relationship with our vendors.

We, the undersigned, have declined to bid for the following reason(s):

1. _____ We do not offer this service/product
2. _____ Our schedule would not permit us to perform
3. _____ Unable to meet specifications
4. _____ Insufficient time to respond to the Invitation to Bid
5. _____ We are unable to meet bond requirements
6. _____ Other (Explain)

*NAME OF FIRM: _____

*BUSINESS ADDRESS: _____

*CITY: _____ *STATE: _____ *ZIP: _____

*PHONE: _____ FAX: _____

*E-MAIL ADDRESS: _____

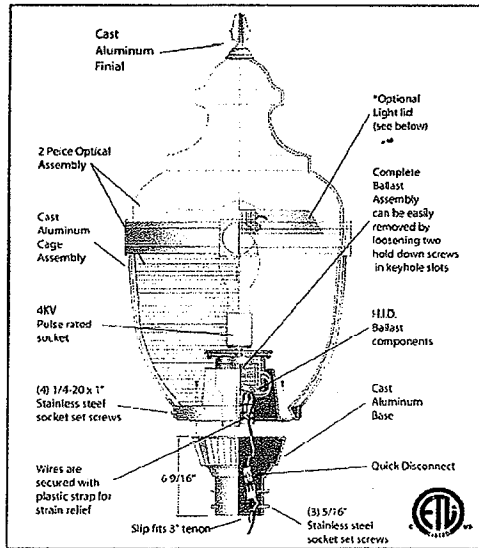
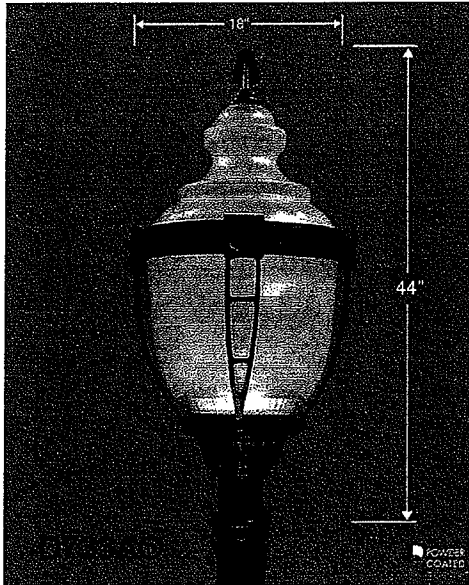
*BY : (PRINTED NAME) _____

*AUTHORIZED SIGNATURE: _____

*TITLE: _____ *DATE: _____

*PLEASE LIST OTHER COMMENTS BELOW:

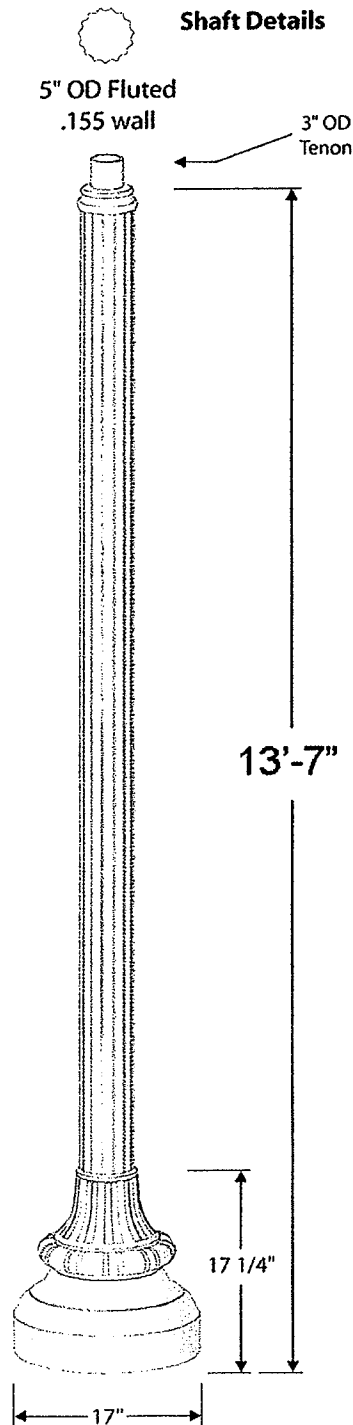
*Please note: We appreciate your feedback on this form and are very interested in your reason for not bidding. Please do not hesitate to contact us at 479-575-8220 if you have questions, comments, or concerns regarding these bid documents.



FIXTURE ORDERING GUIDE
 D733AO/AC-T3/175 MH - 240V/CC/FDR

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

DYNAMIC LIGHTING INC.



D1305-14

FEATURES

17" diameter fluted and tapered aluminum base cast from a permanent mold

5" OD fluted (15 flat flutes) .155 wall

Extruded shaft is circumferentially welded to the base

3" tenon for luminaire mounting

Strong yet lightweight for ease of installation

Galvanized anchor bolts included

Access door for anchor bolts and wiring is secured with tamper resistant stainless steel screws

Ground lug provided inside base

Capable of supporting multiple light brackets

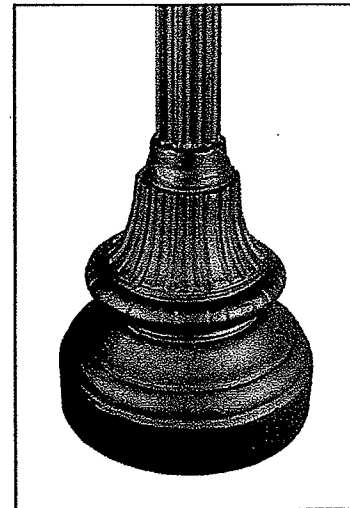
MATERIALS

Base - Cast aluminum (A319)

Shaft - Extruded Aluminum (6005-T5)

Tenon - Cast aluminum (A319)

Anchor Bolts - Hot dipped galvanized steel



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

City of Fayetteville Staff Review Form

A. 3
 Bid #10-39
 Chevrolet of Fayetteville
 Page 1 of 6

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

6/15/2010

**City Council Meeting Date
 Agenda Items Only**

Dennis Pratt / Barbara Olsen

Submitted By

Fleet Operations

Division

Transportation

Department

Action Required:

A resolution awarding Bid #10-39 to Chevrolet of Fayetteville in the amount of \$26,997 for the purchase of a 2011 Chevy Tahoe K-9 unit for use by Police Department.

\$ 26,997.00
 Cost of this request

9700.1920.5802.00
 Account Number

02081.2010
 Project Number

\$ 232,000.00
 Category / Project Budget

\$ 16,898.00
 Funds Used to Date

\$ 215,102.00
 Remaining Balance

Police / Passenger Vehicles
 Program Category / Project Name

Vehicles and Equipment
 Program / Project Category Name

Shop Fund
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

T. J. Kelly 5-28-10
 Department Director Date

John B. Kelly 5-28-10
 City Attorney Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Paul A. Bach 6-1-2010
 Finance and Internal Services Director Date

Don Man 6-1-10
 Chief of Staff Date

Received in City Clerk's Office
 ENTERED 5/28/10 King

Received in Mayor's Office
 ENTERED 5/28/10 P.R.

Frederick Jordan 6/1/10
 Mayor Date

Comments:



www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation

From: Dennis Pratt, Fleet Operations Supt. 

Date: May 28, 2010

Subject: Purchase of one Chevy Tahoe K-9 unit

PROPOSAL: That City Council approve the purchase of one Chevy Tahoe K-9 unit for Police Department in the amount of \$26,997.

RECOMMENDATION: Bid #10-39 was opened on May 10, 2010 for one full size K-9 utility vehicle. Two bid responses were received. A detailed tabulation sheet is attached. The low bid from Chevrolet of Fayetteville meets specifications.

I recommend acceptance of the low bid from Chevrolet of Fayetteville in the amount of \$26,997.

This unit will replace unit #1112, an Expedition K-9 unit that has over 130,000 miles on it, is worn out and is no longer dependable. Maintenance costs have reached 83% of the purchase price of the vehicle.

This purchase was approved by the Equipment Committee on May 25th, 2010.

BUDGET IMPACT: This replacement was budgeted for on both the operating and capital sides.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #10-39 AND APPROVING THE PURCHASE OF ONE (1) 2011 CHEVROLET TAHOE K-9 UNIT FROM CHEVROLET OF FAYETTEVILLE IN THE AMOUNT OF \$26,997.00 FOR USE BY THE FAYETTEVILLE POLICE DEPARTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #10-39 and approves the purchase one (1) 2011 Chevrolet Tahoe K-9 Unit from Chevrolet of Fayetteville in the amount of \$26,997.00 for use by the Fayetteville Police Department.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



BID: 10-39
DATE: 05/10/10
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 10-39, Full Size K-9 Utility Vehicle

BIDDER	MANUFACTURER	MODEL	TOTAL BID PRICE
1 Chevrolet of Fayetteville	Chevy	Tahoe 4x2	\$26,997.00
		+ 2495. K-9 pkg =	<u>\$29,492.00</u>
2 Whiteside Chevrolet, Inc.	Chevrolet	Tahoe PPV	*\$29,840.00
			(includes K-9 package fee)

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

CERTIFIED:

P. VICE, PURCH MGR

WITNESS

05/14/10

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: 5/28/2010 A. 3
Bid #10-39
P.O Number: Expected Delivery Date: City of Fayetteville
Page 5 of 6

Vendor #: 17009 Vendor Name: CHEVROLET OF FAYETTEVILLE
Mail Yes: No: X

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

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

Requester: BARBARA OLSEN Requester's Employee #: 1940 Extension: 485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2011 CHEVY TAHOE 4 X 2, POLICE PACKAGE	1	EA	26,997.00	\$26,997.00	9700.1920.5802.00	02081.2010		
2	PER BID 10-39, TO BE UNIT 1217, FIXED ASSET				\$0.00				
3	#701217				\$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: \$26,997.00
Tax: EXEMPT
Total: \$26,997.00

Approvals:

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

City of Fayetteville Staff Review Form

A. 4
 Bid #10-40 Dynamic
 Lighting Solutions
 Page 1 of 16

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

6/15/2010

City Council Meeting Date
 Agenda Items Only

John Coleman

Submitted By

Division

Sustainability

Department

Action Required:

Approve purchase of 33 LED light fixtures and poles on Scull Creek Trail to be installed on the section from North Street to Maple Avenue

\$42,438 (lights)

\$12,804 (poles)

Cost of this request

2240.9240.5315.00 (lights)

4520.9550.5814.05 (poles)

Account Number

09011.0030 (lights)

06036.1004 (poles)

Project Number

\$150,000 (lights)

\$ 1,248,847.00

Category / Project Budget

\$18,483.27 (lights)

\$ 130,894.00

Funds Used to Date

\$131,516.73 (lights)

\$ 1,117,953.00

Remaining Balance

Energy Block Grant

Trails

Program Category / Project Name

Energy Block Grant

Trails

Program / Project Category Name

Energy Block Grant

Trails

Fund Name

Budgeted Item

☒

Budget Adjustment Attached



Department Director

5/28/10
 Date

Previous Ordinance or Resolution #

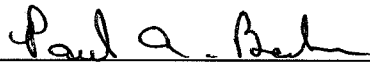
Original Contract Date:

Original Contract Number:



City Attorney

5-28-10
 Date



Finance and Internal Services Director

5-28-2010
 Date

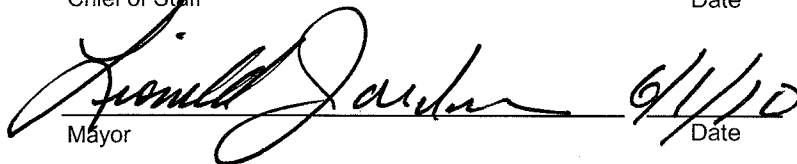
Received in City
 Clerk's Office




Chief of Staff

6-1-10
 Date

Received in
 Mayor's Office

Mayor

6/1/10
 Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8272

CORRESPONDENCE

TO: Mayor Jordan and City Council
FROM: John Coleman, Sustainability Director *JC*
Thru: Don Marr, Chief of Staff
DATE: May 28, 2010
SUBJECT: LEDs on Scull Creek

Description

Using funds from the Energy Efficiency and Conservation Block Grant as part of the American Recovery and Reinvestment Act (ARRA), the City is set to purchase 33 LED lights at a cost of \$42,438 from Dynamic Lighting. Existing trail funds will cover the \$12,804 cost for the 33 poles. The lights will be installed on the section of Scull Creek Trail that extends from Maple Avenue to North Street.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #10-40 AND APPROVING THE PURCHASE OF THIRTY-THREE (33) LED LIGHT FIXTURES AND POLES IN THE AMOUNT OF \$55,242.00 FROM DYNAMIC LIGHTING SOLUTIONS FOR INSTALLATION ON SCULL CREEK TRAIL BETWEEN NORTH STREET AND MAPLE AVENUE

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 #10-40 and approves the purchase of thirty-three (33) LED light fixtures and poles in the amount of \$55,242.00 from Dynamic Lighting Solutions for installation on Scull Creek Trail between North Street and Maple Avenue.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: 479.575.8220
TDD (Telecommunication Device for the Deaf): 479.521.1316

INVITATION TO BID

INVITATION TO BID: BID 10-40, Trail Lighting Equipment Re-Bid
DEADLINE: Friday, May 21, 2010 at 2:00 PM, Central Standard Time
DELIVERY LOCATION: Room 306 – 113 W. Mountain, Fayetteville, AR 72701
PURCHASING AGENT: Andrea Foren, CPPB, aforen@ci.fayetteville.ar.us, 479.575.8220
DATE OF ISSUE AND ADVERTISEMENT: Wednesday, May 5, 2010

INVITATION TO BID **BID 10-40, Trail Lighting Equipment Re-Bid**

No late bids will be accepted. All bids shall be submitted in sealed envelopes labeled "Bid 10-40, Trail Lighting Equipment Re-Bid" with the name and address of the bidder.

All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection. Any bid, proposal, or statements of qualification will be rejected that violates or conflicts with state, local, or federal laws, ordinances, or policies.

The undersigned hereby offers to furnish & deliver the articles or services as specified, at the prices & terms stated herein, and in strict accordance with the specifications and general conditions of bidding, all of which are made a part of this offer. This offer is not subject to withdrawal unless upon mutual written agreement by the Proposer/Bidder and City Purchasing Manager.

Name of Firm: DYNAMIC LIGHTING SOLUTIONS
Contact Person: HAROLD BELORE Title: VP PREMIER LIGHTING GROUP
E-Mail: harold@premier-ltg.com Phone: 479-466-4967
Business Address: 5220 SHAWK ROAD
City: PEARLAND State: TX Zip: 77581
Signature: [Handwritten Signature] Date: 5/21/10

City of Fayetteville
 Bid 10-40, Trail Lighting Equipment Re-Bid
 Bid Proposal Form (shall be submitted with bid)

*GUARANTEED DELIVERY DATE: 6 weeks ARO

F.O.B. 1455 South Happy Hollow Road, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:	*TOTAL PRICE
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1.	<u>Lighting Fixture (Arm, fixture, and LED)</u>	33	\$ <u>1286⁰⁰</u>	\$ <u>42,438⁰⁰</u>
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Please Specify for Unit(s) Bid:

*MANUFACTURER: DYNAMIC MODEL: PT40/D142-RFS22/PA/LED/BLK

NOTE: ALL VENDORS BIDDING ON LINE ITEM 1 SHALL COMPLETE AND PROVIDE PRICING FOR LINE ITEM D1 (DEDUCTIVE ALTERNATE) AS LISTED BELOW. LINE ITEM D1 IS THE PRICE TO REMOVE OR SUBTRACT FROM LINE ITEM 1 TO REMOVE ALL ELECTRICAL COMPONENTS OF THE FIXTURE.

2.	<u>Fiberglass Pole</u>	33	\$ <u>388⁰⁰</u>	\$ <u>12,804⁰⁰</u>
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Please Specify for Unit(s) Bid:

*MANUFACTURER: ALLIANCE COMPOSITES MODEL: DS15ASDS-JXB

TOTAL BID PRICE: \$ 55,242⁰⁰

DEDUCTIVE ALTERNATE #1:

D1 – Price to REMOVE from Line Item 1 if the City decided to ONLY purchase the fixture and arm with NO LED or electrical components. This would be the price for the arm and shell/empty fixture. LINE ITEM D1 IS THE PRICE TO REMOVE OR SUBTRACT FROM LINE ITEM 1 TO REMOVE ALL ELECTRICAL COMPONENTS OF THE FIXTURE.

ITEM:	DESCRIPTION:	QTY:	*PRICE EACH:	*TOTAL PRICE TO REMOVE FROM LINE ITEM 1
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D1.	AMOUNT TO <u>SUBTRACT</u> FROM LINE ITEM 1	33	\$ <u>736⁰⁰</u>	\$ <u>24,288⁰⁰</u>
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This bid form continues on the next page...

EXECUTION OF BID -

Bidders are requested to indicate by check mark or "Yes/No" on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

*NAME OF FIRM:

DYNAMIC LIGHTING SOLUTIONS

Purchase Order and /Payments shall be issued to this name

*BUSINESS ADDRESS:

5220 SHANK ROAD

*CITY:

PEARLAND

*STATE:

TX

*ZIP:

77581

*PHONE:

479-466-4967

FAX:

*E-MAIL:

harold@premier-Hq.com

*BY: (PRINTED NAME)

HAROLD BELOTE

*AUTHORIZED SIGNATURE:

[Signature]

*TITLE:

VICE PRESIDENT PREMIER LIGHTING Corp Agent for Dynamic Lighting Solutions

City of Fayetteville
Bid 10-40, Trail Lighting Equipment Re-Bid
Statement of Disclosure – To Be Submitted With ALL Bids

This page does not count towards page limitations set forth in this request for proposal or bid.

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

- X 1.) NO KNOWN RELATIONSHIP EXISTS
- 2.) RELATIONSHIP EXISTS (Please explain)

PLEASE FILL OUT THE SECTION BELOW AND SUBMIT THIS FORM WITH YOUR BID OR PROPOSAL:

- 1.) I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and
- 2.) My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

HAROLD BELOTE
Printed Name

[Signature] Vice President
Signature

5/21/10
Date

City of Fayetteville
Bid 10-40, Trail Lighting Equipment Re-Bid
Terms and Conditions

1. All interested parties shall return the form titled "Statement of Disclosure" with bid or proposal documents.
2. All bids shall be submitted in a sealed envelope and must be submitted on forms acquired by the vendor from the City of Fayetteville Purchasing website (www.accessfayetteville.org). Bids with missing pages or missing any requested attachment are subject to being deemed incomplete.
3. The item bid and the bid number shall be stated on the face of the sealed bid envelope.
4. Bids received after the date and time set for receiving bids will not be considered.
5. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City.
6. Bidder is presumed to be familiar with all federal, state, and city laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials or equipment used, or that in any way affect the Work and shall in all respects comply with said laws, ordinances, and regulations. No claim of misunderstanding or ignorance on the part of Bidder or Proposer will in any way serve to modify the provisions of the contract. No representations shall be binding unless embodied in the contract.
7. The quantities listed are based on the needs of the City and availability of funds at the time bids are posted. The City shall be able to purchase more or less than the quantity indicated subject to availability of funds or change in needs.
8. The bid price shall remain good and firm until project is completed. Payment to the vendor by the City will be made within 30 days following delivery and acceptance in accordance with these specifications and the City's Purchase Order to the vendor. Faster payment is offered through acceptance of Visa.
9. All products delivered shall comply with applicable standards of quality.
10. Any exceptions to the specification requirements of the City of Fayetteville must be noted on the Bid Form.
11. Prices shall include all labor, materials, overhead, profit, insurance, shipping, freight, etc., to cover the furnishing of the items bid. **Sales tax is not to be included in the bid price.** Applicable Arkansas sales tax laws will apply to this bid, but will not be considered in award of the bid.
12. Each bidder shall state on the face of the bid form the anticipated number of days from the date of receipt of an order for delivery of equipment and installation to the City of Fayetteville. Failure to deliver on or before the time specified in the contract may subject the contractor to

payment of damages or other appropriate sanctions.

13. Copy of the warranty shall accompany the bid, and any exceptions to the warranty shall be clearly noted on the bid form. Written warranties shall specify the greater of the manufacturer's standard warranty or the minimum warranty specified herein by the City.
14. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
15. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
16. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation of bid.
17. If products and/or components other than those described in this bid document are proposed, the bidder must include complete descriptive literature and technical specifications. All requests for additional information must be received within five working days following the request. Each apparent low bid will be reviewed line by line to ensure compliance with specifications prior to recommendation for award.
18. Bids must be received by mail or hand delivery in the **Purchasing Office, Room 306, 113 W. Mountain St. Fayetteville, AR 72701**, on or before the time of closing listed on the face of the bid. **No bids shall be accepted via e-mail or fax.**
19. The City will not be responsible for misdirected bids. Vendor 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.
20. Items bid must be delivered FOB City of Fayetteville Transportation Division, 1455 S. Happy Hollow Road, Fayetteville, AR 72701. Units must be fully assembled, serviced, and ready for operation as delivered unless otherwise specified. No dealer/distributor logo or other identification will be installed other than standard manufacturer name badges and specification plates.
21. Any discrepancy between the specifications and plans should be brought to attention immediately, in writing, to Andrea Foren at aforen@ci.fayetteville.ar.us.
22. Any reference to a particular brand or manufacturer is done in an effort to establish an acceptable level of quality for this project. Brands or manufacturers that are included in bid that are of at least equal quality, size, design, and specification as to what has been specified, will be acceptable for consideration only if approved by the City of Fayetteville Purchasing Division. The City of Fayetteville reserves the right to accept or reject any requested equal.
23. Price bid shall include warranty, including but not limited to parts and labor, at no additional cost to the City of Fayetteville, as specified herein.
24. **NOTE: Any uncertainties shall be brought to the attention to Andrea Foren immediately**

via telephone (479.575.8220) or e-mail (aforen@ci.fayetteville.ar.us). It is the intent and goal of the City of Fayetteville Purchasing Division to provide bid packets that provide a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all bidders to be on equal bidding terms & documents.

25. "Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all *qualified* small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women business enterprises."
26. The City of Fayetteville shall take ownership of product when products bid arrive undamaged at the specified shipping location.
27. **ANY EXCEPTION TAKEN TO THESE SPECIFICATIONS AND BID DOCUMENTS SHALL BE NOTED ON THESE DOCUMENTS. BIDDERS SHALL NOTE THE DIFFERENCE NEXT TO THE RELATED SPECIFICATION. THE CITY RESERVES THE RIGHT TO ACCEPT OR REJECT EXCEPTIONS TO SPECIFICATIONS.**
28. A diagram is included with these bid documents (Attachment A).
29. **All prices SHALL include the following:**
 - a. Shipping a fixture with LED to the City of Fayetteville at no additional cost.
 - b. Paying for shipping cost associated with returning the fixture with LED to the successful bidder.
 - c. All costs for shipping the tested products shall be the responsibility of the bidder.
 - d. All products that are sent for testing SHALL be the exact same as the items bid.
30. All units shall arrive at the City of Fayetteville with the fixture and LED completely assembled. Bidders will be allowed to shop the arm and pole in separate packaging from the fixture.
31. A certified LM 79 report with Photometric/IES file shall be provided within thirty (30) days after **Notice of Intent of Award**. LM 79 certification shall be received by the City of Fayetteville prior to formal **Notice of Award**. LM 79 re The City reserves the right to cancel award based on vendor's lack of ability to provide adequate testing documentation. All testing documentation shall be provided to the City by a credible independent third party testing agency or laboratory. All testing documentation shall be provided in English.
32. The City of Fayetteville reserves the right to reject or delay an award based on current or unresolved issues on existing equipment from the same manufacturer bid.

City of Fayetteville
Bid 10-40, Trail Lighting Equipment Re-Bid
Technical Specifications:

Project Description:

- Provide 32 (thirty-two) D142 Series Dynamic Lighting, Inc. Luminaire fixture -- Model #PT40 / D142-RFS22 / LED-GENII/ BLK / HR3-GL; Dynamic Lighting, Inc. (800) 364-0098 - mounted on 12' (above ground) Composite Materials Technology (CMT) poles, delivered (freight allowed) to Fayetteville, Arkansas. Complete LED luminaire, pole, and fixture shall be provided.

Deductive Alternate:

- Provide 32 (thirty-two) D142 Series Dynamic Lighting, Inc. Luminaire fixture -- Model #PT40 / D142-RFS22 / NO BALLAST / BLK / HR3-GL; Dynamic Lighting, Inc. (800) 364-0098. Fixture Shell only, ready for LED insert by others, delivered (freight allowed) to Fayetteville, Arkansas. THIS SHALL BE THE PRICE TO REMOVE ALL ELECTRICAL COMPONENTS FROM ITEM 1 TO ALLOW THE CITY TO INSTALL LED INSERT BY OTHERS.

Specifications:

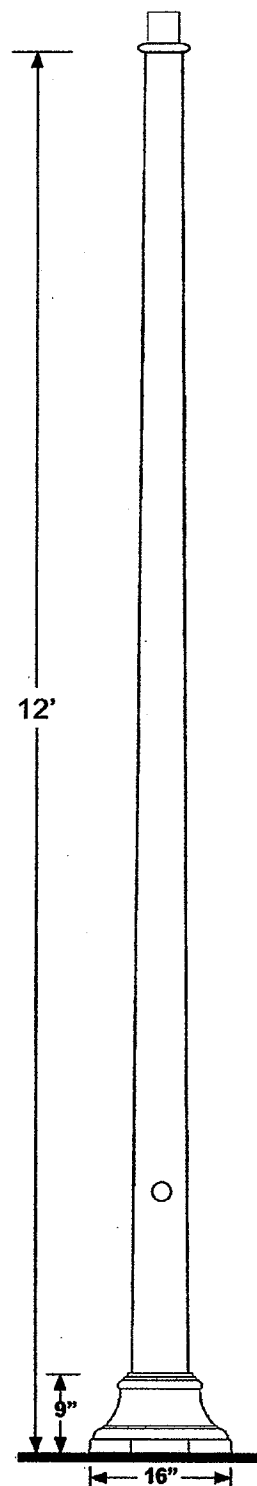
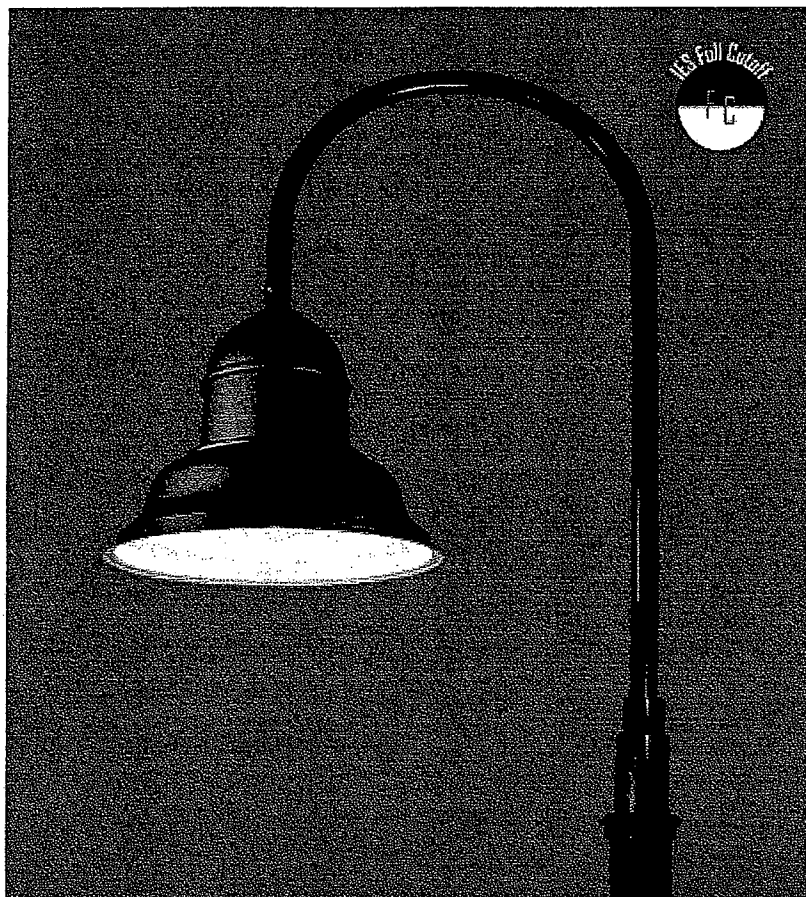
- Luminaire (32) – D142 Series Dynamic Lighting, Inc. (Or approved equal) Model #PT40 / D142-RFS22 / LED-GENI / BLK / HR3-GL, Type III, Full Cutoff. Polycarbonate lens with foam seal at the hinge (unless the LED fixture has its own sealed lens).
- Pole (32) – Direct Bury 12' Composite Materials Technology (CMT) Legacy fiberglass pole black with decorative base as shown below (or approved equal) Model #LFY12-T-3-T400X4.5-S with 4" O.D. tenon. Lifetime warranty on fiber-blooming and (3) year warranty on defects Composite Materials Technology, in care of "Illuminetrics" (918) 640-0784.
- LED luminaire
- Power Factor of > .90
- Thermal losses should be less than 10% when operated at a steady state at an average ambient operating temperature of 25°C (77°F), and optical losses should be less than 15%. A thermal management system shall be included.
- Luminaire Efficacy > 40 lm/W - A certified LM 79 report with Photometric/IES file shall be provided within thirty (30) days after **Notice of Intent of Award**. LM 79 report shall be received by the City of Fayetteville prior to formal **Notice of Award**.
- Total input wattage shall be 90 watts or less.
- Minimum .25 ft candle at 3 pole lengths or 37.5 feet from pole.
- Kelvin Temperature to resemble the look of a metal halide
- CRI >70
- 3- Year full warranty on manufacturer defects and 5-Year Limited Warranty covering LEDs, power supply and combined performance of the two – warranty documentation required for file.
- All LED and power supply components shall be rated for 100,000 hours.
- Average delivered lumens over 50,000 hours should be minimum of 70% of initial delivered lumens. Lumen maintenance must be approved through one of two LM80 validation methods.

- Ingress Protection (Dust and Water Intrusion) – IP > 65 for fixture and luminaire. Fixture shall not have any openings where insects can enter. A flat glass lens shall be included with the fixture.
- LED specification sheet required.

American Recovery and Reinvestment Act (ARRA) Provisions:

- Buy American Clause – Section 1605 of the Recovery Act requires that all iron, steel, and manufactured goods used in the project must be produced within the United States except as provided in the following:
 - The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
 - The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
 - The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.
- If all received quotes do not meet the Section 1605 of the Recovery Act the City of Fayetteville is required to receive independent verification from the Federal Government to move forward.

City of Fayetteville
Bid 10-40, Trail Lighting Equipment Re-Bid
Additional Information



Description

The contemporary styled **D142 Series** combines a cast aluminum housing, a spun aluminum shade and an acrylic lens to create an efficient luminaire with Type V light distribution.

Installation

The luminaire will mount to a 4" OD post or tenon with 5/16" black oxide coated stainless steel square head set screws to ensure a solid connection. The diffuser will be held to the fitter by (4) 5/16 black oxide coated stainless steel captive square head set screws.

Electrical

- High power factor ballast (HPF), core and coil type, pre-wired and tested
- Easy ballast pod access
- 4KV porcelain socket
- Suitable for wet location

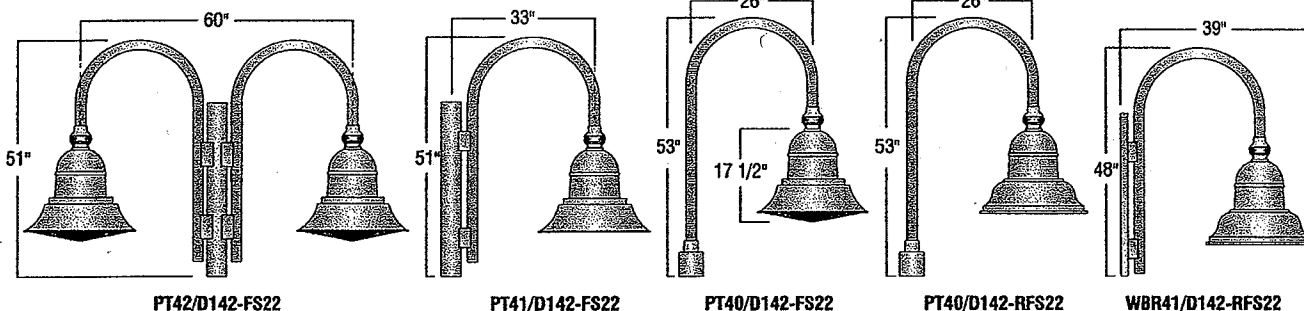
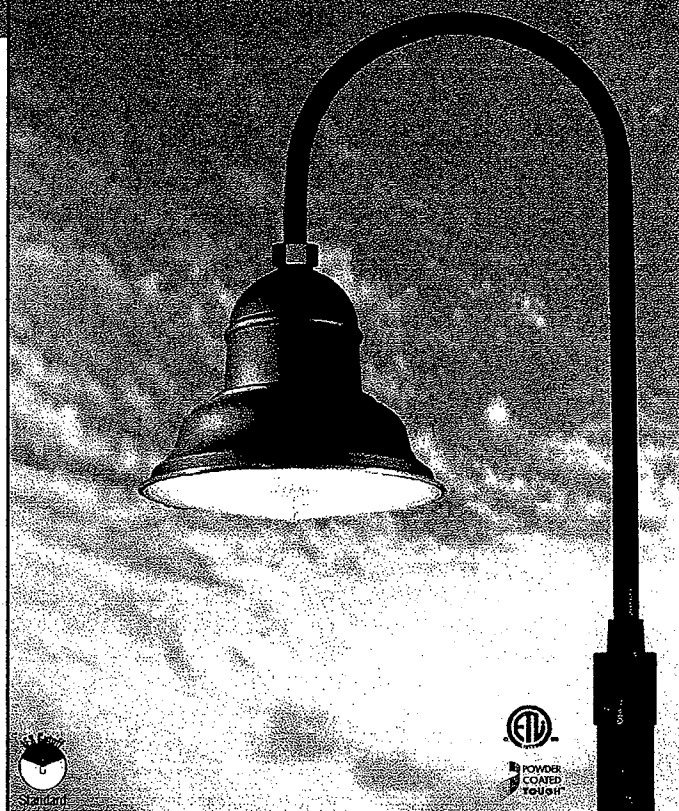
Lens Choices

- Flat acrylic
- Flat tempered glass
- Prismatic conical (standard)
- Specify Type III or Type V light distribution

Finish

Premium quality thermoset polyester powdercoat (see Finish Selection)

PT40/D142-RFS22/PA



PT42/D142-FS22

PT41/D142-FS22

PT40/D142-FS22

PT40/D142-RFS22

WBR41/D142-RFS22

Ordering Guide

Bracket	Luminaire	Light Distribution	Light Source	Voltage	Finish	Option
PT40 / D142-RFS22 / T5 / 100HPS - 120v / BLK / PCL						
		T3	100MH,150MH	208v	CLB,GRN	HSS
			175MH,250MH	240v	WHT,TBK	
			150HPS,250HPS	277v	ATC,GTG	

Additional light sources, voltages, and custom colors are available. Contact factory for details.

Light Sources

Wattage	Socket Size
50MH,70MH,100MH,150MH	Medium
175MH-PS,250MH-PS	Mogul
50HPS,70HPS,100HPS	Medium
150HPS,250HPS	Mogul
PL-13	2-pin
CFL 26,32,or 42	4-pin

D142 Series

Assembly Details

(Example: PT40/D142-FS22/HR5-GL)

1 1/2" schedule 40
aluminum pipeCast
aluminum
housing

HID Ballast assembly

Spun aluminum
shade4KV Pulse rated
porcelain socketLamp sold
separately

Segmented reflector

Hinged lens for
easy lamp access

Cast ring



Optical Systems

Standard

A Type V refractive acrylic lens is combined with a highly reflective white powder coat finish on the underside of the spun shade.

Optional

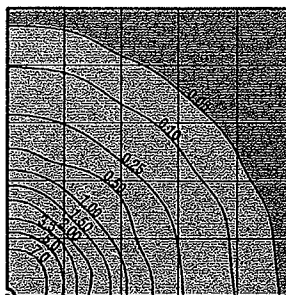
(HR3-GL) - Type III segmented reflector with a clear glass lens.

(HR5-GL) - Type V segmented reflector with a clear glass lens.

(HR3-GL-SAG) - Type III segmented reflector with a clear sag glass lens.

(HR5-GL-SAG) - Type V segmented reflector with a clear sag glass lens.

Standard Photometry



D142-RFS22/HR5

Typical HID light source
14,000 Lumen

12' Mounting Height
Grid Spacing is 12'

City of Fayetteville Staff Review Form

A. 5
Vermeer Corporation
Page 1 of 6City Council Agenda Items
and
Contracts, Leases or Agreements

6/15/2010

City Council Meeting Date
Agenda Items OnlyDennis Pratt / Barbara Olsen
Submitted ByFleet Operations
DivisionTransportation
Department

Action Required:

A resolution to purchase a 521 Wildcat Trommel Screener from Vermeer Corporation off their bid through the NJPA (National Joint Powers Alliance) in the amount of \$195,693.65 including taxes for use by Solid Waste Division, and approval of a budget adjustment to move funds to the Fleet Expense account.

\$ 193,694.00

Cost of this request

\$ 650,700.00

Category / Project Budget

Solid Waste Vehicles & Equipment

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 184,679.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02082.2010

Project Number

\$ 466,021.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

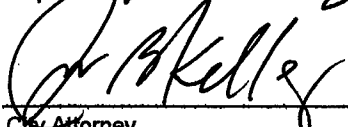
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Budget Adjustment Attached

☒

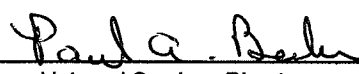
 Department Director
5-28-10
Date

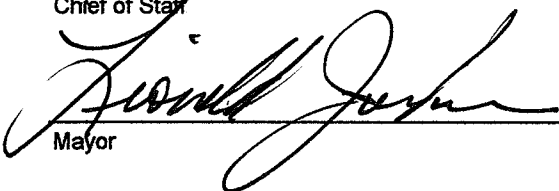
Previous Ordinance or Resolution #


 City Attorney
5-28-10
Date

Original Contract Date:

Original Contract Number:


 Finance and Internal Services Director
5-28-2010
DateReceived in City
Clerk's Office

 Chief of Staff
6-1-10
DateReceived in
Mayor's Office

 Mayor
6/1/10
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor/City Council

Thru: Terry Gulley, Director of Transportation

From: Dennis Pratt, Fleet Operations Supt.

Date: May 28, 2010

Subject: Purchase of one Wildcat Trommel Screener

PROPOSAL: That City Council approve the purchase of one Wildcat Trommel Screener for use by Solid Waste Division in the amount of \$195,693.65 including taxes, and approve a budget adjustment to move funds to the Fleet Expense account.

RECOMMENDATION: The NJPA (National Joint Powers Alliance), of which the City of Fayetteville is a member, awarded the bid for a 521 Wildcat Trommel Screener on their contract 081209-VRM on Sep 10, 2009. This bid is for a specific Wildcat Screener that is a demo unit. Total price, including taxes is \$195,693.65. Solid Waste demo'd this unit as well as other units and this unit meets the specifications that Solid Waste requires.

I recommend acceptance of this bid from Vermeer Corporation in the amount of \$195,693.65. Bid from Vermeer Corp is attached.

This unit will replace #473, a low use recycle spare truck. Solid Waste has two spare recycle trucks that are in better condition than #473. Two spare recycle trucks are sufficient and Solid Waste has a greater need for a screener. The leased unit that SW has been renting from Boston Mountain for several years does not work well and breaks down every time it is used (with Solid Waste having to pay for the repairs.)

For your information since this is the first time Fleet Operations has used an NJPA bid: The NJPA is a Service Cooperative of participating governmental and municipal agencies that uses their combined purchasing power to reduce the cost of purchased goods.

BUDGET IMPACT: Fleet's Vehicle Utilization study showed unit 473 to be under utilized. By replacing this spare recycle truck with a screener, it allows Solid Waste to spend the monthly Motor Pool charges on a unit that will allow them to process compost for sale. Capital funds for the purchase are from the replacement charges paid to date for unit 473 with the balance from Solid Waste funds.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PURCHASE OF ONE (1) 521 WILDCAT TROMMEL SCREENER FROM VERMEER CORPORATION THROUGH AN NJPA BID IN THE AMOUNT OF \$195,693.65 FOR USE BY THE SOLID WASTE DIVISION, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the purchase of one (1) 521 Wildcat Trommel Screener from Vermeer Corporation through an NJPA bid in the amount of \$195,693.65 for use by the Solid Waste Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein as if set out word for word.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Quote To: Dennis Pratt dpratt@ci.fayetteville.ar.us
Customer Location: Fayetteville, AR
Quote From: Jay Sunderman - Vermeer Corp. (Ph: 641-621-7071)
Vermeer Dealer: Ronnie Melton - Vermeer Midsouth (Ph: 479-886-4982)
NJPA Contrat No.: 081209-VRM
Date: 4/27/2010



521 Wildcat Trommel Screen - NJPA Pricing

Model on site: VIN#: 1W9SS46276F351466

Wildcat Trommel Screen, model 521 - complete with straight fines conveyor, standard overs conveyor and 1/2" screens installed. See attached brochure for complete equipment specifications.

NJPA Member Price:	\$188,940.00
Less Dealer Allowance for Demo Hours on Unit:	<u>-\$7,500.00</u>
Subtotal:	\$181,440.00
Plus Dealer Freight & Prep:	<u>\$3,100.00</u>

* Grand Total: \$184,540.00

(Not including any applicable taxes)

ST. 6% TAX	11 072.40
CITY + CTY - AFTER	81.25
REBATE	<u>195693.65</u>

* This quote is specifically for the Wildcat model 521 with VIN# 1W9SS46276F351466

All invoicing, collection, and subsequent parts sales and service of machine(s) to be conducted by and the responsibility of the independent and authorized Vermeer dealer that is responsible for the sale.

Prices good for 30 days from date on this quote.

These prices are exclusive of any and all duties, import fees, taxes, or other similar charges. Prices subject to change without notice. These prices may not be available in any transaction involving a trade. This sheet may not include all possible specifications available with this model. For complete product specifications, please contact your local authorized Vermeer dealer. F.O.B., Pella, Iowa. Vermeer Standard Industrial Warranty: 1 yr/1000 hrs parts; 1 yr/1000 hrs labor. Engine mfr std warranty applies.

WILDCAT
A Vermeer Company

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

A. 5
Vermeer Corporation
Page 5 of 6

Budget Year 2010	Department: Transportation Services Division: Fleet Operations Program: Capital Expense	Date 5/20/2010	Adjustment Number
--------------------------------	--	------------------------------	--------------------------

JUSTIFICATION TO INCREASE PROJECT / ITEM:

Funds are needed to replace a recycling truck (unit 473 - SWST_F033) with a compost screener. This unit was not originally slated for replacement this year, however, as it is a low usage spare recycle truck it is a better use of City funds to replace it with a screener for the compost site. Solid Waste has two spares in better condition than this unit.

JUSTIFICATION TO DECREASE PROJECT / ITEM (OR RECOGNIZING REVENUE):

Replacement charges of \$141,903 accumulated for unit 473 are being used toward the purchase of the screener and have been paid to the Shop Fund. Solid Waste will be transferring an additional \$54,000 for the difference in cost between the two pieces of equipment.

Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
Vehicles And Equipment	9700.1920.5802.00	195,903		02082 2010
Use of Fund Balance	9700.0970.4999.99		141,903	
Building & Grounds Maintenance	5500.5000.5400.00		21,500	
Signs	5500.5070.5212.00		600	
Hot Mix, Asphalt, Gravel	5500.5070.5215.00		27,000	
Publications & Dues	5500.5070.5303.00		2,000	
Professional Services	5500.5070.5314.00		1,400	
Contract Services	5500.5070.5315.00		1,500	
Transfer to Shop	5500.5070.7602.70	54,000		07032 2010
Transfer from Solid Waste	9700.0970.6602.50		54,000	02082 2010
TOTAL		249,903	249,903	

David J. Hie 5/20/10
Division Head Date

[Signature] 5-20-10
Budget Director Date

[Signature] 21 May 10
Department Director Date

Paul A. Beder 5-21-2010
Finance Director Date

Don Man 5-21-10
Chief of Staff Date

Frederick Jordan 5/21/10
Mayor Date

Requested By *Barbara Olsen*
bolsen

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

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: 5/28/2010 A. 5 Vermeer Corporation
P.O Number: Expected Delivery Date: 6 of 6

Vendor #: 2655 Vendor Name: VERMEER MIDSOUTH
Mail Yes: No: X

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

City: State: Zip Code: Ship to code: 50 Division Head Approval: [Signature]

Requester: BARBARA OLSEN Requester's Employee #: 1940 Extension: 485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	521 WILDCAT TROMMEL SCREEN PER NJPA	1	EA	184,540.00	\$184,540.00	9700.1920.5802.00	02082.2010		
2	PRICE ON UNIT W/ VIN#1W9SS46276F351466				\$0.00				
3	TO BE UNIT 4006, FIXED ASSET #704006				\$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: \$184,540.00
Tax: \$11,153.65
Total: \$195,693.65

Approvals:

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

City of Fayetteville Staff Review Form

A. 6
2009 Edward Byrne Memorial
Justice Assistance Grant
Page 1 of 12

City Council Agenda Items
and
Contracts, Leases or Agreements

6/15/2010

City Council Meeting Date
Agenda Items Only

G Tabor
Submitted By

Drug Enforcement
Division

Police
Department

Action Required:

Acceptance of a non-matching grant award from the 2009 Edward Byrne Memorial Justice Assistance Grant Program for drug enforcement equipment and supplies and approval of a budget adjustment in the amount of \$30,000.

\$ 30,000.00
Cost of this request

\$ -
Category / Project Budget

DTF Equipment - 2010
Program Category / Project Name

2930-2960-5377.01
Account Number

\$ -
Funds Used to Date

Grant
Program / Project Category Name

08064-2010
Project Number

\$ -
Remaining Balance

Drug Enforcement
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

Department Director

Date

5-25-10 Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Services Director

Date

Received in City
Clerk's Office

ENTERED

5/25/10
ED

Chief of Staff

Date

Received in
Mayor's Office

ENTERED
5/26/10
P.H.

Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council Members

From: Greg Tabor, Chief of Police 

Date: May 19, 2010

Subject: Acceptance of a Grant Award from the 2009 JAG Program and Budget Adjustment

PROPOSAL:

The Arkansas Department of Finance and Administration, Office of Intergovernmental Services has awarded the 4th Judicial District Drug Task Force a one-time supplemental grant award in the amount of \$30,000. This grant award is made available under the State's Justice Assistance Grant (JAG) program and must be used for drug enforcement purposes only. Please see the attached budget and budget narrative for a description of the equipment and supplies to be purchased with this grant funding. The State's 2009 JAG program is funded under the American Recovery and Reinvestment Act of 2009.

RECOMMENDATION:

Acceptance of a non-matching grant award from the 2009 Edward Byrne Memorial Justice Assistance Grant (JAG) Program for drug enforcement equipment and supplies and approval of a budget adjustment in the amount of \$30,000.

BUDGET IMPACT:

This is a non-matching reimbursement grant award where the increase in expenses will be equal to the increase in revenue.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ACCEPTANCE OF A 2009 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT IN THE AMOUNT OF \$30,000.00 FOR DRUG ENFORCEMENT EQUIPMENT AND SUPPLIES FOR THE FAYETTEVILLE POLICE DEPARTMENT, AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of a 2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$30,000.00 for drug enforcement equipment and supplies for the Fayetteville Police Department.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "A" and incorporated herein as if set out word for word, recognizing the grant revenue.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

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

A. 6
2009 Edward Byrne Memorial
Justice Assistance Grant
Page 4 of 12

Budget Year 2010	Department: Police Division: Police Program: Drug Enforcement	Request Date 6/15/2010	Adjustment Number
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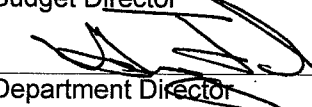
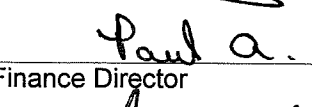
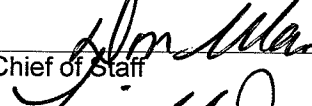
JUSTIFICATION TO INCREASE PROJECT / ITEM:

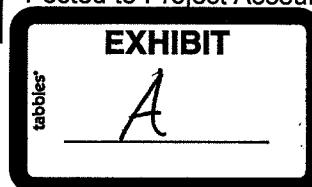
Establish an expense budget for the non-matching grant award from the 2009 Edward Byrne Memorial JAG Program for the purchase of miscellaneous drug enforcement equipment and supplies as specified in the grant budget and budget narrative.

JUSTIFICATION TO DECREASE PROJECT / ITEM (OR RECOGNIZING REVENUE):

Recognize revenue from the non-matching grant award from the 2009 Edward Byrne Memorial JAG Program.

Account Name	Account Number	Increase Budget	Decrease Budget	Project.Sub Number
Minor Equipment	2930-2960-5210.00	24,592		08064-2010
Fixed Assets	2930-2960-5801.00	5,408		08064-2010
Federal Grants - Operational	2930-0993-4309.01		30,000	08064 . 2010
				.
				.
				.
TOTAL		<u>30,000</u>	<u>30,000</u>	

Division Head  Date: 5-25-10 Budget Director  Date: 5-25-10 Department Director  Date: 5-25-10 Finance Director Paul A. Becker Date: 5-25-2010 Chief of Staff  Date: 5-27-10 Mayor  Date: 07/27/10	Requested By  Fayetteville Police Department Budget & Research Use Only Type: A B C <u>D</u> E Description: _____ General Ledger Date _____ Posted to General Ledger Initial _____ Date _____ Posted to Project Accounting Initial _____ Date _____
--	--





STATE OF ARKANSAS

**Department of Finance
and Administration**

OFFICE OF INTERGOVERNMENTAL SERVICES

1515 West Seventh Street, Suite 400

Post Office Box 8031

Little Rock, Arkansas 72203-8031

Phone: (501) 682-1074

Fax: (501) 682-5206

<http://www.state.ar.us/dfa>

A. 6

2009 Edward Byrne Memorial

Justice Assistance Grant

Page 3 of 12



May 18, 2010

Mr. Lioneld Jordan, Mayor
City of Fayetteville PD DTF
100 -- A West Rock Street
Fayetteville, Arkansas 72701

RE: 2009 American Recovery and Reinvestment Act (ARRA), Edward Byrne Memorial Justice Assistance Grant (JAG) Program

Dear Mr. Lioneld Jordan:

The Department of Finance and Administration's Office of Intergovernmental Services is pleased to inform you that your application for funding under the American Recovery and Reinvestment Act (ARRA) Edward Byrne Memorial Justice Assistance Grant (JAG) has been approved. The **City of Fayetteville Drug Task Force** has been approved in the amount of **\$30,000** for the following ARRA Project:

One-Time Award Maintenance and Operations – Equipment Law Enforcement Project

Your award has been assigned an identifying number ARRA JAG JRA 10-314 and is authorized to run from March 01, 2010 to February 28, 2011. Before any funds may be committed to the project, your agency must agree to comply with all administrative and financial responsibilities, including the timely submission of all financial and programmatic reports, and the resolution of all interim audit findings. Should your agency not adhere to these requirements, you will be in violation of the terms of this subgrant and the award will be subject to termination for cause or other administrative action as appropriate.

Enclosed for signatures (BLUE INK) are the Justice Assistance Grant (JAG) documents. Be sure to review all documents carefully to ensure that your organization is prepared to adhere to all requirements. Also attached is a *Property Inventory Form*. It is imperative that equipment purchased with subgrant funds be tagged and recorded in your agency's inventory. Please keep in mind that ARRA JAG funded equipment purchases must be kept separate from equipment purchased with State Special Asset Forfeiture Funds and tagged accordingly.

Once all required documentation has been received, a copy of your *ARRA Reimbursement Invoice Form* will be sent to you; this form must be used to request reimbursement for budgeted costs incurred by your organization.

Should you agree to accept the Award and Special Conditions, all executed documents must be returned to the **Department of Finance and Administration, Office of Intergovernmental Services (IGS) 1515 West 7th Street, Suite 330, P.O. Box 8031, Little Rock, Arkansas 72203-8031**. Obligations and expenditures may be incurred on or after the first day of the official award period if the award has been accepted, executed, and received by IGS.

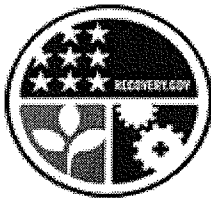
Should you have any questions pertaining to this Award, please feel free to contact Harold Clayton, Grants Coordinator at (501) 682-1074 or harold.clayton@dfa.arkansas.gov.

Sincerely,

Ann Purvis, Administrator
Intergovernmental Services

Cc: Doris Smith, Assistant Administrator
Program File

Enclosures



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
2009 JAG SUPPLEMENTAL BUDGET

A. 6



APPLICANT ORGANIZATION

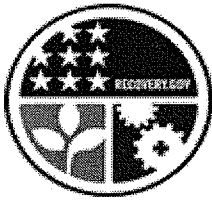
4th Judicial District Drug Task Force

PROJECT TITLE

JAG Supplemental - 2010

Budget Item	Federal Funds Requested	Narrative Explanation of Budget Item
A. SALARY: List all positions for which funding is sought, include positions to be used as match. Include the number of hours worked per week, the salary rate, as well as a brief description of the job duties to be performed by each position. Grant funds and/or grant matching funds may not be used for CONFIDENTIAL FUNDS, unless the Authorized Official certifies that the DTF will comply with the Department of Justice regulations concerning Confidential Funds.		
Position 1	\$0.00	
TOTAL SALARY	\$0.00	
B. MANDATED BENEFITS: Mandated Benefits include FICA, Worker's Compensation and State Unemployment. FICA is calculated at 7.65% of total salary. Worker's Compensation and State Unemployment rates are determined by the respective agencies.		
FICA @ 7.65% X total salary	\$0.00	
Worker's Compensation for all Positions @ 5 %	\$0.00	
State Unemployment @ % of 10,000 X number of positions in excess of \$10,000.	\$0.00	
TOTAL MANDATED BENEFITS	\$0.00	
C. EMPLOYER BENEFITS: Include all other benefits offered to employee through group policies held by the applicant (i.e.: health insurance, retirement, etc.). <u>Payments made directly to employees are not an allowable cost.</u>		
	\$0.00	
TOTAL EMPLOYER BENEFITS	\$0.00	
D. MAINTENANCE AND OPERATIONS: Include items essential to the effective implementation of activities identified within this proposal (i.e. staff travel, telephone, office rental, office supplies, car lease, etc.		
Joey J1R Transmitter/Recorder	\$4,122.00	1 body wire device @ \$3,758 plus shipping/tax
Citation 24 Receiver	\$2,638.39	1 receiver @ \$2,400 plus shipping/tax
Blackberry Cellphones	\$558.28	7 cell phones @ \$73 each plus tax.
GPS Tracker External Battery Packs	\$806.28	3 packs @ \$246 each plus tax
Canon EOS Rebel Digital Cameras	\$1,115.43	2 cameras @ \$499.99 each plus shipping/tax
Pen Cameras	\$535.25	7 covert devices @ \$69.99 each plus tax
Motion Stabilized Binoculars	\$1,245.34	2 binoculars @ \$569.95 plus tax
Desktop Computer Systems	\$6,679.75	5 systems @ \$1,245 each plus tax
Microsoft Office Suite Upgrade	\$3,288.44	10 upgrades @ \$301 each plus tax
External Hard Drives	\$196.64	2 drives @ \$89.99 plus tax
Camera Lens Multiplier	\$163.86	1 multiplier @ \$149.99 plus tax
File Cabinet	\$639.16	1 cabinet @ \$570.71 plus tax
Key Fob Video System	\$1,742.54	1 system @ \$1,595 plus tax
Wireless Phone Headset	\$327.74	1 headset @ \$299.99 plus tax

C00000APPLICATION DEADLINE: FEBRUARY 26, 2010 AT 4:30 P.M.
Applications received after the 4:30 deadline will not be considered.



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
2009 JAG SUPPLEMENTAL BUDGET



Coat Hanger Antennas	\$273.13	2 antennas @ \$125 each plus tax
Truck Toolbox	\$260.02	1 toolbox @ \$238 plus tax
TOTAL MAINTENANCE AND OPERATIONS	\$24,592.25	

E. EQUIPMENT: List non-expendable items to be purchased. Non-expendable equipment is tangible property having a useful life of more than two years and an acquisition cost of \$500.00 or more per item.

Digital Wireless Video	\$5,407.75	1 covert device @ \$5,025 plus tax
	\$0.00	
TOTAL EQUIPMENT COST	\$5,407.75	

F. PROFESSIONAL/CONTRACT SERVICES: Include any professional service needed to ensure success of the project. For each consultant enter the name, service to be provided and hourly fee. Estimate time worked on the project. If Contract Services is used for PERSONNEL - use the Personnel/Salary Category, but list that they are Contract Services.

Item Name	\$0.00	
Item Name	\$0.00	
Item Name	\$0.00	
Item Name	\$0.00	
TOTAL PROFESSIONAL/CONTRACT SERVICES	\$0.00	

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

Item Name	\$0.00	
Item Name	\$0.00	
Item Name	\$0.00	
Item Name	\$0.00	
TOTAL TRAVEL/TRAINING	\$0.00	

H. TOTAL PROJECT BUDGET	\$30,000.00	
--------------------------------	--------------------	--

ARRA 2009 Budget (Federal):

ARRA FEDERAL AMOUNT for 2009:	\$30,000.00
-------------------------------	-------------

Authorized Official

Date

Indy Cohea
Fiscal Officer

5/25/10

Date



AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION

JUSTICE ASSISTANCE GRANT (JAG) PROGRAM

BUDGET NARRATIVE



1. Personnel

None.

2. Mandated Benefits

None.

3. Employer Benefits

None.

4. Maintenance and Operations

The Maintenance and Operations budget includes covert equipment, surveillance devices, and office equipment. The items will drastically enhance our drug enforcement operations by replacing outdated equipment, expanding existing equipment to allow for multiple operations simultaneously, and upgrading to newer technology. Below is a detailed description of our proposed purchases.

The covert equipment to be purchased with this funding are a Joey Transmitter/Recorder, Citation Receiver, Coat Hanger Antennas, GPS Tracker External Batteries, Pen Cameras, and a Key Fob Video System. The Joey transmitter/recorder, citation receiver, and coat hanger antennas work together for live audio recording of covert operations. The GPS tracker external battery packs will allow for up to six month of real time vehicle tracking as opposed to our current capability of approximately one day. The pen cameras will allow our investigators a new avenue to covertly capture evidence for prosecution. A key fob video system is another new avenue to covertly capture audio/visual evidence for prosecution.

This funding will purchase the following surveillance devices: Canon EOS Rebel Digital Camera, Motion Stabilized Binoculars, and a Camera Lens Multiplier. Currently, our investigators must share many of our surveillance devices which limit the number of operations that can be performed. This funding will expand the number of digital cameras and binoculars that our investigators will have at their disposal. The camera lens multiplier will be used in conjunction with our existing camera lenses to double their zoom rate.

Also, office equipment to be purchased with this funding is Blackberry Cell Phones, Desktop Computer Systems, Microsoft Office Software upgrade, External Hard Drives, Wireless Telephone Headset, a File Cabinet, and a Truck Toolbox. Our existing cell phones have reached their life expectancy and we are having difficulty obtaining accessories and support of these cell phones. All the computer equipment upgrades are necessary to more efficiently obtain, store, and transfer digital data evidence for prosecution of drug offenders. The telephone headset and file cabinet are needed to assist office staff with their daily duties and expand our storage

APPLICATION DEADLINE: MAY 22, 2009 AT 4:30 P.M.

Applications received after the 4:30 deadline will not be considered

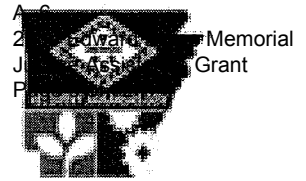


AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION

JUSTICE ASSISTANCE GRANT (JAG) PROGRAM

BUDGET NARRATIVE



capacity. We now have a pickup truck as a covert vehicle and it needs an effective means of covertly transporting surveillance equipment and long guns.

5. Equipment

The digital wireless video device appears to be a small in home appliance that will provide live video feedback to our surveillance team and replace our current outdated equipment that uses High 8 tapes for video recording.

6. Professional/Contract Services

None.

7. Training and Travel

None.

APPLICATION DEADLINE: MAY 22, 2009 AT 4:30 P.M.

Applications received after the 4:30 deadline will not be considered



**American Recovery and Reinvestment Act of 2009
ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
Justice Assistance Grant (JAG) Program**



JAG



RSAT



LLEBG

Edward Byrne Memorial
Justice Assistance Grant (JAG) Program

CFDA #16.803

1. SUBGRANTEE NAME AND ADDRESS (Including Zip Code)

Lioneld Jordan, Mayor
City of Fayetteville
100-A West Rock Street
Fayetteville, AR 72701

4. SUBGRANT NUMBER: JRA 10-314

5. START DATE: March 1, 2010
END DATE: February 28, 2011

6. AWARD DATE: March 1, 2010

2. MODIFICATION EFFECTIVE DATE:

Change End Date from
Award Amount Modified Consistent with Approved Subgrant Budget

7. ACTION:



Initial



Modification

2A. MODIFICATION AMOUNT

FEDERAL \$
LOCAL MATCH \$

8. AWARD AMOUNT

FEDERAL \$30,000.00
STATE \$
LOCAL MATCH \$

3. COMMON NAME: «CommonName»

9. SPECIAL CONDITIONS (check if applicable)



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

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

Project Description: Identify, Arrest and prosecute individuals who are manufacturing, selling, or transporting drugs in or through the City of Fayetteville – Maintenance and Operations – Equipment Law Enforcement Project

AGENCY APPROVAL		SUBGRANTEE APPROVAL	
10. TYPED NAME AND TITLE OF APPROVING IGS OFFICIAL Ann Purvis, Administrator Intergovernmental Services		12. TYPED NAME AND TITLE OF AUTHORIZED SUBGRANTEE OFFICIAL Lioneld Jordan, Mayor City of Fayetteville	
11. SIGNATURE OF APPROVING OFFICIAL 		13. SIGNATURE OF AUTHORIZED OFFICIAL	14. DATE

CERTIFICATION OF AUDIT COST

As the Contracting Official for a subgrant through the Edward Byrne Memorial Justice Assistance Grant (JAG) Grant Program to the organization listed below, I certify that the OMB Circular A-133 audit status is an accurate projection of federal fund expenditures for the fiscal year impacted by this grant, based on information presently available to me. Based on these projections, the audit status of the referenced organization will be as indicated below.

_____ AUDIT STATUS ONE: PROJECT AUDIT COST

The applicant agency will expend less than \$500,000 from all federal sources during its fiscal year. The Department of Finance and Administration will contract for audit services applicable to the Drug Law Enforcement Program subgrant. The applicant will not budget audit funds.

 X AUDIT STATUS TWO: OVERALL SINGLE AUDIT COST

A single audit must be procured by the applicant agency when the applicant agency expends \$500,000 or more in federal funds from all sources during its fiscal year.

Lioneld Jordan

Mayor, City of Fayetteville

Printed Name of Contracting Official

Title and Organization

Signature

Date

CERTIFICATION FORM

A. 6
2009 Edward Byrne Memorial
Justice Assistance Grant
Page 12 of 12

Recipient Name and Address: City of Fayetteville, 100-a West Rock Street, Fayetteville, AR 72701

Grant Title: ARRA Edward Byrne Memorial JAG Grant Number: JRA 10-314 Award Amount: \$30,000

Contact Person Name and Title: Missy Leflar Phone Number: (479) 575-8298

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

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

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

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

Print or type Name and Title

Signature

Date

Section B- Declaration Claiming Exemption from the EEOP Submission Requirement and Certifying That an EEOP Is on File for Review.

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

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

Lioneld Jordan, Mayor

Print or type Name and Title

Signature

Date

City of Fayetteville Staff Review Form

A. 7
Garver, LLC
Amendment No. 2
Page 1 of 12

City Council Agenda Items
and
Contracts, Leases or Agreements

6/15/2010

City Council Meeting Date
Agenda Items Only

Chris Brown *CB*

Engineering

Development Services

Submitted By

Division

Department

Action Required:

Resolution Approving Contract Amendment No. 2 with Garver, LLC for Design and Construction Phase Services
Related to Cato Springs Road Improvements

\$ 196,350.00

Cost of this request

\$ 20,547,515.00

Category / Project Budget

Transportation Bond Street Improvements

Program Category / Project Name

4520.9520.5809.00

Account Number

\$ 5,429,264.42

Funds Used to Date

Transportation Bonds

Program / Project Category Name

06035.1200

Project Number

\$ 15,118,250.58

Remaining Balance

2006A Sales Tax Construction

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

[Signature]
Department Director

05/28/2010
Date

Previous Ordinance or Resolution #

[Signature]
City Attorney

6-1-10
Date

Original Contract Date:

Original Contract Number:

[Signature]
Finance and Internal Services Director

6-3-2010
Date

Received in City
Clerk's Office

ENTERED
5/28/10

[Signature]
Chief of Staff

6-2-10
Date

Received in
Mayor's Office

ENTERED
6/1/10

[Signature]
Mayor

6/2/10
Date

Comments:

CITY COUNCIL AGENDA MEMO

Council Meeting of June 15, 2010

To: Mayor and City Council

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

From: Chris Brown, City Engineer *CB*

Date: May 28, 2010

Subject: Resolution Approving Contract Amendment No. 2 with Garver, LLC for Design and Construction Phase Services Related to Cato Springs Road Improvements

PROPOSAL

Cato Springs Road is included in the Transportation Bond Program, with construction planned to begin later this year, after right of way acquisition is completed. The City has contracted with Garver, LLC for engineering design services on the project. An amendment to the contract with Garver is needed at this time in order for Garver to complete the design, and to establish construction phase services on the project, as detailed below.

To date, Garver has completed traffic studies, environmental documentation, surveys, and conceptual and preliminary design. As the design has progressed, Arkansas State Highway and Transportation Department (AHTD) reviews have resulted in significant additional design effort needed in order to complete the plans. In particular, the AHTD requirement that right of way be acquired to beyond the limits of embankments required the use of retaining walls to reduce the footprint of the project and minimize impacts to property owners. While the retaining walls will result in a savings to the City due to the reduced right of way needs, the design of these walls, plus the associated drainage design, and recalculation of quantities due to the changes, has resulted in the need for additional design effort by Garver.

Secondly, the preliminary plans were completed in mid-2008. Since that time, the right of way process, and coordination with AHTD on this process, has stalled the project. Additional meetings and coordination efforts by Garver have been required as a result of these delays. This has resulted in a increase in effort by Garver as well.

The total additional design cost resulting from the above items is \$74,600.

The proposed amendment also includes construction phase services on the project, to include: review of construction submittals, engineering support during construction, and resident inspection services. The total construction phase services fee is proposed to be \$121,750. As is typical on these types of projects,

construction phase services were not part of the original contract. It is now time to proceed with adding these services to the contract and establishing the fee for this work.

Since Cato Springs Road is a federal-aid project, the level of documentation and inspection effort will be higher than a typical City funded project. In-house inspection staff will be used to provide the bulk of the inspection; however, Garver's assistance and expertise with the documentation requirements on the project will be required. Therefore, the contract amendment includes inspection services from Garver averaging 2 hours per day for the length of the construction contract. If Garver were to provide all of the inspection services, the fee would be in the \$300,000 range rather than the proposed amount of \$121,750.

RECOMMENDATION

Staff recommends approval of Amendment No. 2 to Garver's contract in the amount of \$196,350 for additional design services and construction phase services. This item was reviewed by the Street Committee on May 26, 2010, and the Committee voted to recommend approval of the contract amendment as well.

BUDGET IMPACT

Cato Springs Road is in the Transportation Bond Program. The cost of this contract amendment will be paid for out of funds allocated for Cato Springs Road in the Bond Program.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE CONTRACT WITH GARVER, LLC IN THE AMOUNT OF \$196,350.00 FOR ADDITIONAL DESIGN AND CONSTRUCTION PHASE SERVICES FOR THE CATO SPRINGS ROAD IMPROVEMENT PROJECT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves Amendment No. 2 to the contract with Garver, LLC in the amount of \$196,350.00 for additional design and construction phase services for the Cato Springs Road Improvement Project. A copy of Amendment No. 2, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDON, Mayor

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

**AMENDMENT TO AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES
CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS**

CONTRACT AMENDMENT NO. 2

Cato Springs Road Improvements

This Contract Amendment No. 2, dated _____, 2010 shall amend the original contract between the CITY OF FAYETTEVILLE, ARKANSAS and GARVER, LLC (Garver) dated November 21, 2006 and the subsequent Contract Amendment No. 1 dated October 2, 2007 for professional engineering services in connection with the Cato Springs Road Improvements Project, from School Avenue to Razorback Road, (the "Project"). This Contract Amendment No. 2 adds professional engineering services to the existing Design Phase Services scope and adds the Construction Phase Services, as described herein.

The contract is hereby modified as follows:

Garver Engineers, LLC shall be replaced with Garver, LLC in the contract.

SECTION 2 - BASIC SERVICES OF GARVER

The following Sections supersede corresponding Sections in the original contract and Amendment No. 1.

2.1 General

2.1.1.4 The Scope of Services to be furnished by GARVER during the Construction Phase is included in Section 2.4 hereafter and in Appendix A attached hereto and made a part of this Agreement.



2.2 Design Services

2.2.1 In addition to the design services described in Amendment No. 1, Garver will perform the engineering and related services as detailed in Appendix A attached hereto and made part of this Agreement.

2.4 Construction Phase

2.4.1 The scope of services to be furnished by GARVER during the Construction Phase is described in detail in Appendix A attached hereto and made part of this Agreement.

SECTION 6 – PAYMENTS TO GARVER

The enumeration of Contract Sections 6.1.1, 6.1.2, and 6.1.3, as shown in Amendment No. 1 shall be revised to be 6.1.4, 6.1.5, and 6.1.6 respectively to match the original contract.

In reference to *6.1 Compensation* of Amendment No. 1, the not to exceed amount is hereby increased to **\$702,050** in accordance with the contract provisions as described in Amendment No.1.

The following Sections supersede corresponding Sections in the original contract and Amendment No. 1:

6.1.5 Final Design

For the Final Design described herein, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be **\$218,800**.

6.1.7 Construction Phase Services

For the Construction Phase Services described herein, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be **\$121,750**.

IN TESTIMONY OF WHICH, this instrument has been executed on behalf of GARVER ENGINEERS, and has been executed on behalf of the CITY OF FAYETTEVILLE, in three (3) counterparts, each of equal force, on the day and year first above written.

CITY OF FAYETTEVILLE

GARVER, LLC

By: _____

By: _____

Brock Hoskins, PE

Title: _____

Title: Sr. Vice President

ATTEST: _____

ATTEST: _____

APPENDIX A – SCOPE OF SERVICES

Amendment No. 2

2.6 Final Design

Add the following design tasks that have been necessitated by two primary factors: 1.) the substantial length of increased contract time between final design and project bidding that was beyond the control of both the City of Fayetteville and Garver; and 2.) project design revisions requested by the City of Fayetteville:

1. Design approximately 800-ft of modular block retaining walls to replace roadway embankment.
2. Design an underground drainage system as necessary for the installation of the retaining walls.
3. The widened portion of the roadway shall be redesigned to incorporate a Portland Cement Concrete Base in lieu of an asphalt material.
4. Revise plans to reflect all new developments and utilities along the corridor that have been installed and completed since the original survey.
5. Re-compute project quantities and revise the Unit Price Schedule contained in the Contractor Project Manuals.
6. Re-compute and revise the Opinion of Probable Costs to reflect the revisions to the project plans and quantities.
7. Prepare for and attend an additional utility coordination meeting.
8. Provide additional time for coordination with the A&M Railroad Company for improvements to the three railroad crossings.
9. Prepare for and attend two additional public Committee/City Council meetings.
10. Provide additional time for coordination with the City Engineering Staff, FHWA, AHTD, and the University of Arkansas.

2.12 Construction Phase Services

During the construction phase of work, Garver will accomplish the following:

1. Issue a Notice to Proceed letter to the Contractor and attend preconstruction meeting.
2. Prepare for and attend utilities coordination meeting if necessary.
3. Attend progress/coordination meetings with the City of Fayetteville/Contractor.
4. Evaluate and respond to construction material submittals and shop drawings. Corrections or comments made by Garver on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner. Garver's review shall not constitute approval of safety precautions or constitute approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, Garver shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.
5. Issue instructions to the Contractor on behalf of the City of Fayetteville and issue necessary clarifications (respond to RFIs) regarding the construction contract documents.
6. Provide part-time resident construction observation services for the 360-calendar-day

construction contract performance time. The proposed fee is based on approximately 2 hours per day, 5 days per week, during the 360-calendar-day construction contract performance time. If the construction time extends beyond the time established in this agreement or if the City of Fayetteville wishes to increase the time or frequency of the observation, the City will pay Garver an additional fee agreed to by the City and Garver.

7. Provide up to 24 hours of survey crew time for field checking quantities, contractor's layout, etc.
8. Participate in final project inspection.

Construction observation services will be provided by Garver's Resident Project Representative, who will provide or accomplish the following:

- Consult with and advise the City of Fayetteville during the construction period.
- Coordinate with the firm providing construction materials quality assurance testing under separate contract with the City of Fayetteville.

In performing construction observation services, Garver will endeavor to protect the City of Fayetteville against defects and deficiencies in the work of the Contractor(s); but Garver cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor(s) takes or should take. However, if at any time during construction Garver observes that the Contractor's work does not comply with the construction contract documents, Garver will notify the Contractor of such non-compliance and instruct him to correct the deficiency and/or stop work, as appropriate for the situation. Garver will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, Garver will notify the City of Fayetteville immediately, so that appropriate action under the City of Fayetteville's contract with the Contractor can be taken.

2.13 Project Deliverables

The following additional items will be submitted to the City of Fayetteville, or others as indicated, by Garver:

1. Three copies of the revised Final Design with the updated opinion of probable construction cost.
2. One copy of the revised Final Plans to each potentially affected utility company.
3. Three copies of the Final Plans and Specifications to the Contractor.
4. Two copies of approved shop drawings/submittals from the Contractor.
5. Electronic files as requested.

2.14 Extra Work

The following additional items are also not included under this agreement but will be considered as extra work:

1. Services after construction, such as warranty follow-up, operations support, etc.
2. Maintain a set of working drawings and prepare and furnish record drawings.
3. Review of the Contractor's progress payment requests and recommendations to the City of Fayetteville regarding payment.
4. Preparation of change orders for changes in the work from that originally provided for in the construction contract documents including the redesign or substantial engineering or surveying required for the preparation of these change order documents.

5. Prepare final punch list and review of the final project closing documents.
6. Maintain a file of quantities incorporated into the work, test reports, certifications, shop drawings and submittals, and other information.
7. Maintain a project diary which will contain information pertinent to each site visit.

Extra Work will be as directed by the City of Fayetteville in writing for an additional fee as agreed upon by the City of Fayetteville and Garver.

2.15 Schedule

Garver shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work in accordance with the schedule below:

<u>Phase Description</u>	<u>Calendar Days</u>
Final Design Revisions	30 days after receiving AHTD Final Comments

APPENDIX A-2

CITY OF FAYETTEVILLE CATO SPRINGS ROAD IMPROVEMENTS

FEE SUMMARY

	Original Contract	Amendment No. 1	Amendment No. 2	Total
Traffic Studies	\$11,200	\$0	\$0	\$11,200
Schematic Study	\$0	\$0	\$0	\$0
Signalization Design	\$0	\$0	\$0	\$0
Surveys	\$80,400	\$0	\$0	\$80,400
Drainage Study	\$0	\$0	\$0	\$0
Conceptual Design	\$76,250	\$0	\$0	\$76,250
Preliminary Design	\$0	\$121,950	\$0	\$121,950
Final Design	\$0	\$144,200	\$74,600	\$218,800
Property Acquisition Documents	\$0	\$0	\$0	\$0
Bidding Services	\$0	\$12,000	\$0	\$12,000
Construction Phase Services	\$0	\$0	\$121,750	\$121,750
Subtotal NTE Fee	\$167,850	\$278,150	\$196,350	\$642,350
Subcontracted Services				
Geotechnical Services	\$15,000	\$0	\$0	\$15,000
Record Research	\$0	\$0	\$0	\$0
ARKUPS - Utility Locates	\$14,800	\$0	\$0	\$14,800
Existing Bridge Evaluation	\$10,000	\$0	\$0	\$10,000
Environmental Documentation	\$19,900	\$0	\$0	\$19,900
Estimated Subcontract Fees	\$59,700	\$0	\$0	\$59,700
Total NTE Fee	\$227,550	\$278,150	\$196,350	\$702,050

City of Fayetteville Staff Review Form

A. 8
 Fayetteville Expressway Economic
 Development Corridor Project
 Page 1 of 8

City Council Agenda Items
 and
 Contracts, Leases or Agreements

6/15/2010

City Council Meeting Date
 Agenda Items Only

Chris Brown *CB*

Engineering

Development Services

Submitted By

Division

Department

Action Required:

A Resolution Affirming the City Council's Decision to Approve the Use of Federal-Aid Funds in the Fayetteville Expressway Economic Development Corridor Project for Van Asche Drive, from Garland Avenue to Gregg Avenue.

\$ -

Cost of this request

\$ 20,547,515.00

Category / Project Budget

Transportation Bond Street Improvements

Program Category / Project Name

4520.9520.5809.00

Account Number

\$ 5,429,264.42

Funds Used to Date

Transportation Bonds

Program / Project Category Name

06035

Project Number

\$ 15,118,250.58

Remaining Balance

2006A Sales Tax Construction

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Johnny C. Pate
 Department Director

05-28-2010
 Date

Previous Ordinance or Resolution #

Joe Malley
 City Attorney

6-1-10
 Date

Original Contract Date:

Original Contract Number:

Paula A. Bahr
 Finance and Internal Services Director

6-3-2010
 Date

Received in City
 Clerk's Office

ENTERED
5/28/10

Kim D

Ann M. Mearns
 Chief of Staff

6-2-10
 Date

Received in
 Mayor's Office

ENTERED
6/1/10

Franklin Jordan
 Mayor

6/2/10
 Date

Comments:

CITY COUNCIL AGENDA MEMO

Council Meeting of June 15, 2010

To: Mayor and City Council

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

From: Chris Brown, City Engineer *CB*

Date: May 28, 2010

Subject: A Resolution Affirming the City Council's Decision to Approve the Use of Federal-Aid Funds in the Fayetteville Expressway Economic Development Corridor Project for Van Asche Drive, from Garland Avenue to Gregg Avenue.

PROPOSAL:

Resolution 92-07, approved on May 15, 2007, recognizes Van Asche Drive as one of three projects (along with the Roundabout and Flyover Projects) to be constructed using Federal earmark funds from the 2005 Federal Highway Bill. At the time of passage of this Resolution, the Federal Highway Administration denied the use of federal funds through the earmark for Van Asche since the language in the Highway Bill did not specifically mention Van Asche Drive. This has been rectified with a Technical Correction to the Highway Bill, and Van Asche Drive is now eligible for funding under this earmark.

The total estimated cost of construction for this project as conceptualized in the attached drawing is \$3.5 million. Right of way, engineering, and construction management costs bring the total estimated project cost to \$5.23 million. Federal funding left over after the Roundabout and Flyover Projects will be more fully defined after these projects are let to construction, but the current estimate is that approximately \$2 million in federal funding will be available for the Van Asche Project. In order to use the federal funding, an agreement with the Arkansas State Highway and Transportation Department (AHTD) will need to be developed.

As has been the case with our other federally funded projects, utilizing federal funds on this project will most likely result in additional time and cost required to receive Federal Highway Administration (FHWA) approvals throughout the project development process. However, the availability of the federal funding will provide the opportunity to complete the project sooner than would be possible otherwise.

RECOMMENDATION

Staff recommends approval of a resolution that:

- 1) Affirms the City Council decision to utilize federal aid funds for the Van Asche Drive Project.

- 2) Authorizes the Mayor to sign an Agreement with the Arkansas State Highway and Transportation Department

The Street Committee reviewed this proposal at the May 26, 2010 Street Committee, and voted to recommend approval of this resolution.

BUDGET IMPACT:

There is no cost associated with this request at this time. Any utilization of federal funds will require a 20% match from the Transportation Bond Program.

RESOLUTION NO. _____

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE
CITY OF FAYETTEVILLE TO UTILIZE FEDERAL-AID
FUNDS FOR EXPANSION OF VAN ASCHE DRIVE FROM
GARLAND AVENUE TO GREGG AVENUE

**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 expresses the willingness of the City to utilize federal-aid funds for expansion of Van Asche Drive from Garland Avenue to Gregg Avenue.

Section 2. That the Mayor is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this project with the Arkansas State Highway and Transportation Department.

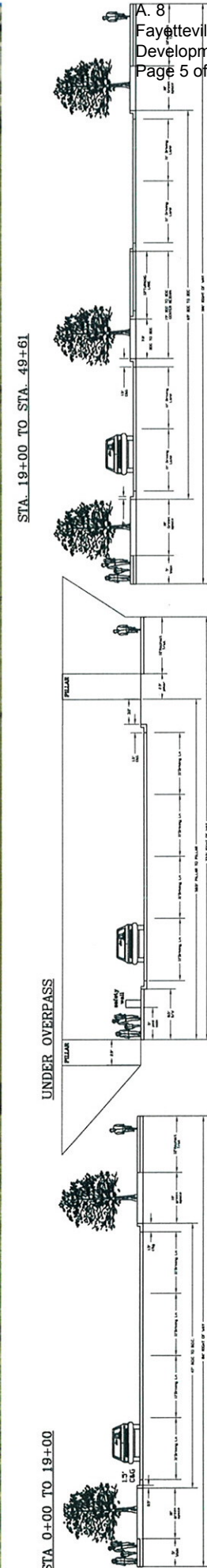
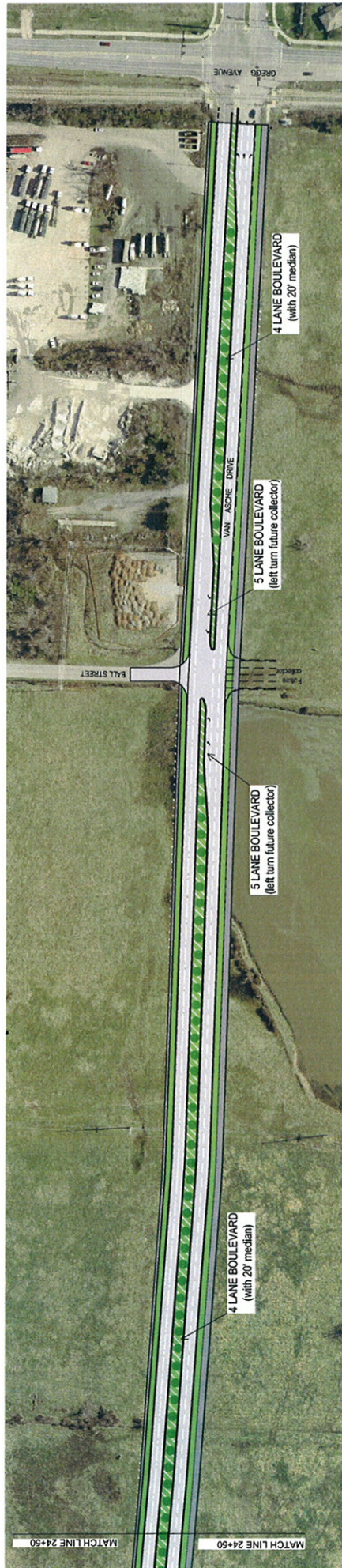
PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



PRINCIPAL ARTERIAL PARKWAY
 McGuire to Gregg Street
 VAN ASCHE DRIVE (HIGHWAY 112 TO GREGG) EXTENSION

RESOLUTION NO. 92-07

**A RESOLUTION TO APPROVE THE THREE RECOMMENDED OPTIONS
FOR TRANSPORTATION IMPROVEMENTS IN THE FAYETTEVILLE
EXPRESSWAY ECONOMIC DEVELOPMENT CORRIDOR PROJECT**

WHEREAS, Mayor Coody in concert with Senators Pryor and Lincoln and Congressman Boozman was able to secure a Nine Million Dollar federal earmark within the 2005 Federal Transportation Bill to improve access to the Northwest Arkansas Mall area; and

WHEREAS, the City has committed and has available if required 20% local match of \$1,914,963.00 for this project yielding total available funds for the design and construction of these projects in the amount of \$9,574,813.00; and

WHEREAS, the City Council approved an engineering contract with Carter & Burgess on September 5, 2006, to study traffic needs in this area and provide a Master Plan for traffic improvements; and

WHEREAS, the City Council Street Committee considered the Master Plan during its March 30, 2007 meeting and recommended approval of the three options to the full City Council.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the three options (shown below) recommended within the Master Plan by Carter & Burgess for the Fayetteville Expressway Economic Development Corridor and further studied and recommended by the Aldermen Street Committee during its meeting of March 30, 2007:

- A. **FULBRIGHT EXPRESSWAY/COLLEGE AVENUE INTERCHANGE:** Construction of a grade separated flyover for northbound on College access westbound land on Fulbright Expressway including a connection to Mall Avenue; estimated cost is \$3.8 million.
- B. **GREGG STREET INTERCHANGE:** Construction of an additional off-ramp lane at North Hills Boulevard and the replacement of the existing four-way intersection of Futrell and North Hills with a traffic circle; estimated cost is \$1.5 million.
- C. **WESTERN STUDY AREA:** Construction of one-half (two lanes) of Van Ache Boulevard from Gregg Street to Garland Avenue (AR Hwy. 112); estimated cost is \$4.0 million.

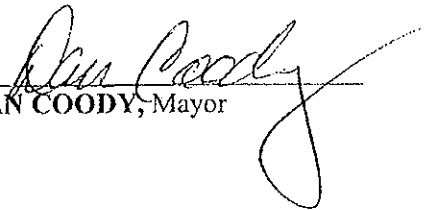


Attachment A

Page 2
Res. 92-07

PASSED and APPROVED this 15th day of May, 2007.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA E. SMITH, City Clerk/Treasurer



AGENDA REQUEST

FOR: COUNCIL MEETING OF JUNE 15, 2010

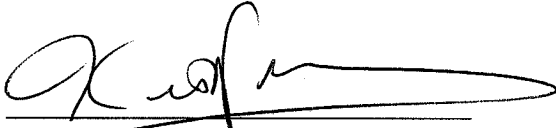
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve The Appointment Of Four Members Of The Board Of Improvement
Of The Downtown Off Street Parking Development District No. 1 Of The City Of Fayetteville

APPROVED FOR AGENDA:



Kit Williams, City Attorney

June 2, 2010
Date



Don Marr, Chief of Staff

6/2/10
Date



Lioneld Jordan, Mayor

6/2/10
Date

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE THE APPOINTMENT OF FOUR
MEMBERS OF THE BOARD OF IMPROVEMENT OF THE
DOWNTOWN OFF STREET PARKING DEVELOPMENT DISTRICT
NO. 1 OF THE CITY OF FAYETTEVILLE**

WHEREAS, pursuant to A.C.A. §14-88-303, the Fayetteville City Council has the power to fill vacancies on the local Board of Improvement; and

WHEREAS, since the Board of Improvement of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville has been expanded from three to five members and the terms of Lamar Pettus and Bobby Lee Odom have expired, four members need to be appointed or reappointed.

**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 appoints Lamar Pettus, Bobby Lee Odom, Evelyn E. Brooks and Maryanne Westphal (all qualified property owners in the district) to new terms on the Board of Improvement of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville, Arkansas, as shown by the attached Petitions.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

§ 14-86-1205
Note 1

to be collected "annually" with first installment of general taxes, ordinance did not adopt quarterly installment provisions for general taxes. Vimy Ridge Mun. Water Imp. Dist. No. 139 of Little

Rock v. Ryles, 2008, 284 S.W.3d 70, 373 Ark. 366. Limitation of Actions ⇐ 44(5); Limitation of Actions ⇐ 48(6)

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LOCAL GOVERNMENT LOCAL GOVERNMENT

CHAPTER 87
REORGANIZATION OR CONSOLIDATION OF IMPROVEMENT DISTRICTS

§ 14-87-101. Intent of provisions

Cross References

Improvement districts, annual reporting require-
ments, see § 14-86-103.

CHAPTER 88
MUNICIPAL IMPROVEMENT DISTRICTS GENERALLY
Subchapter 3—Boards of Improvement.

Section
14-88-303. Vacancies generally.
14-88-305. Removal of member.

Section
14-88-312. Members—Increase in number in
certain cities.

Subchapter 4—Officers Serving Districts.

14-88-404. Appointment of treasurer.

SUBCHAPTER 1—GENERAL PROVISIONS

§ 14-88-101. Enforcement by mandamus

Cross References

Improvement districts, annual reporting require-
ments, see § 14-86-103.

SUBCHAPTER 3—BOARDS OF IMPROVEMENT

§ 14-88-303. Vacancies generally

(a) All vacancies that may occur after a municipal board shall have been organized shall be filled by the city or town council.

(b) If all places on the board shall become vacant or those appointed shall refuse or neglect to act, new members shall be appointed by the council, as in the first instance, except that after July 1, 1999, in cities of the first class with a population of between sixty-one thousand five hundred (61,500) and sixty-two thousand (62,000) persons according to the 1990 Federal Decennial Census, new members shall be appointed only for the remainder of the vacant term and no person who is removed as a commissioner shall qualify.

Acts of 1881, Act 84, § 3, p. 161; Acts of 1909, Act 81, § 1, p. 224; Acts of 1961, Act 70, §§ 1, 2; Acts of 1999, Act 1505, § 2, eff. July 1, 1999.

§ 14-88-305. Rem

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*Acts of 1881, Act 8
2; Acts of 1999, Ac
Formerly C. & M.*

Arkansas Code Rev
Technical changes
with the official A

§ 14-88-312. M

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(c) All action
by this section
Acts of 1999, Ac

PETITION FOR REAPPOINTMENT TO THE
BOARD OF IMPROVEMENT OF THE
DOWNTOWN OFF STREET PARKING
DEVELOPMENT DISTRICT NO. 1 OF THE
CITY OF FAYETTEVILLE, ARKANSAS

I, Lamar Pettus, an owner of real property located within the boundaries of and a member of the Board of Improvement of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville, Arkansas, whose term has expired, do hereby petition the City Council of the City of Fayetteville, Arkansas, to reappoint me to the Board of Improvement of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville, Arkansas.


Lamar Pettus, petitioner

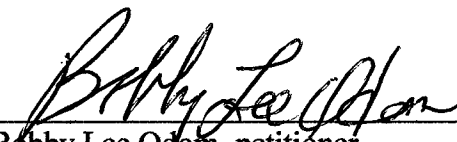
RECEIVED

MAY 28 2010

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

PETITION FOR REAPPOINTMENT TO THE
BOARD OF IMPROVEMENT OF THE
DOWNTOWN OFF STREET PARKING
DEVELOPMENT DISTRICT NO. 1 OF THE
CITY OF FAYETTEVILLE, ARKANSAS

I, Bobby Lee Odom, an owner of real property located within the boundaries of
and a member of the Board of Improvement of the Downtown Off Street Parking
Development District No. 1 of the City of Fayetteville, Arkansas, whose term has
expired, do hereby petition the City Council of the City of Fayetteville, Arkansas, to
reappoint me to the Board of Improvement of the Downtown Off Street Parking
Development District No. 1 of the City of Fayetteville, Arkansas.


Bobby Lee Odom, petitioner

RECEIVED

MAY 28 2010

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

PETITION FOR APPOINTMENT
TO FILL VACANCY ON THE BOARD OF
IMPROVEMENT OF THE DOWNTOWN OFF STREET
PARKING DEVELOPMENT DISTRICT
NO. 1 OF THE CITY OF FAYETTEVILLE, ARKANSAS

I, Evelyn E Brooks, an owner of real property located within the boundaries of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville, Arkansas, do hereby petition the City Council of the City of Fayetteville, Arkansas, to appoint me to the Board of Improvement of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville, Arkansas.

Evelyn E Brooks
Petitioner

RECEIVED

MAY 28 2010

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

PETITION FOR APPOINTMENT
TO FILL VACANCY ON THE BOARD OF
IMPROVEMENT OF THE DOWNTOWN OFF STREET
PARKING DEVELOPMENT DISTRICT
NO. 1 OF THE CITY OF FAYETTEVILLE, ARKANSAS

I, MARYANNE WESTPHAL an owner of real property located within the boundaries of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville, Arkansas, do hereby petition the City Council of the City of Fayetteville, Arkansas, to appoint me to the Board of Improvement of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville, Arkansas.


Petitioner

RECEIVED

MAY 28 2010

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

AGENDA REQUEST

B. 1
Amend Chapter §163.14
Revocation or Change of
Conditional Use
Page 1 of 10

FOR: COUNCIL MEETING OF May ¹⁸~~08~~, 2010

FROM:

LIONELD JORDAN, MAYOR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

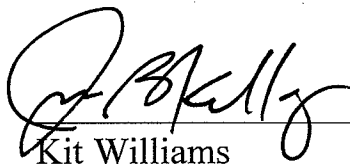
An ordinance to amend §163.14 **Revocation or Change of Conditional Use** of the Unified Development Code of Fayetteville to enact a new subsection (E) *Periodic Reviews*

APPROVED FOR AGENDA:



Jeremy Pate
Development Services Director

05.06.2010
Date



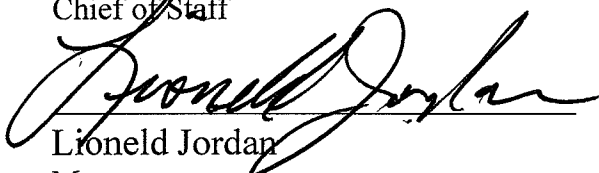
Kit Williams
City Attorney

5-6-10
Date



Don Marr
Chief of Staff

5-6-10
Date



Lioneld Jordan
Mayor

5/6/10
Date

Left on Second Reading at the 12/1/10 CC Mtg.
Left on the First Reading at the 5/18/10 CC Mtg.

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

From: Jeremy Pate, Development Services Director *JP*

Date: June 02, 2010

Subject: Periodic Review of Conditional Use Permit

AMENDED ORDINANCE

Attached you will find the draft ordinance proposing a periodic review of a conditional use permit by petition, as amended by the City Council. The amendments that have been adopted are as follows:

- E(1): Changed measurement for adjacent property owners from "100-foot radius" to "within 100 feet of property boundary"
- E(2): Removed revocation clause; upon review the Planning Commission may approve the CUP as it exists or modify it with new or altered conditions of approval

ORDINANCE NO.

AN ORDINANCE AMENDING §163.14 OF THE UNIFIED
DEVELOPMENT CODE TO PERMIT A PERIODIC REVIEW
OF CONDITIONAL USE PERMITS AS DESCRIBED HEREIN.

WHEREAS, the Fayetteville Planning Commission and Board of Directors have adopted hundreds of conditional use permits over many decades; and

WHEREAS, older approved conditional use permits tend to be less detailed and oftentimes did not include conditions of approval; and

WHEREAS, some conditional use permits need to be reviewed at times for compatibility with the surrounding neighborhood; and

WHEREAS, the periodic review of a conditional use permit should be limited to review items that are in the public interest;

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 §163.14 *Revocation or Change of Conditional Use* to add the following subsection “E”:

§163.14 Revocation or Change of Conditional Use

“(E) *Periodic review*. In addition to the consideration of substantial violation provisions of (A), (B), and (C), the Planning Commission may periodically review and reconsider a conditional use permit under the following criteria:

(1) Receipt of a petition to review an approved conditional use permit from an adjacent property owner and 50% or more of the property owners within 100 feet of the property boundary on which the conditional use permit has been granted, in a form provided by the Planning Division. The property owners signing the petition must provide the reasons for which they feel reconsideration is warranted and how they are adversely affected by the approved conditional use permit.

(2) Upon receipt of a verified petition, the Planning Commission may review the conditional use permit and either approve the conditional use as it exists or modify the conditional use with new or altered conditions to achieve a greater degree of compatibility with adjacent

properties.

(3) Appeals from the decision of the Planning Commission under this subsection shall follow the requirements of §155 Appeals of the Unified Development Code, for conditional use permits.

(4) The right to a periodic review of a conditional use under this subsection may only be exercised five years or longer after the conditional use permit was granted. No periodic review may be conducted more than one (1) time in a five (5) year period.

(5) This periodic review procedure is not applicable for wireless communication facilities and vital government facilities.”

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jeremy Pate, Development Services Director X

Date: May 06, 2010

Subject: Periodic Review of Conditional Use Permit

RECOMMENDATION

Staff recommends the City Council consider adoption of a amendment to the UDC §163.14, to allow a periodic review of a conditional use permit, by petition, under certain conditions.

BACKGROUND

The Mayor, City Attorney and staff have been working together to draft a code amendment to amend the existing §163.14 *Revocation or Change of Conditional Use* section of the UDC. Current conditional use permits that the Planning Commission approve have specific conditions of approval often listing hours of operation, the specific use proposed on the property, how much of the property/structure can be utilized for said use, what screening or buffering is required, noise requirements, number of employees, etc. However, in a random evaluation of conditional use permit files that are currently archived (pre-year 2000), staff was able to easily locate ten (10) older conditional use permits that contained either no conditions or very few attached to the use. It is evident that many more exist. Examples include:

- 1994 Lokomotion, College Avenue – one condition, to review the use again in one year
- 1991 Youthbridge Emergency Youth Shelter and Rehabilitation Facility, Crossover – no conditions
- 1993 National Home Center/Home Depot, Shiloh – no conditions
- 1989 Church in mobile home in Sunbridge Mobile Home park – no conditions
- 1978 Recycled Aluminum Furnace Operation, Poplar – no conditions
- 1976 In-home day care, Winwood – one condition, maximum 16 children
- 1990 Mini-storage, Wedington – no conditions
- 1992 Skateboard Park, Prairie – no conditions
- 1991 Bed & Breakfast, S. Hill – no conditions
- 1990 Antique Store, Mission – one condition, stripe parking spaces

The potential trouble with approvals of this nature - which by their very nature tend to need conditions of approval in order to make them compatible or they would be a “use by right” in that particular zoning district – is that in time the neighborhood surrounding the use may change, or the conditional use itself may evolve into something that was not anticipated when the application was filed, reviewed and approved. The most reasonable

solution to this is to take the item before the Planning Commission to review the use and ensure it remains compatible. Under current ordinances an approved conditional use permit may be reviewed under the following procedure: the Zoning and Development Administrator must receive a complaint of a violation, investigate, determine that a substantial violation of the Conditional Use Permit conditions is occurring, notify the owner to correct it and the owner chooses not to remedy that violation. Only then can the item be reviewed by the Planning Commission. However, it is evident that many conditional uses within the city could never meet this standard, due to the fact that there are little or no qualifying conditions to be violated when the use was granted by the Planning Commission. Given the fact that there are evidently many such uses within our City, staff feels it is proper to amend the existing ordinance to allow for these types of uses to be revisited, when appropriate.

DISCUSSION

The proposal is to add a "periodic review" subsection to §163.14. This review could only occur once every five years, upon petition by an adjacent property owner plus 50% of the property owners within 100 feet of the conditional use boundary. The idea is to have the periodic review be a procedure for the Planning Commission to review the compatibility of a conditional use permit if the majority of the neighborhood surrounding the use feels adversely affected. After a review, the Planning Commission may approve the use as is, add conditions of approval, or revoke the conditional use permit if it determines there are no conditions that could make the use compatible under existing standards.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING §163.14 OF THE UNIFIED DEVELOPMENT CODE TO PERMIT A PERIODIC REVIEW OF CONDITIONAL USE PERMITS AS DESCRIBED HEREIN.

WHEREAS, the Fayetteville Planning Commission and Board of Directors have adopted hundreds of conditional use permits over many decades; and

WHEREAS, older approved conditional use permits tend to be less detailed and oftentimes did not included conditions of approval; and

WHEREAS, some conditional use permits need to be reviewed at times for compatibility with the surrounding neighborhood; and

WHEREAS, the periodic review of a conditional use permit should be limited to review items that are in the public interest;

**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 §163.14 *Revocation or Change of Conditional Use* to add the following subsection "E":

§163.14 Revocation or Change of Conditional Use

"(E) *Periodic review.* In addition to the consideration of substantial violation provisions of (A), (B), and (C), the Planning Commission may periodically review and reconsider a conditional use permit under the following criteria:

(1) Receipt of a petition to review an approved conditional use permit from an adjacent property owner and 50% or more of the property owners within a 100-foot radius of the property on which the conditional use permit has been granted, in a form provided by the Planning Division. The property owners signing the petition must provide the reasons for which they feel reconsideration is warranted and how they are adversely affected by the approved conditional use permit.

(2) Upon receipt of a verified petition, the Planning Commission may review the conditional use permit and either approve the conditional use as it exists, modify the conditional use with new or altered conditions to achieve a greater degree of compatibility with adjacent

properties, or revoke the conditional use permit where additional conditions would not achieve a level of compatibility acceptable to the Commission.

(3) Appeals from the decision of the Planning Commission under this subsection shall follow the requirements of §155 Appeals of the Unified Development Code, for conditional use permits.

(4) The right to a periodic review of a conditional use under this subsection may only be exercised five years or longer after the conditional use permit was granted. No periodic review may be conducted more than one (1) time in a five (5) year period.

(5) This periodic review procedure is not applicable for wireless communication facilities and vital government facilities.”

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

TITLE XV. UNIFIED DEVELOPMENT CODE

conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

- (2) *Wireless communications facilities placed on sides of buildings.* Antennas which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

(E) *Exemptions.*

- (1) *Personal use.* Towers for personal use which, including the height of all antenna arrays, do not extend more than 80 feet from the ground and shall meet the current setbacks as required by zoning.
- (2) *Temporary structures.* Temporary structures designed to be used for not more than 14 days in connection with a special event or for any reasonable period of time in and immediately following an emergency, including without limitation those towers which are identified as "C.O.W.s" or "Cellular on Wheels."
- (3) *Existing towers.* All existing towers may be replaced with the same type and height of tower structure as currently exists. All replacement towers shall comply with §163.14(A) and (B) regarding color of towers, structural integrity and inspections of towers, security fencing and anti-climbing device, and vegetative screening requirements. All existing guyed towers shall also be subject to the following conditions:
- (a) A demolition permit shall be issued prior to a building permit being issued for the replacement tower;
- (b) The demolition permit shall expire within 90 days and shall require the existing tower to be demolished within 90 days from issuance of the building permit for the replacement tower;
- (c) The new tower shall be constructed as close as technically feasible to the existing tower;
- (d) The replacement structure may be increased in width to a maximum of 36 inches. Existing guyed towers over 36 inches shall not be increased in width with a replacement tower.

- (4) *Emergency and utility towers and antennas.* Towers and antennas under 35 feet in height used for 9-1-1 services and utility monitoring (gas, water, sewer, traffic lights, etc.).

- (F) *Municipal profits from towers.* The City of Fayetteville should actively market its own property and existing structures as suitable co-location sites. As noted above, the review process is shortened and simplified when co-location on city property is submitted by applicant. An annual lease amount should be charged according to the fair market value of the location. In cases where the company no longer needs the tower, the city may require it to be removed. Applicants can provide co-location space for city-owned antenna.

- (G) *Abandoned antennas and towers.* At such time that a licensed carrier abandons or discontinues operation of a wireless communication facility, such carrier will notify the city of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that licensed carrier fails to give such notice, the wireless communications facility shall be considered abandoned upon such discontinuation of operations. Upon abandonment or discontinuation of use, the carrier shall physically remove the wireless communications facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- (1) Removal of antenna, equipment shelters and security barriers from the subject property;
- (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations;
- (3) Restoring the location of the wireless communications facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

- (H) *Notification of change of ownership/operator.* Upon assignment or transfer of a conditional use permit, or any of the rights thereunder to a new wireless telecommunications operator, the owner or operator shall provide written notice within 30 days to the Zoning and Development Administrator.

(Ord. No. 4178, §4, 8-31-99; Ord. No. 4285, 1-2-01; Ord. 4856, 4-18-06)

163.14 Revocation Or Change Of Conditional Use

CD 163:11

Current law

Fayetteville Code of Ordinances

- Current Law** →
- (A) Upon receipt by the Planning Department of a written complaint by a Fayetteville resident that a holder of a conditional use has substantially violated or is violating any term or condition of the conditional use, the Planning Department shall investigate this complaint to determine if it is substantiated.
 - (B) If the Planning and Zoning Administrator determines that the complaint is substantiated, official notification by letter outlining the violation shall be sent to the holder of the conditional use requiring immediate compliance with all conditions and terms of approval of the conditional use and noting the substantiated complaint.
 - (C) If the Zoning and Development Administrator determines that the holder has violated the terms of the conditional use and failed to promptly and voluntarily correct its failures, the Zoning and Development Administrator shall refer the existing conditional use to the Planning Commission for its review. After a hearing for all interested persons, the Planning Commission may amend or add conditions to the conditional use, may revoke a conditional use for substantial violations of the existing terms and conditions of the conditional use, or may reaffirm that the holder has complied with all terms of its conditional use.
 - (D) Except in extraordinary circumstances, the Zoning and Development Administrator shall not refer any alleged violations of a specific conditional use to the Planning Commission more often than once per year.

Ord. 4837, 02-21-06)

163.15 Transit System Shelters

- Add (E)** →
- (A) *Intent.* Transit System Operators may apply for a conditional use permit to allow for the location of bus shelters in, or adjacent to, the right of way of public streets subject to the following conditions and requirements. A variance is not required for transit system shelters located outside of the right-of-way but within the building setback. Transit system benches that are not sheltered from the elements may be located at bus stops with the approval of the Director of Development Services.
 - (1) Requirements for locating, constructing and maintaining a transit system bus shelter are as follows:
 - (a) The bus shelter conditional use permit application shall require a site plan illustrating the location and dimensions of the proposed structure, the street

right of ways and any existing utility easements.

- (b) A transit system shelter or structure shall not be required to meet the building or master street plan setback, as these structures are intended to be located in a convenient area for the use by the general public awaiting transit.
- (c) The City may require that the transit system provide a provision authorizing the City to remove, without liability, any part of a facility for which a permit has been issued if there is a lawful need for the site or for access to the site.
- (d) The City may require the transit system to provide public liability insurance.
- (e) The City may require that the transit system provide and pay for any necessary or essential traffic and safety studies.
- (2) The Planning Commission may issue a bus shelter conditional use permit based on the following findings:
 - (a) The improvement or facility will not be located, extend onto, or intrude on the roadway or the sidewalk to such an extent as to impede the area needed for vehicular traffic or pedestrian use.
 - (b) The improvement or facility will not create a hazardous condition or obstruction of vehicular or pedestrian travel on the street or sidewalk.
 - (c) The design and location of the facility includes all reasonable planning to minimize the potential for injury or interference to the public in the use of the municipal street or sidewalk.
- (3) Additional bus shelter elements may be required to be installed and maintained by the Transit System Operator. These may include but shall not be limited to:
 - (a) A concrete pad on which to locate the shelter and accompanying street furniture.
 - (b) Transit system shelters located within 20 feet of an existing street or parking lot light may not have additional lighting requirements.
 - (c) An integrated or detached "wayfinding totem" to identify location and bus

City of Fayetteville Staff Review Form

C. 1
Home Depot Foundation/SCI
Pilot Cities Grant
Page 1 of 4

City Council Agenda Items
and
Contracts, Leases or Agreements

6/15/2010

City Council Meeting Date
Agenda Items Only

John Coleman
Submitted By

Division

Sustainability
Department

Action Required:

Approve \$100,000 match for \$500,000 grant from Home Depot Foundation. The original intent of these funds is not being shifted by dedicating them as a match for this grant. See attached memo for description of grant opportunity.

\$50,000 (Nutrient Reduction)	\$660,078 (Nutrient Reduction)	Nutrient Reduction
\$ 50,000.00	\$ 1,248,847.00	Trails
Cost of this request	Category / Project Budget	Program Category / Project Name
4470.9470.5817.00 (Nutrient Reduction)	\$334,032.85 (Nutrient Reduction)	Nutrient Reduction
4520.9550.5814.05 (trails)	\$ 130,894.00	Trails
Account Number	Funds Used to Date	Program / Project Category Name
02097 (Nutrient Reduction)	\$326,045.15 (Nutrient Reduction)	Nutrient Reduction
036.1 (trails)	\$ 1,117,953.00	Trails
Project Number	Remaining Balance	Fund Name

Budgeted Item

☒

Budget Adjustment Attached

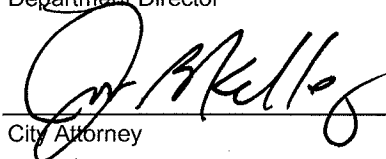
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Department Director

Date

5/28/10

Previous Ordinance or Resolution #

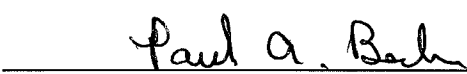

City Attorney

Date

6/1/10

Original Contract Date:

Original Contract Number:


Finance and Internal Services Director

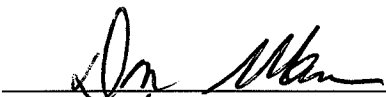
Date

6/2/2010

Received in City
Clerk's Office

ENTERED

6/2/10


Chief of Staff

Date

6/2/10

Received in
Mayor's Office

ENTERED

6/1/10


Mayor

Date

6/2/10

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8272

CORRESPONDENCE

TO: Mayor Jordan and City Council
FROM: John Coleman, Sustainability Director *JC*
Thru: Jeremy Pate, Director of Development Services *JP*
Don Marr, Chief of Staff
DATE: May 28, 2010
SUBJECT: SCI Pilot Cities Grant

Description

In 2009, the Home Depot Foundation created the Sustainable Cities Institute (SCI) and committed \$400 million over ten years to affordable housing and urban forestry projects.

The SCI Pilot Cities program is the next phase of the Foundation's effort to support the development of sustainable communities. This program is comprised of sustainability-related experts who will serve as an on-the-ground resource to a city in the development and/or implementation of a project or initiative that exemplifies this holistic, long-term approach to sustainability planning and implementation which in turn will lead to a safer, healthier city.

Fayetteville was one of thirty-seven cities invited to submit a letter of intent to become a SCI Pilot City. On May 21st the City was short-listed based on its initial application as one of eight cities to submit a full proposal. If awarded, this designation will include a \$500,000 grant with additional fundraising support from the Home Depot Foundation to complete the following:

- An affordable housing project in the community,
- development of a sustainability initiative, and
- an assessment of current sustainability efforts.

The City has chosen to partner with the National Center for Appropriate Technology as the lead non-profit for this grant. NCAT has extensive national experience with the development of affordable housing projects, and one of its regional offices is located in the Walker Building on Center Street in Fayetteville.

Affordable Housing Project

Project partners also include Partners for Better Housing (PBH), which owns 7.5 acres in the Walker Park Neighborhood to develop the Houses at Willow Bend. Through a request for qualifications process, PBH hired Community by Design to design the Willow Bend Project. A portion of the initial grant dollars will go towards a design that will incorporate a holistic approach to sustainable design including energy efficient homes, eco-friendly materials, and a low impact footprint on the existing property.

Sustainability Initiatives

Given the City Council's unanimous support for the Low Impact Development (LID) ordinance, the City has chosen a LID technical engineering manual as one of two sustainability initiatives. This manual will define the calculations necessary to design LID projects in Fayetteville for both City and private-sector engineers.

The second initiative will tie the Walker Park Neighborhood to the City's main trail system by constructing a spur from Frisco Trail at the Mill District.

Budget Impact

The SCI Pilot Cities grant requires a \$50,000 match. Within the existing Trail bond and the Nutrient Reduction Plan we have identified \$100,000 that will qualify as match for the grant without changing the original intent of the budgeted items. By providing double the match it also provides a more attractive grant proposal.

Finally, any new money that is received for the purpose of trail construction has a strong potential for a one to one match by the Walton Family Foundation.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING APPLICATION AND ACCEPTANCE OF A HOME DEPOT FOUNDATION/SCI PILOT CITIES GRANT IN THE AMOUNT OF \$500,000.00, WITH A CITY MATCHING AMOUNT OF \$100,000.00, TO COMPLETE AN AFFORDABLE HOUSING PROJECT, DEVELOP A SUSTAINABILITY INITIATIVE, AND PERFORM AN ASSESSMENT OF CURRENT SUSTAINABILITY EFFORTS

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 application and acceptance of a Home Depot Foundation/SCI Pilot Cities grant in the amount of \$500,000.00, with a city matching amount of \$100,000.00, to complete an affordable housing project, develop a sustainability initiative, and perform an assessment of current sustainability efforts.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

City of Fayetteville Staff Review Form

C. 2
Highway 16
Improvements Project
Page 1 of 12

City Council Agenda Items
and
Contracts, Leases or Agreements

6/15/2010

City Council Meeting Date
Agenda Items Only

Chris Brown *CB*

Submitted By

Engineering

Division

Development Services

Department

Action Required:

A Resolution Amending the Scope of the Highway 16 Improvements Project

\$ -

Cost of this request

\$ 20,547,515.00

Category / Project Budget

Transportation Bond Street Improvements

Program Category / Project Name

4520.9520.5809.00

Account Number

\$ 5,429,264.42

Funds Used to Date

Transportation Bonds

Program / Project Category Name

06035

Project Number

\$ 15,118,250.58

Remaining Balance

2006A Sales Tax Construction

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐
James C. Pate
Department Director

05-28-2010
Date

Previous Ordinance or Resolution #

Dr. B. Kelley
City Attorney

6-1-10
Date

Original Contract Date:

Original Contract Number:

Paul A. Baden
Finance and Internal Services Director

6-2-2010
Date

 Received in City
Clerk's Office

 ENTERED
5/28/10 *king*
Ann Allen
Chief of Staff

6-2-10
Date

 Received in
Mayor's Office

 ENTERED
6/1/10 *pb*
Donald Jordan
Mayor

6/2/10
Date

Comments:

CITY COUNCIL AGENDA MEMO

Council Meeting of June 15, 2010

To: Mayor and City Council

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

From: Chris Brown, City Engineer *CB*

Date: May 28, 2010

Subject: A Resolution Amending the Scope of the Highway 16 Improvements Project

PROPOSAL:

Improvements to Highway 16, from College Avenue to Stonebridge Road, are included in the City's Transportation Bond Program. Design and construction of the project is being managed by the Arkansas Highway and Transportation Department (AHTD). The City's agreement with AHTD is based on the following two documents, both of which are attached:

- A letter from the Arkansas State Highway Commission that estimated the project cost at \$10 million.
- Council Resolution No. 101-06, which expresses the City's willingness to pay 50% of the cost of the project, up to \$5 million.

A letter from AHTD dated June 25, 2009 indicated that the estimated project cost had risen to \$23.81 million and requested a proposal from the City for either reducing the scope of the project or committing additional funding to the project. Based on this information, the Street Committee at the January 26, 2010 meeting recommended the following proposal to the AHTD:

- Reduce the project scope by approximately 25%, to keep the construction cost within the original \$10 million amount.
- Maintain the City's contribution at 50% of the construction cost, up to \$5 million.
- Request that the Department agree to fund the remainder of the costs of the project, with the new project scope being segments 1, 2 and 3 as indicated in the attached exhibit.

This proposal was submitted to the AHTD by letter dated February 10, 2010.

In April 2010, we received the attached letter from AHTD in response to our proposal. The letter referenced the previously approved City Resolution No. 101-06 that committed the City to 50% of the total project cost, up to

\$5 million, and Arkansas Highway Commission Minute Order No. 2007-029 committing AHTD to 50% of the total project cost. The letter also included an updated total project cost of \$17.44 million.

As the letter states, the AHTD is prepared to proceed with only segments 1 and 2, at a total estimated cost of \$9,533,000, in order to remain within the \$10 million project limit.

RECOMMENDATION

The following recommendations were presented to the Street Committee on May 26, 2010:

- a) Reduction of the project scope to only segments 1 and 2 (Huntsville Avenue, from Happy Hollow Road to approximately 1,000 feet east of Stonebridge Road, and 15th Street from Armstrong Ave. to Happy Hollow Road) as suggested by AHTD, so that the total project cost is reduced to an estimated \$9,533,000. The City's commitment to pay 50% of the total project, up to \$5,000,000 will remain the same.
- b) AHTD's commitment to fund 50% of the total project, up to \$5,000,000, remains the same.
- c) If the total costs for the revised project are less than \$10 million, the City and AHTD agree to a 50/50 cost share for additional construction, design, right of way acquisition, or other project development tasks for the unfunded portions of 15th Street and Happy Hollow Road, up to a total of \$10 million. Work to be completed with the leftover funds will be mutually agreed upon by the City and AHTD before work begins.

The Street Committee voted to recommend approval of a Resolution including the above items.

BUDGET IMPACT

There is no cost associated with this request at this time. However, in the future the city will be obligated to pay 50% of the project cost up to \$5,000,000 in order to utilize the state funds. These matching funds are currently being planned to be paid with through the Transportation Bond Program.

RESOLUTION NO. _____

A RESOLUTION AMENDING RESOLUTION 101-06 EXPRESSING
THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO
PARTICIPATE IN PARTIAL FUNDING OF THE PROPOSED
WIDENING OF HIGHWAY 16

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

Section 1. That the City Council of the City of Fayetteville, Arkansas,
hereby amends Resolution 101-06 and expresses its willingness to participate in
the partial funding of the proposed widening of Highway 16 as provided herein.

Section 2. That the City Council of the City of Fayetteville, Arkansas,
hereby expresses its willingness to pay 50% of the costs for segments 1 and 2 of
this project up to a maximum of \$5,000,000.00, including all costs associated with
construction, right-of-way acquisition, utility adjustments and construction
engineering. Should total costs for segments 1 and 2 be less than \$10,000,000.00,
the City agrees to cost share with the Arkansas Highway and Transportation
Department on a 50/50 basis for additional construction, design, right of way
acquisition, or other project development tasks for the unfunded portions of 15th
Street and Happy Hollow Road, up to a total cost of \$10,000,000.00.

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk

ARKANSAS STATE HIGHWAY COMMISSION

GARY P. "PRISSY" HICKERSON
CHAIRMAN
TEXARKANA

JONATHAN BARNETT
VICE CHAIRMAN
SILOAM SPRINGS

CARL S. ROSENBAUM
LITTLE ROCK



RECEIVED

APR 27 2006

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

MADISON MURPHY
EL DORADO

JOHN ED REGENOLD
ARMOREL

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
PHONE (501) 569-2000 FAX (501) 569-2400
WWW.ARKANSASHIGHWAYS.COM

April 24, 2006

The Honorable Dan Coody
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Coody:

Reference is made to recent conversations between Mr. Gary Dumas and Frank Vozel concerning the City's willingness to participate in partial funding of the proposed widening of Highway 16 from Highway 71B east to Stone Bridge Road (see enclosed sketch).

As you are aware, we are currently in the process of developing our Statewide Transportation Improvement Program (STIP) for years 2007 through 2010. Because of your willingness to partner, this project is being considered for 2009 at an estimated cost of \$10.0 million.

It is our understanding that the City is willing to pay 50 percent of the cost of this project, up to \$5.0 million. The cost would include construction, right-of-way acquisition, utility adjustments and construction engineering. It is requested that the City provide a Resolution referring specifically to the proposed project and to the level of funding committed to the project. The City's Resolution and your letter will serve as Fayetteville's commitment to this project.

Thank you for your support of Arkansas' transportation system. We look forward to working with you on this project. If you have any questions, please let me know.

Sincerely,

Dan Flowers
Director of Highways
and Transportation

Enclosure

c: Commissioner Jonathan Barnett
Chief Engineer
Assistant to the Director
Assistant Chief Engineer - Planning
Programs and Contracts
Planning and Research
District 4 Engineer
Mr. Gary Dumas

RESOLUTION NO. 101-06

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO PARTICIPATE IN PARTIAL FUNDING OF THE PROPOSED WIDENING OF HIGHWAY 16 FROM HIGHWAY 71B EAST TO STONE BRIDGE 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 expresses its willingness to participate in the partial funding of the proposed widening of Highway 16 from Highway 71B east to Stone Bridge Road.

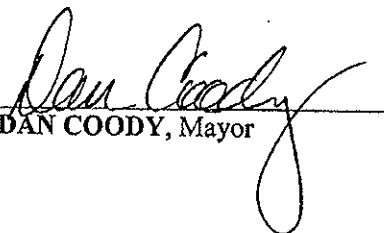
Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby expresses its willingness to pay 50% of the construction cost for this project up to a maximum of \$5,000,000.00, including all costs associated with construction, right-of-way acquisition, utility adjustments and construction engineering.

PASSED and APPROVED this 6th day of June, 2006.

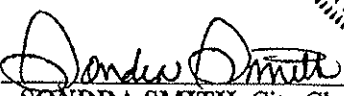
APPROVED:

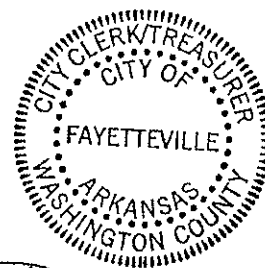
ATTEST:

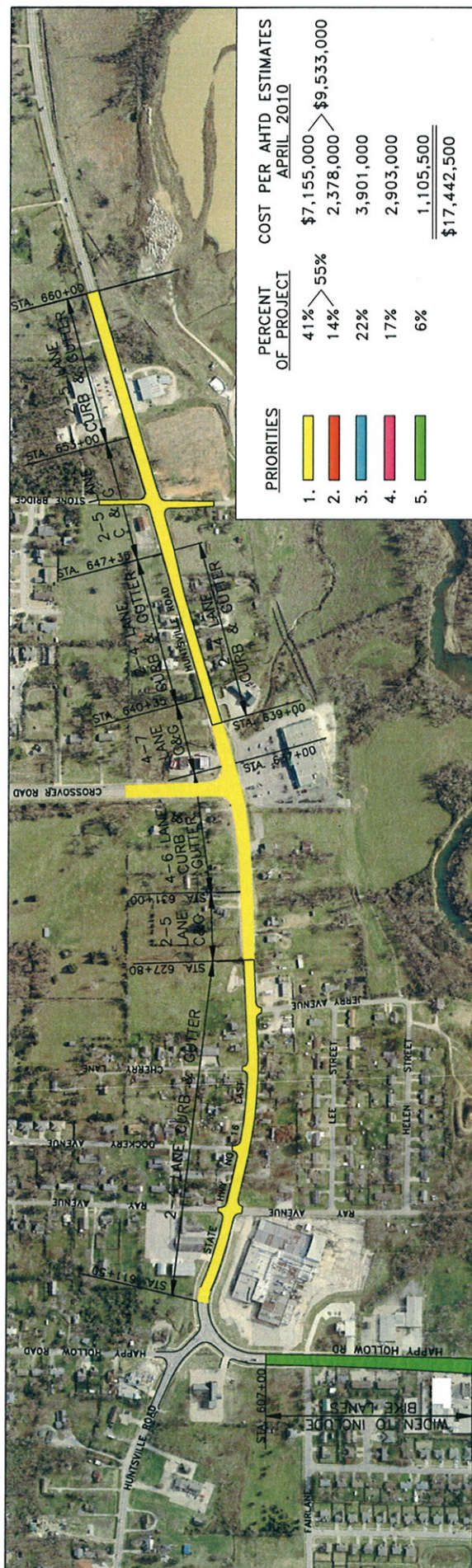
By:


DAN COODY, Mayor

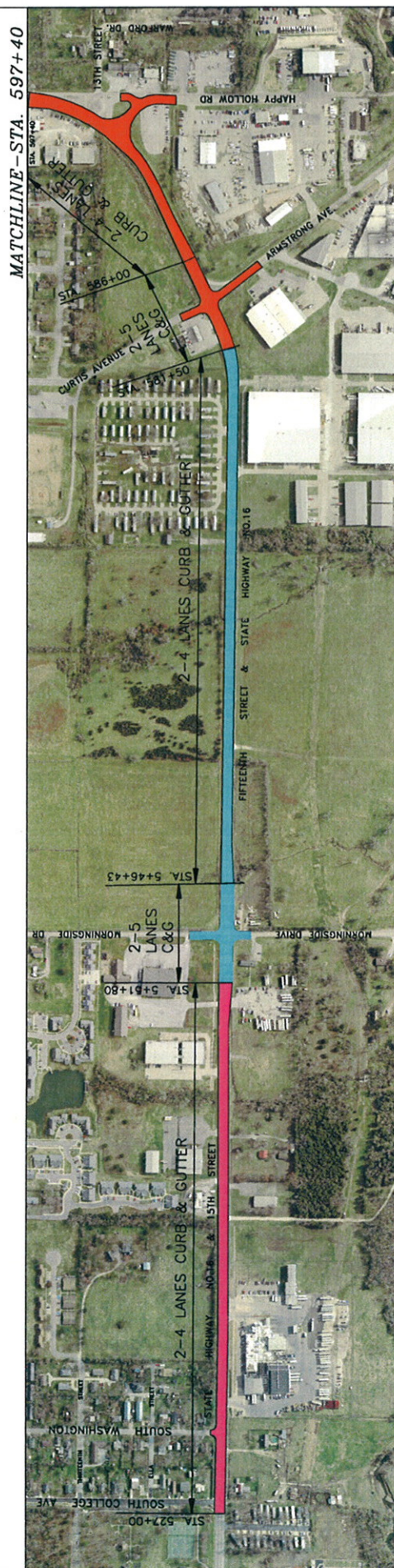
By:


SONDRA SMITH, City Clerk





MATCHLINE - STA. 597+40



MATCHLINE - STA. 597+40

TOTAL PROJECT COST
 EVALUATION PLAN
 USING AHTD COST ESTIMATES

STATE HWY 16 IMPROVEMENTS
 S. COLLEGE AVE. to STONEBRIDGE RD.

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Phone (501) 569-2000 Fax (501) 569-2400



P.O. Box 2261
Little Rock, Arkansas 72203-2261
WWW.ARKANSASHIGHWAYS.COM

April 8, 2010

Mr. Chris Brown, P.E.
Fayetteville City Engineer
125 West Mountain Street
Fayetteville, AR 72701

Re: Job 040486
F.A.P. STP-9142(23)
College Ave.-Stonebridge Rd.
(Fayetteville) (S)
Washington County

Dear Mr. Brown:

Reference is made to the City's February 10, 2010 letter and proposal regarding the subject project.

As stated in Section 2 of the City of Fayetteville Resolution No. 101-06, the City was willing "to pay 50% of the construction cost for this project up to a maximum of \$5,000,000.00, including all costs associated with construction, right-of-way acquisition, utility adjustments and construction engineering." The Arkansas Highway Commission subsequently approved Minute Order No. 2007-029 authorizing the Director to proceed with the project based on the City's contribution of 50% of the total costs.

Because the Department has limited funds available and the City is unable to increase their contribution, we can only proceed with a project for which the total cost is \$10.0 million. Accordingly, we have reviewed the estimated costs of preliminary engineering, right-of-way acquisition, utility relocation, construction, and construction engineering for the segment priorities presented with your proposal. As shown in the enclosed estimate, the total for all segments is \$17.4 million.

Using the present estimates of costs, only segments 1 and 2 at a cost of \$9.5 million can be accomplished with the \$10 million in total funds made available by the City and the

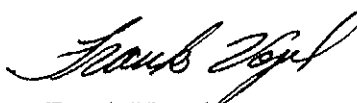
Mr. Chris Brown, P.E.
Fayetteville City Engineer
April 8, 2010

Page 2

Commission. If the City is agreeable to this, please notify the Department in writing and we will continue project development for these sections.

If you have any additional questions or comments regarding development of this project, please advise.

Sincerely,



Frank Vozel
Deputy Director and
Chief Engineer

Enclosure

c: Director
Assistant Chief Engineer-Planning
Assistant Chief Engineer-Design
Programs and Contracts
Environmental
Planning and Research
Right of Way
Roadway Design
District 4
Job 040486 'C' File

**Job 040486, College Ave.-Stonebridge Rd. (Fayetteville) (S)
F.A.P. STP-9142(23), Washington County
Revised Interim Estimate (Total Cost)**

<u>(1) Segment 1: Sta. 611+50 - Sta. 660+00</u>			
	<u>Total</u>	<u>State</u>	<u>Local</u>
Preliminary Engineering:	\$ 255,000.00	\$ 127,500.00	\$ 127,500.00
Right-of-way:	745,000.00	372,500.00	372,500.00
<u>(4) Utilities:</u>	<u>545,000.00</u>	<u>272,500.00</u>	<u>272,500.00</u>
Construction:	5,100,000.00	2,550,000.00	2,550,000.00
Construction Engineering:	<u>510,000.00</u>	<u>255,000.00</u>	<u>255,000.00</u>
Sub-Total Segment 1:	\$ 7,155,000.00	\$ 3,577,500.00	\$ 3,577,500.00
<u>(2) Segment 2: Sta. 581+50 - Sta. 597+40</u>			
Preliminary Engineering:	\$ 90,000.00	\$ 45,000.00	\$ 45,000.00
Right-of-way:	127,000.00	63,500.00	63,500.00
<u>(4) Utilities:</u>	<u>181,000.00</u>	<u>90,500.00</u>	<u>90,500.00</u>
Construction:	1,800,000.00	900,000.00	900,000.00
Construction Engineering:	<u>180,000.00</u>	<u>90,000.00</u>	<u>90,000.00</u>
Sub-Total Segment 2:	\$ 2,378,000.00	\$ 1,189,000.00	\$ 1,189,000.00
<u>(3) Segment 3: Sta. 551+80 - Sta. 581+50</u>			
	<u>Total</u>	<u>State</u>	<u>Local</u>
Preliminary Engineering:	\$ 130,000.00	\$ 65,000.00	\$ 65,000.00
Right-of-way:	225,000.00	112,500.00	112,500.00
<u>(4) Utilities:</u>	<u>686,000.00</u>	<u>343,000.00</u>	<u>343,000.00</u>
Construction:	2,600,000.00	1,300,000.00	1,300,000.00
Construction Engineering:	<u>260,000.00</u>	<u>130,000.00</u>	<u>130,000.00</u>
Sub-Total Segment 3:	\$ 3,901,000.00	\$ 1,950,500.00	\$ 1,950,500.00
<u>Segment 4: Sta. 527+00 - Sta. 551+80</u>			
Preliminary Engineering:	\$ 110,000.00	\$ 55,000.00	\$ 55,000.00
Right-of-way:	150,000.00	75,000.00	75,000.00
<u>(4) Utilities:</u>	<u>223,000.00</u>	<u>111,500.00</u>	<u>111,500.00</u>
Construction:	2,200,000.00	1,100,000.00	1,100,000.00
Construction Engineering:	<u>220,000.00</u>	<u>110,000.00</u>	<u>110,000.00</u>
Sub-Total Segment 4:	\$ 2,903,000.00	\$ 1,451,500.00	\$ 1,451,500.00
<u>Segment 5: Sta. 597+40 - Sta. 607+00</u>			
Preliminary Engineering:	\$ 35,500.00	\$ 17,750.00	\$ 17,750.00
Right-of-way:	75,000.00	37,500.00	37,500.00
<u>(4) Utilities:</u>	<u>214,000.00</u>	<u>107,000.00</u>	<u>107,000.00</u>
Construction:	710,000.00	355,000.00	355,000.00
Construction Engineering:	<u>71,000.00</u>	<u>35,500.00</u>	<u>35,500.00</u>
Sub-Total Segment 5:	\$ 1,105,500.00	\$ 552,750.00	\$ 552,750.00
Total:	\$ 17,442,500.00	\$ 8,721,250.00	\$ 8,721,250.00

(1) Includes two signalized intersections

(2) Includes one signalized intersection

(3) Includes one signalized intersection

(4) Reimbursable utilities only

Note:

Stationing included in this estimate is approximate and should only be used for planning purposes.

City of Fayetteville Staff Review Form

C. 3
RZN 10-3566 (932 Garland)
Page 1 of 30

City Council Agenda Items
and
Contracts, Leases or Agreements

6/15/2010

City Council Meeting Date
Agenda Items Only

Andrew Garner

Submitted By

Planning

Division

Development Services

Department

Action Required:

RZN 10-3566: (932 Garland, 444): Submitted by Kelly Ellis for property located at 932 Garland Avenue. The property is zoned R-PZD, Residential Planned Zoning District 06-2256 (932 Garland), and contains approximately 0.84 acres. The request is to rezone the subject property to R-O, Residential Office and RMF-40, Residential Multi-Family, 40 units per acre.

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

☐

James C. B...
Department Director

05-27-2010

Date

Previous Ordinance or Resolution #

Original Contract Date:

Kelly Ellis
City Attorney

May 27-2010

Date

Original Contract Number:

Paul A. Becher
Finance and Internal Services Director

5-27-2010

Date

Received in City
Clerk's Office



Kim J

Don Man
Chief of Staff

5-28-10

Date

Received in
Mayor's Office



Donnell Jordan
Mayor

6/1/10

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Development Services Director &

From: Andrew Garner, Senior Planner

Date: May 26, 2010

Subject: RZN 10-3566 (932 North Garland)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property from R-PZD 06-2256 (932 Garland) to R-O, Residential Office and RMF-40, Residential Multi-Family 40 Units Per Acre.

BACKGROUND

The subject property is located on the east side of Garland Avenue, between Berry and Hughes Street. The property contains several parcels totaling approximately 0.84 acres that is currently developed with an office and single family homes. The property is bounded by Hughes Street to the north, Berry Street to the south, Garland Avenue to the west, and a 20-foot public alley to the east. The property was previously zoned R-O, Residential Office and RMF-40, Residential Multi-Family 40 Units per Acre. On December 5, 2006 the City Council approved a request to rezone the property to its current zoning, R-PZD 06-2256 (932 Garland). The PZD zoning district allowed 37 dwelling units and 22,854 square feet of non-residential use.

The R-PZD was never developed and the approval expired one year from its original approval. With the expiration of the R-PZD, development or subdivision of the property is not permitted unless the R-PZD is revoked and/or the zoning is changed. The applicant requests to return the property to the zoning that was in place prior to the R-PZD.

DISCUSSION

This item was heard at the regular Planning Commission meeting on May 24, 2010. The Planning Commission voted 7-0-0 to forward this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 10-3566, FOR APPROXIMATELY 0.84 ACRES, LOCATED AT 932 GARLAND AVENUE FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT 06-2256 (932 GARLAND), TO R-O, RESIDENTIAL OFFICE AND RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE

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

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

From R-PZD, Residential Planned Zoning District 06-2256 (932 Garland) to R-O, Residential Office and RMF-40, Residential Multi-Family, 40 units per acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

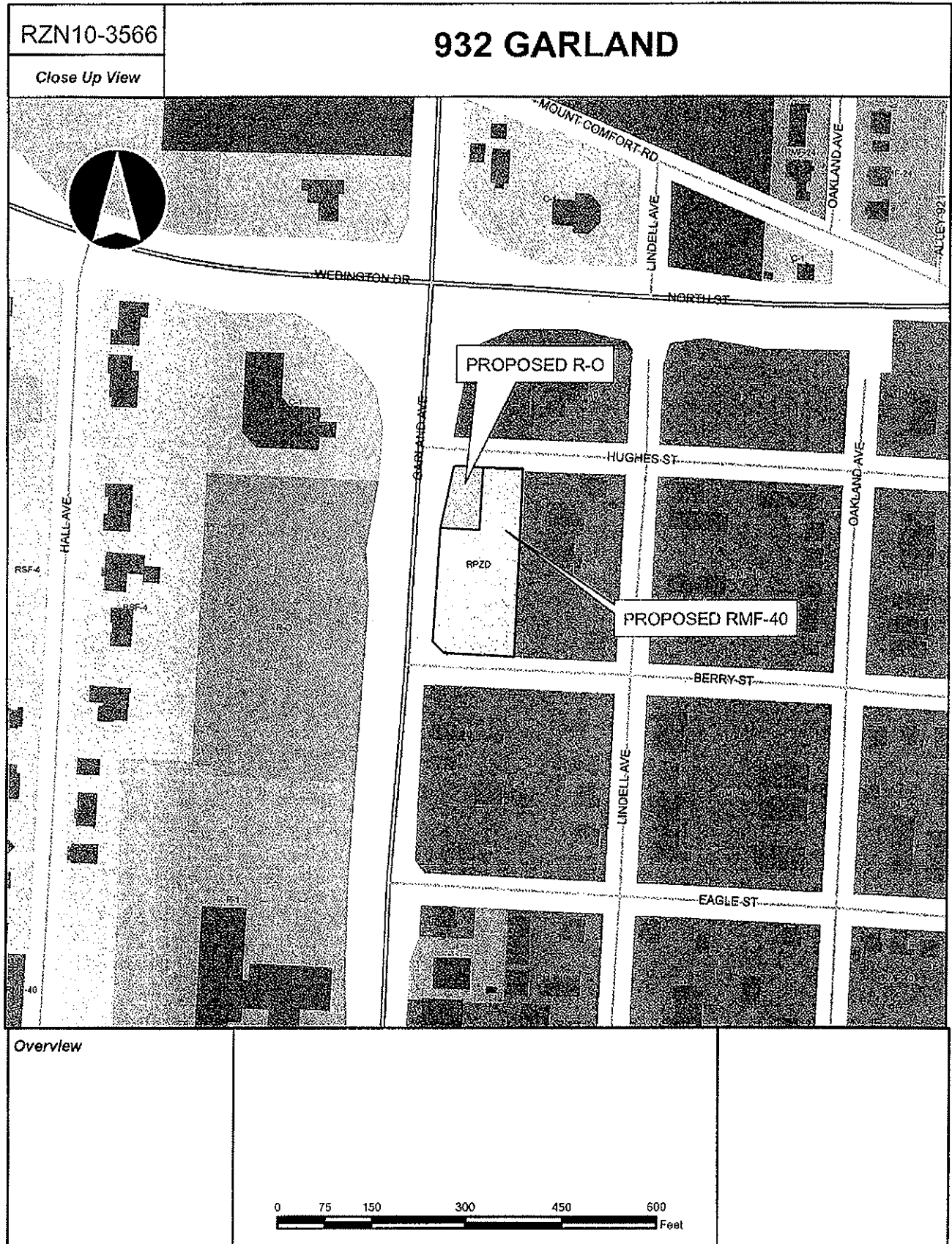


EXHIBIT "B"
RZN 10-3566

TO BE REZONED R-O, RESIDENTIAL OFFICE:

SURVEY DESCRIPTION 932 N. GARLAND AVENUES

A PART OF LOTS NUMBERED ELEVEN (11), AND TWELVE (12), ALL IN BLOCK NUMBERED FIVE (5) OF ROSE HILL ADDITION, AN ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT ELEVEN (11), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N86°45'34"E 63.71 FEET ALONG THE SOUTH LINE OF SAID LOT ELEVEN (11) TO THE TRUE POINT OF BEGINNING; THENCE N86°45'34"W 61.32 FEET ALONG THE SOUTH LINE OF SAID LOT ELEVEN (11) TO AN EXISTING 1/2" IRON REBAR ON THE EAST RIGHT-OF-WAY LINE OF ARKANSAS HIGHWAY #112 (GARLAND AVENUE) AS RELOCATED BY THE ARKANSAS HIGHWAY COMMISSION; THENCE N12°43'57"E 101.05 FEET TO AN EXISTING IRON REBAR ON THE NORTH LINE OF SAID LOT TWELVE (12); THENCE LEAVING SAID RIGHT-OF-WAY LINE S86°43'23"E 44.72 FEET ALONG THE NORTH LINE OF SAID LOT TWELVE (12) TO A POINT; THENCE S03°16'37"W 99.64 FEET TO THE POINT OF BEGINNING.

TO BE REZONED RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE:

SURVEY DESCRIPTION HUGHES STREET

A PART OF LOTS NUMBERED ELEVEN (11), AND TWELVE (12), ALL IN BLOCK NUMBERED FIVE (5) OF ROSE HILL ADDITION, AN ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT ELEVEN (11), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N86°45'34"E 63.71 FEET ALONG THE SOUTH LINE OF SAID LOT ELEVEN (11) TO A POINT; THENCE N03°16'37"E 99.64 FEET TO A POINT ON THE NORTH LINE OF SAID LOT TWELVE (12); THENCE S86°43'23"E 62.36 FEET TO AN EXISTING IRON AT THE NORTHEAST CORNER OF SAID LOT TWELVE (12); THENCE S02°30'00"W 99.61 FEET TO THE POINT OF BEGINNING.

&

SURVEY DESCRIPTION REMAINDER

A PART OF LOTS NUMBERED SEVEN (7), EIGHT (8), NINE (9), TEN (10) ALL IN BLOCK NUMBERED FIVE (5) OF ROSE HILL ADDITION, AN ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT SEVEN (7), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N86°50'55"W 109.61 FEET ALONG THE SOUTH LINE OF SAID LOT SEVEN (7) TO AN EXISTING 1/2" IRON REBAR ON THE EAST RIGHT-OF-WAY LINE OF ARKANSAS HIGHWAY #112 (GARLAND AVENUE) AS RELOCATED BY THE ARKANSAS HIGHWAY COMMISSION; THENCE N44°02'02"W ALONG SAID RIGHT-OF-WAY LINE 26.93

FEET TO AN EXISTING 1/2" IRON REBAR; THENCE N03°48'11"E ALONG SAID RIGHT-OF-WAY LINE 181.10 FEET TO AN EXISTING IRON REBAR; THENCE LEAVING SAID RIGHT-OF-WAY LINE S86°45'34"E 125.03 FEET TO AN EXISTING IRON REBAR AT THE NORTHEAST CORNER OF SAID LOT TEN (10); THENCE S02°30'00"W 199.21 FEET TO THE POINT OF BEGINNING.



THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 24, 2010

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Development Services Director
DATE: ~~May 20, 2010~~ *Updated May 26, 2010*

RZN 10-3566: (932 GARLAND / JORDAN HOLDINGS, 444): Submitted by KELLY ELLIS for property located at 932 GARLAND AVENUE. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT 932 GARLAND, and contains approximately 0.84 acres. The request is to rezone the subject property from R-PZD, Residential-Planned Zoning District to R-O, Residential Office and RMF-40, Residential Multi-Family, 40 Units per Acre.

Planner: Andrew Garner

BACKGROUND:

Property description and background: The subject property is located at 932 Garland Avenue, between Berry and Hughes Street. The property contains several parcels totaling approximately 0.84 acres that is currently developed with an office and single family homes. The property is bounded by Hughes Street to the north, Berry Street to the south, Garland Avenue to the west, and a 20-foot public alley to the east. The property was previously zoned R-O, Residential Office and RMF-40, Residential Multi-Family 40 Units per Acre. On December 5, 2006 the City Council approved a request to rezone the property to its current zoning, R-PZD 06-2256 (932 Garland). The PZD zoning district allowed 37 dwelling units and 22,854 square feet of non-residential use.

The R-PZD was never developed and the approval expired one year from its original approval. With the expiration of the R-PZD, development or subdivision of the property is not permitted unless the R-PZD is revoked and/or the zoning is changed.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Commercial strip center	C-2
South	Residential	RMF-40
East	Residential	RMF-40
West	Undeveloped	R-O

Proposal: The applicant proposes to repeal the R-PZD zoning and revert back to the zoning that was in place prior to the R-PZD, R-O and RMF-40. The R-O portion of the site would contain only the building at 932 Garland that is currently being used as an office, and the remainder of the property

would be zoned RMF-40. The process of revoking a PZD as an enforcement action is an option for this property. However, the applicant has submitted a request to rezone the property back to the original zoning. This action would enable the applicant to utilize and develop the property under the standards in place today.

INFRASTRUCTURE:

Streets: The site has access to Garland Avenue, Hughes Street, and Berry Street. Garland Avenue is a four lane state highway in this location. Hughes Street is an unimproved two lane paved city street in this location. Berry Street is an improved two lane paved city street in this location. Street improvements will be evaluated with development.

Water: Water is available to the property. There is a 12" public main located across Garland Avenue and a 2" main located on Berry Street. Public water main improvements may need to be constructed to provide domestic and fire flow for any proposed development.

Sewer: Sanitary sewer is available to the site. There is an 8" public main located along the west side of this property. The existing sanitary sewer may need to be analyzed to ensure that it has adequate capacity to serve a future development on this lot. Public mains may need to be extended through this property to serve any proposed development.

Fire: The subject property is located approximately a ¼ mile from Fire Station #2. Response time to the property is approximately 1.5 minutes. There should be no adverse effects on call volume.

Police: At the time of publication of this report not objections to this rezoning were provided by the Police Department.

RECOMMENDATION:

Staff recommends approval of the requested rezoning to R-O, Residential Office and RMF-40, Residential Multi-Family 40 Units per Acre based on the findings included as part of this report.

PLANNING COMMISSION ACTION: Required <u>YES</u>		
☒ Forward to City Council (recommend approval)	☐ Denied	
Date: <u>May 24, 2010</u>		
Motion: <u>Winston</u>		
Second: <u>Cabe</u>		
Vote: <u>7-0-0</u>		
CITY COUNCIL ACTION:		
Required <u>YES</u>	☐ Approved ☐ Denied	
Date: _____		

LAND USE PLAN: The Future Land Use Plan adopted as part of the City Plan 2025 designates this site **City Neighborhood Area**. Rezoning this property to R-O and RMF-40 would be consistent with this designation as these zonings would permit a mix of uses and high density residential development in the core of the City.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The subject property is located just north of the University of Arkansas in a compact and dense core area of the City with a mix of surrounding uses. This area of the City has existing public services and infrastructure. The site is designated as a City Neighborhood Area on the future land use plan. Rezoning the property to R-O, Residential Office for the existing office at 932 Garland and RMF-40 for the remainder of the property would be consistent with land use planning objectives, principles, and policies and to encourage compact, complete development and infill and revitalization in the City's core. The proposed zonings are also consistent with surrounding multi-family and commercial zonings and future development on this site under the proposed zonings would be compatible with surrounding development patterns.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: A rezoning of the property is justified at this time. Due to the fact that the PZD has expired the property cannot be developed or subdivided. Revoking or rezoning the current PZD are the only options that allow further development on the property. Rezoning the property is needed in order to obtain a reasonable economic use of the property. The applicant is requesting that the

site be rezoned to the zoning that was in place prior to the PZD. This is a reasonable and compatible request with the surrounding land uses and zoning.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Based on staff findings the proposed rezoning would not create or appreciably increase traffic danger and congestion in the area. The property is located in a busy core area of the City and is located adjacent to Garland Avenue, a Principal Arterial Street, and is also served by Hughes and Berry Streets which are Local Streets. The existing R-PZD zoning would have permitted a 37-unit multi-family residential development along with approximately 27,000 square feet of non-residential use. The proposed zoning would revert the property back to the R-O and RMF-40 districts. This would result in development with similar average daily vehicle trips and demand on the surrounding street system as the existing R-PZD zoning and would not create adverse traffic impacts.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Based on the findings from public services providers, as outlined in the introduction section of this report, an undesirable increase in load on public services would not be created.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.15 District RMF-40, Residential Multi-Family – Forty Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by CUP
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 24	Home occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	40 or less
----------------	------------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home park	3,000 sq. ft.
Townhouses & Apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.	8 ft.	20 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60 ft.
-------------------------	--------

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5224, 3-3-09; Ord. 5262, 8-4-09; Ord. 5312, 4-20-10)

161.17 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 25	Offices, studios, and related services

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park*
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies

(C) *Density.*

Units per acre	24 or less
----------------	------------

(D) *Bulk and area regulations.*
(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments:	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(E) *Setback regulations.*

Front	15 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside Overlay District	8 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside Overlay District	15 ft.

(F) *Building height regulations.*

Building Height Maximum	60 ft.
-------------------------	--------

Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4726, 7-19-05; Ord. 4943, 11-07-06; Ord. 5079, 11-20-07; Ord. 5195, 11-6-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10)

FIRE DEPARTMENT

C.3
RZN 10-3566 (932 Garland)
Page 15 of 30

From: Terry Lawson (City of Fayetteville Fire Marshall)
To: Slone, Amy
Date: 5/18/2010 10:05 AM
Subject: Re: zoning review tour

No objections.
TL

>>> Amy Slone 5/17/2010 11:30 AM >>>

Zoning Review Team:

See the requests below for one property requesting rezoning. Please review this item and respond to this email by the end of the day May 19, 2010. Let me or the individual planner assigned to the item know if you have any questions. A map indicating the project location is also attached.

Thank you,
Amy

RZN 10-3566: (932 GARLAND / JORDAN HOLDINGS, 444): Submitted by KELLY ELLIS for property located at 932 GARLAND AVENUE. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT 932 GARLAND, and contains approximately 0.84 acres. The request is to rezone the subject property from R-PZD, Residential-Planned Zoning District to R-O, Residential Office and RMF-24, Residential Multi-Family, 24 Units per Acre.
Planner: Andrew Garner

Amy Slone
Planning Technician
Development Services
City of Fayetteville

The U.S. Census takes place during March and April of this year. BE COUNTED! Your community is counting on you!

RZN 10-3566: (932 GARLAND / JORDAN HOLDINGS, 444): Submitted by KELLER
ELLIS for property located at 932 GARLAND AVENUE. The property is zoned R-PZD,
RESIDENTIAL PLANNED ZONING DISTRICT 932 GARLAND, and contains
approximately 0.84 acres. The request is to rezone the subject property from R-PZD,
Residential-Planned Zoning District to R-O, Residential Office and RMF-24, Residential
Multi-Family, 24 Units per Acre. Planner:
Andrew Garner

Public water is available to the property. There is a 12" public main located across Garland Avenue and a 2" main located on Berry Street. Public water main improvements may need to be constructed to provide domestic and fire flow for any proposed development.

Sanitary sewer is available to the site. There is an 8" public main located along the west side of this property. The existing sanitary sewer may need to be analyzed to ensure that it has adequate capacity to serve a future development on this lot. Public mains may need to be extended through the property to serve any proposed development.

The site has access to Garland Avenue, Hughes Street, and Berry Street. Garland Avenue is a four lane state highway in this location. Hughes Street is an unimproved two lane paved city street in this location. Berry Street is an improved two lane paved city street in this location. Street improvements will be evaluated with development submittal.

Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain.

TOPOGRAPHY SURVEY

REFERENCE INFORMATION

E #1
57.32
359.65
= 1359.63

E #2
39.93
392.28
= 1392.22

FORM INFORMATION

13.06
358.38
4.36
= 1350.31

11.67
367.87
= 1365.87

9.33
374.93
= 1374.88

4.38
379.93
= 1379.78

3.48
388.18
= 1388.13

4.04
389.94
0.74
= 1388.44

0.60
397.40
395.50

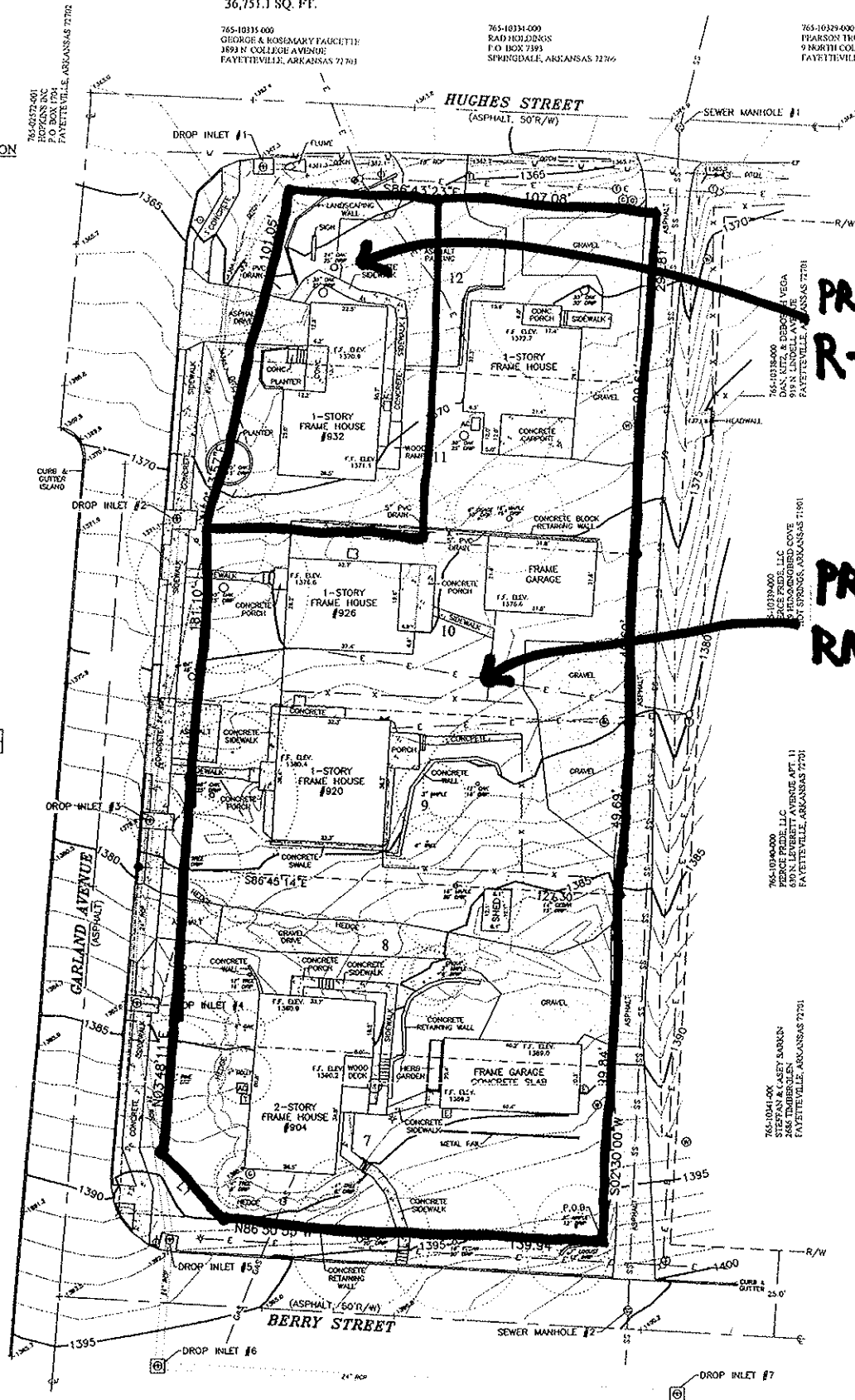
DISTANCE
26.93'

TOTAL AREA
0.84 ACRES
36,751.1 SQ. FT.

765-10315-000
GEORGE & ROSEMARY FAUCETT
1893 N. COLLEGE AVENUE
FAYETTEVILLE, ARKANSAS 72701

765-10314-000
RAID HODDGENS
P.O. BOX 7393
SPRINGDALE, ARKANSAS 72706

765-10329-000
PEARSON TRUST
910 NORTH COLLEGE
FAYETTEVILLE, ARKANSAS 72701



**PROPOSED
R-O**

**PROPOSED
RMF-40**

OWNER: MANSFIELD I

ADDRESS: 904, 920,
FAYETTEVILLE
72701

BASIS OF BEARINGS:

BASIS OF ELEVATION:



April 14, 2010

For rezoning of property located at 932 N. Garland, Fayetteville, AR.

Rezoning Checklist:

Section 5:

- a. Current owner of this property is Jordan Holdings, LLC, 400 Plaza Street, West Helena, AR 72390. Principle is Henry Jordan, Jr. Home Address is 87 Sologne, Little Rock, AR 72223. Phone: 501.821.6641 or 501.821.2529. Within this block, owner has property at 904 N. Garland listed with Kelly Ellis, Crye-Leike Realtors.
- b. Reason for Rezoning request: Owner would like to sell 932 Garland as a separate property. Currently, this property has the same parcel number as an additional adjacent property at 1003 Hughes. According to Andrew Garner with the Planning Commission, the entire block needs to be rezoned from a PZD back to its previous zoning, which I believe was RMF24, then the property could be split.
- c. There would be no change to land use, traffic, appearance, and signage, as the PZD was never implemented.
- d. Availability of water and sewer – same as before, no changes to this entire block.
- e. Degree to which it is consistent – reverting back, is consistent to what it had been previously.
- f. Needed: Yes, this rezoning is needed, as the property at 932 Garland currently is under contract and the sale is contingent on this rezoning and the subsequent lot split that will occur.
- g. Increased traffic danger: no effect
- h. Alter population density – no effect
- i. Why impractical under current zoning – PZD project never went forward, reverting to previous use and zoning.

ORDINANCE NO. 4955

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2256, 932 GARLAND, LOCATED AT 932 GARLAND, BETWEEN BERRY AND HUGHES STREET, CONTAINING APPROXIMATELY 0.84 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From RMF-40, Residential Multi-Family, 40 units per acre and R-O, Residential Office, to R-PZD 06-2256 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

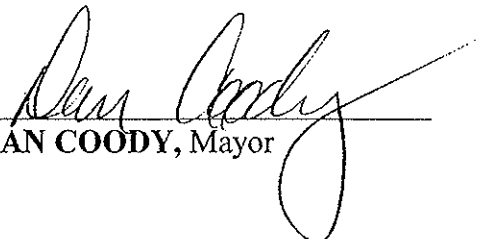
Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council indicated in Exhibit "C" attached hereto and made a part hereof.

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

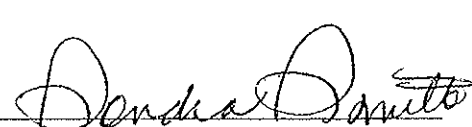
Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this 5th day of December, 2006.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk





PC Meeting of October 9, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: October 2, 2006

MDP R-PZD 06-2256: Residential Planned Zoning District (932 GARLAND): Submitted by ARCHITECTS 226, INC. for property located at 932 GARLAND, BETWEEN BERRY AND HUGHES STREET. The property is zoned RMF-40, MULTI FAMILY - 40 UNITS/ACRE and contains approximately 0.84 acres. The request is to review a Master Development Plan for a Residential Planned Zoning District with 37 dwelling units and 22,854 s.f. of commercial space.

Property Owner: MANSFIELD PROPERTY MANAGEMENT, LLC.
Planner: JESSE FULCHER

Findings:

Property Description: The property consists of several parcels totaling 0.84 acres that is currently developed with single-family homes within the RMF-40, Residential Multi-family zoning district. The property is bounded by Hughes Street to the north, Berry Street to the south, Garland Avenue to the west and a 20' public alley to the east. The property is currently zoned R-O and RMF-40.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Commercial strip center	C-2
South	Residential	RMF-40
East	Residential	RMF-40
West	Undeveloped	R-O

Proposal: The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property within one (1) planning area. The proposal includes street-level retail/restaurant space along Garland Avenue and office space on the second level for a maximum of 22,854 square feet of non-residential space. A maximum of 37 residential condominiums, totaling 66,227 square feet will be provided above the non-residential floors. This results in a total density of 44.04 dwelling units per acre and an intensity of 27,207 SF of

nonresidential space per acre over the entire 0.84 acre site. The parking will be accommodated on-site in a two-level parking garage with access from both Hughes and Berry Streets.

To meet applicable zoning criteria, the proposed Planning Area has to have established bulk and area criteria, setbacks, height, etc. Otherwise the proposal would have to return to the City Council to address these zoning issues with development. The information is provided both in a booklet form, which describes the intent of the Planning Area along with a conceptual drawing, and by way of the larger plat, which gives much of the same technical information, along with the actual Master Development Plan. The building, street, and parking arrangement indicated on the master plan will likely vary somewhat from that which is presented. However, these issues can be resolved with the development review of the project and additional City Council action, if needed. At this step in the process it is important to make the policy decision of whether the zoning is appropriate and compatible to this area, given the proposed Master Development Plan, statement of commitments, and development standards.

Process: The purpose of the subject request is for a rezoning approval in order to secure entitlement for the property with a concept for a variety of uses and infrastructure improvements to support the community. Approval of the Master Development Plan Planned Zoning District would effectively rezone the property based on the conceptual plans and information provided in the booklets. However, it does not give development approval. The applicant is required to return through the large scale development process in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

Bulk and area criteria, while usually provided within the staff report, have been provided in duplicate by the applicant. The project booklet provided gives the zoning criteria in detail, as do the Master Development Plans. Please reference this provided material for more information. The booklet and plats presented are binding once approved, by ordinance.

Water & Sewer: Water and sewer lines are currently available in the area, and will be designed and constructed in accordance with city specifications to serve the development.

Access: Access to the site is provided from Garland Avenue, Berry Street, Hughes Street and a mid-block alley. No vehicular access is to be provided directly from Garland Avenue. Sidewalks will be improved in the area to provide pedestrian access.

Adjacent Master Street Plan Streets: Garland Avenue (Principal Arterial), Berry Street (Local Street), Hughes Street (Local Street)

Street Improvements: The developer is proposing to install curb and gutter along Hughes and Berry Streets as well as storm drainage along Hughes Street. The alley along the east side of the property will be rehabilitated and paved with asphalt, resulting in a 20' width for two-way traffic movements. Additionally, the applicant proposes 8' sidewalks along Hughes Street and Garland Avenue and a 4' sidewalk along Berry Street. The sidewalk along Garland will be partially located outside of the dedicated right-of-way and therefore will be located within a pedestrian access easement. Recommendations for additional improvements may be required once

development plans have been submitted and reviewed, based upon the actual development proposal submitted.

Tree Preservation: Tree preservation requirements will be assessed at the time of large scale development. By ordinance, staff will require preservation of tree canopy on-site unless supportive information is provided as to why on-site preservation requirements can not be met. Supportive information could include a tree inventory provided by a certified arborist assessing all existing tree canopy.

Parks: The Parks and Recreation Advisory Board reviewed this project on August 17, 2006 and recommended accepting money-in-lieu to satisfy the Park Land Dedication Ordinance requirement. Based on the number of units proposed at this time (37, less a credit for five existing homes), \$20,360.00 would be required. Actual numbers will be generated at the time of development.

Public Comment: Staff has not received any public opposition to the project. The applicant did present the plans at a Ward 4 meeting with City Council representatives and citizens for input.

Phasing: The development of the 932 Garland project is anticipated to occur over the next 1-4 years. A phasing schedule has been provided within the project booklet, identifying the anticipated construction time frame. Upon Large Scale Development approval, the estimated time frame will be 9-12 months for pre-construction work and 18-20 months for construction. The standard one-year time frame with a one-year extension available for typical large scale developments is adequate, pursuant to City codes.

Recommendation: Staff recommends forwarding a recommendation of approval of the Master Development Plan – Planned Zoning District for 932 Garland (R-PZD 06-2256) to the City Council, with the following conditions:

Conditions of Approval:

1. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council, including the statement of commitments and development standards presented in the project booklet, shall also be binding and enforceable by law.
2. Approval of this Master Development Plan – Planned Zoning District shall not be construed as development approval. Pursuant to city ordinance, all development of the property shall be approved by the Planning Commission through the large scale development and/or subdivision review process. The large scale development shall be evaluated based on the zoning and development criteria established with the Master Development Plan. Circulation, landscaping, tree preservation, design standards, connectivity, infrastructure improvements and other city policies and ordinances remain applicable with the development review process. The conceptual designs proposed are

to be used as a template from which detailed plans are produced; however, it is expected that certain items will change, in accordance with the Planned Zoning District ordinance.

3. Zoning and development criteria shall be enforced as approved by the City Council, and currently referenced in the 932 Garland project booklets and on the submitted Master Development Plan plats. Flexibility will be allowed in the development criteria listed in the booklet, but Planning Commission approval of development is required. The approved plans, commitments and standards will be kept on file in the Planning Division, and referenced for subsequent development proposed on the property. All density and intensity information provided is maximum totals for the property.
4. **Signage:** All signage within each Phase of the Master Development Plan shall be permitted in accordance with the current sign regulations at the time of development. More stringent regulations may be placed on tenants within 932 Garland to ensure a cohesive sign program; however, the sign ordinance may not be violated in doing so. Commercial tenants within the project shall be permitted to utilize signage in compliance with commercial zoning districts; all commercial signage shall be placed on the portion of the structure utilized for commercial activities. No signage shall be permitted above the 2nd story of the building, as this is residential in use. No pole or pylon signs shall be permitted within the 932 Garland project site.
5. **Phasing:** In order to ensure the proposed Master Development Plan meets all of the goals and criteria set forth, a phasing schedule has been submitted (reference the project booklet). If certain permitting times are not met, the Planned Zoning District approval shall be voided, or extended as allowed by §166 of the UDC. The following development phasing shall be enforced:
 - The applicant shall be granted one (1) year from the date of Planning Commission approval of the large scale development to receive all permits necessary for development of the Phase with a one (1) year extension available.
6. Public water and sewer lines shall be extended as required by city ordinance at the time of development. Detailed analysis of the existing water and sewer systems will be required to be submitted with the development submittal.
7. Future development shall comply with at least the minimum design standards for development in the Unified Development Code as adopted at the time of development, including but not limited to landscaping, parking, access, street design, stormwater detention, tree preservation, etc. All structures proposed shall be reviewed to ensure appropriate architectural compatibility, compliance with commercial design standards, and/or conformance with the architectural standards and concepts provided with the subject submittal.
8. Overhead awnings, balconies, stairways, stoops and other appurtenances to the primary structure may not extend within the Master Street Plan right-of-way. Allowances shall

be at the discretion of the Planning Commission and City Council to ensure safety measures, clearance and other criteria for zoning and development in the Unified Development Code are not compromised.

9. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed at the time of submittal. Staff will recommend, at minimum, the following:
 - Install curb and gutter along Hughes and Berry Streets as well as storm drainage along Hughes Street. The alley along the east side of the property will be rehabilitated and paved with asphalt, resulting in a 20' width for two-way traffic movements. Additionally, 8' sidewalks will be constructed along Hughes Street, Garland Avenue and Berry Street. The sidewalk along Garland will be partially located outside of the dedicated right-of-way and therefore will be located within a pedestrian access easement. Additional improvements may be required once development plans have been submitted and reviewed in detail.
10. All sidewalks shall meet applicable City and A.D.A. requirements.
11. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
12. Street lights shall be installed on all abutting streets with a maximum spacing of 300'.
13. Street trees shall be provided pursuant to Chapter 177, Landscape Regulations, pertaining to the provision of urban tree wells in this location. Subject to sight distance limitations, street trees shall be planted along Berry, Hughes and Garland Avenue.

PLANNING COMMISSION ACTION: Required YES

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Motion: Graves

Second: Clark

Vote: 8-0-0

Meeting Date: October 9, 2006

Comments: *The Planning Commission made the following comments:*

- *More windows or doors were recommended for the west elevation at street level, to create a more "inviting" experience at the pedestrian level.*
- *The width of Garland helped balance the height of the structure.*
- *Removal of the existing curb-cuts was an improvement to the site.*
- *Recommended utilizing the same tree species as the University used for the boulevard section.*
- *Height at the northeast corner of the property was a concern.*
- *View of Old Main from Garland.*
- *Good introduction into campus.*

CITY COUNCIL ACTION: Required YES

City Council Action: ☐ Approved ☐ Denied ☐ Tabled

Motion: _____

Second: _____

Vote: _____

Meeting Date: November 7, 2006

Comments:

The “CONDITIONS OF APPROVAL”, stated in this report, are accepted in total without exception by the entity requesting approval of this rezoning/master development plan item.

By

Date

b. Summary Description of the Scope Nature and Intent of the Proposal

932 Garland is conceived to reflect the role of Fayetteville as the progressive intellectual and cultural heart of Northwest Arkansas. By projecting an image that is at once comfortably substantial and confidently modern, the building capitalizes on the civic prominence of the site and establishes a positive urban vision for the future development of Garland Avenue. Considering the proximity to the University of Arkansas and the ready access to Interstate 540, the intersection of Garland and North/Wedington serves as a primary northern gateway to the city. Unfortunately, this intersection currently suffers from a lack of cohesive vision resulting in a chaotic suburban environment that is not reflective of the urban character of the university and city beyond.

932 Garland intends to counter such suburban banality with a massing strategy that reinforces Garland Avenue as one of the premier boulevards of the city. A symbolic gateway in the form of a large-scale aperture is incorporated in the design on the northwest corner thereby introducing a definitive point of reference for the 13,000 vehicles and thousands of pedestrians that pass the site daily on their way to and from the University of Arkansas (Figure 01).

The project is located at the edge of the Rose Hill Neighborhood. Rose Hill is largely composed of rental houses and a discordant array of small-scale multi-family apartments that have developed over time in an ad-hoc manner. The area has transformed from an owner occupied neighborhood to a rental zone primarily occupied by students attending the university. The quality of the building stock has sharply declined and the charm that had once marked the area has deteriorated significantly. 932 Garland is, therefore, a significant revitalization effort, demonstrating the future growth of the area.

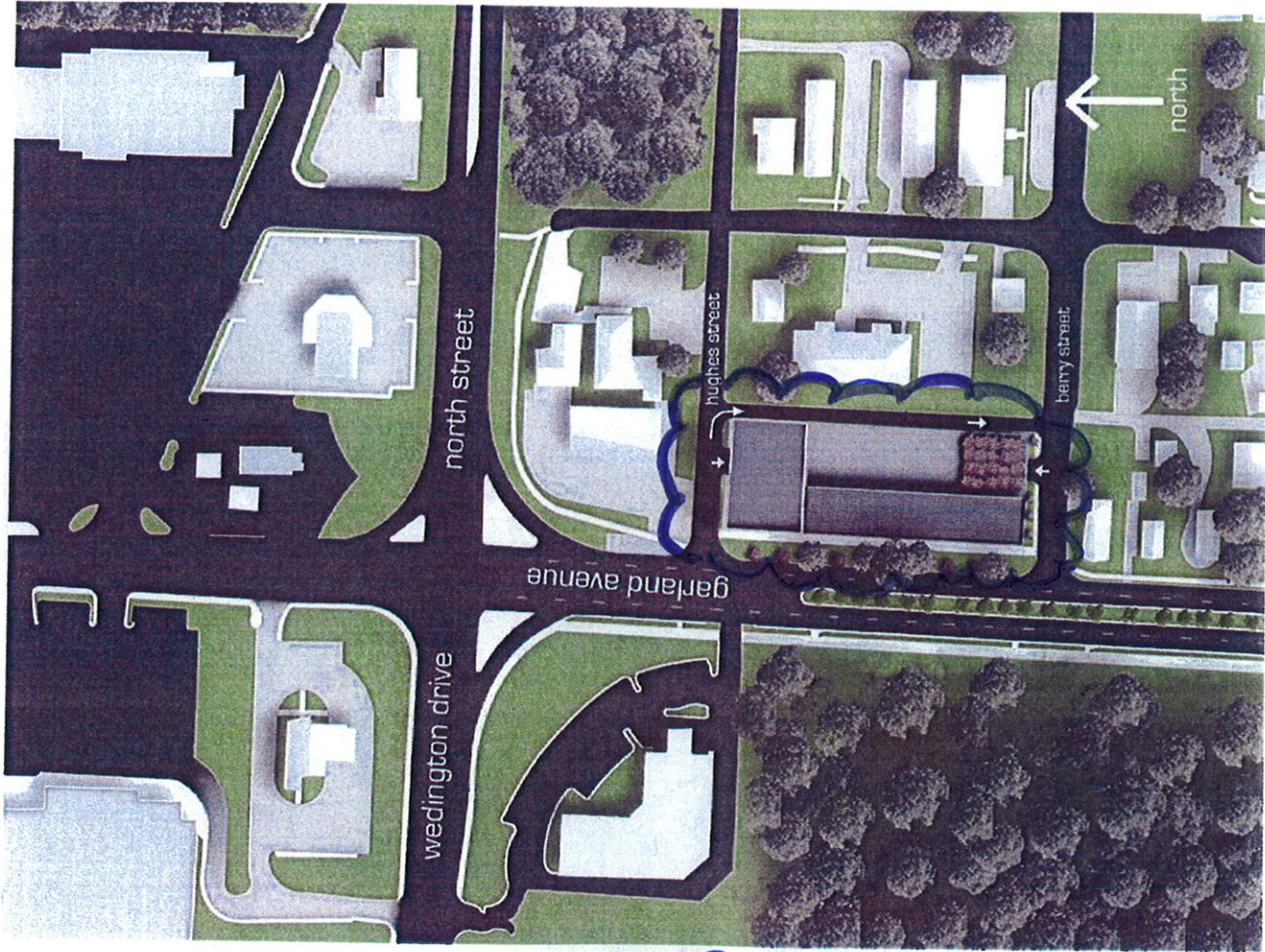


Figure 02: Site Plan

R-PZD 932 Garland

Introduction

The City of Fayetteville today is poised to capitalize on two decades of sustained growth and prosperity. Significant improvements to the urban infrastructure in conjunction with a re-discovery of the benefits of urban living have contributed to a revolution in how architecture contributes positively to the improvement of the city. Responding to those influences and decidedly contemporary in its urban vision, 932 Garland presents a new landmark for the City of Fayetteville. Positioned near the intersection of two primary avenues at the northern gateway to the university, this building proposal will project to visitors the cultural aspirations of Fayetteville for the 21st Century. Additionally, the range of uses—residential, retail and office space—are synthesized within an urban infill proposal that reflects the spirit of the Fayetteville 2025 City Plan.

The program consists of a single mixed-use structure containing street-level retail along Garland Avenue, rental office space on the second level, and thirty-seven residential condominiums above. The parking will be accommodated on site in a two-level parking garage with access from both Hughes and Berry Streets. The design is directed toward professionals, university professors and families who are attracted to a modern maintenance-free housing option with ready access to the University and other Fayetteville amenities.

a. Current Ownership Information

932 Garland will be constructed on a site that is wholly owned by Mansfield Property Management and is bounded by Garland Avenue (Arkansas 112) to the west, Hughes Street to the north, Berry Street to the south, and a mid-block alley to the east (Figure 02).



Figure 01: View from Wedington

R-PZD 932 Garland

With new residential condominiums 932 will introduce more permanent residents into the otherwise transient population and serve as a new anchor for the neighborhood.

Although the area is zoned as high-density residential (RMF-40) it is currently under-utilized and under-populated. Increasing land values based on its proximity to the University of Arkansas coupled with low occupant density ensure that this neighborhood is poised to undergo a significant process of densification in the coming years. Considering that the University is also developing northward along Garland, such densification of this transportation corridor is inevitable. Anticipating this trend 932 Garland intends to establish a precedent for developing a strong urban character along the broad Garland Avenue Boulevard (Figure 03). The multi-story residential volumes are shifted toward the west and north of the site in response to the institutional character of the nearby university buildings. This enables the scale of the project to step down considerably to the east and south in deference to the residential scale of the adjacent properties (Figures 04, 05).

Additionally, this PZD approval enables the project to contribute positively to the street life of Fayetteville by introducing new retail spaces along Garland. The ability to distribute that use along the main avenue responds to the volume of pedestrian traffic moving to and from the university. Additionally, providing of small-scale retail opportunities south of Wedington will offer residents of Rose Hill a shopping venue that is an alternative to negotiating the dangerous vehicular traffic along Wedington.

932 Garland is composed of 37 residential condominiums, 10,264sf of street level retail, a possible 4,550sf restaurant and 8,040sf of office space. The parking is accessed on two

932 GARLAND

5



Figure 03: View North on Garland



Figure 04: Model View of Area



Figure 05: Model View of Area

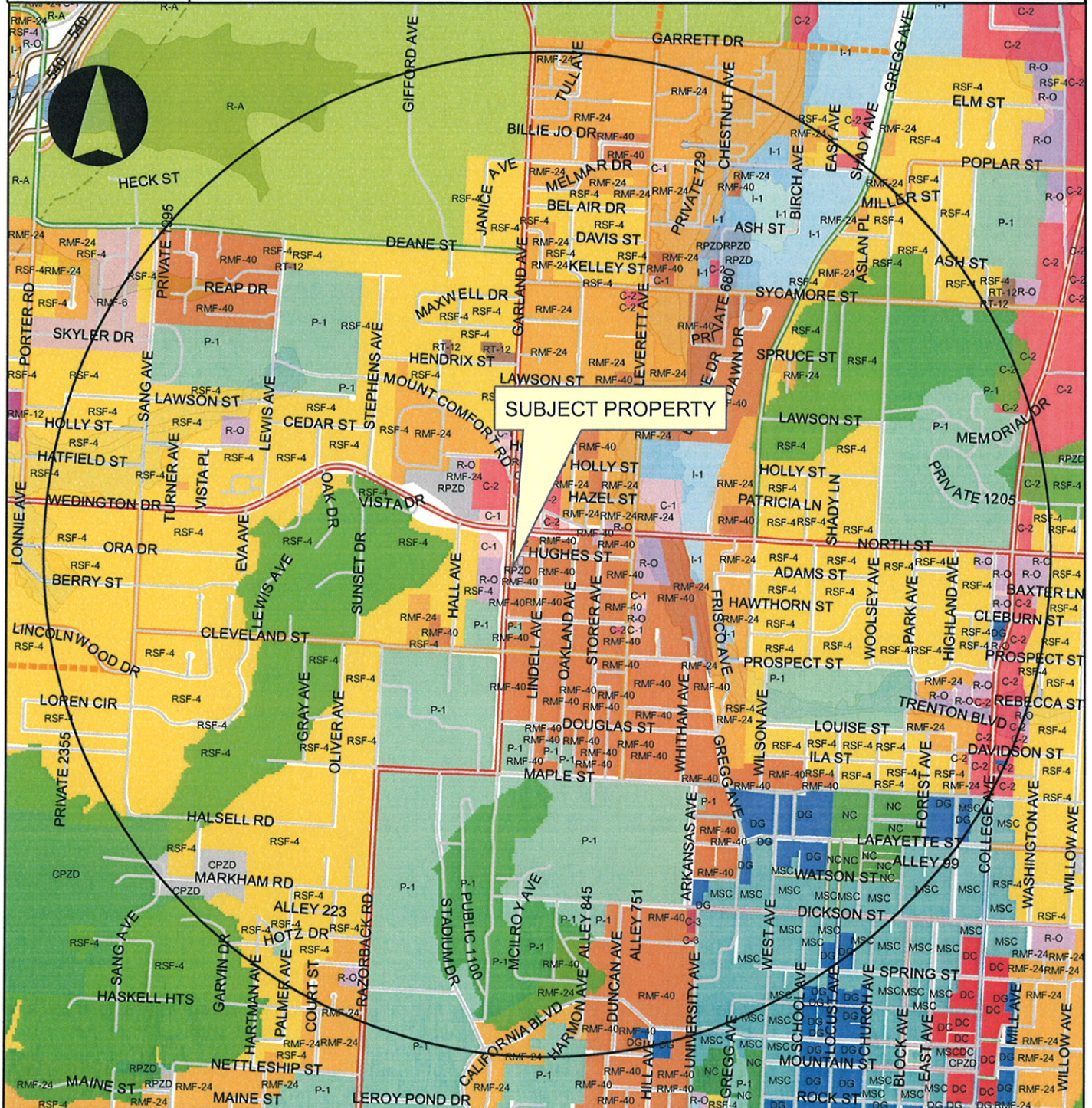
R-PZD 932 Garland

RZN10-3566

C. 3
RZN 10-3566 (932 Garland)
Page 2 of 30

932 GARLAND/ JORDAN HOLDINGS

One Mile View



Overview



Legend

Subject Property

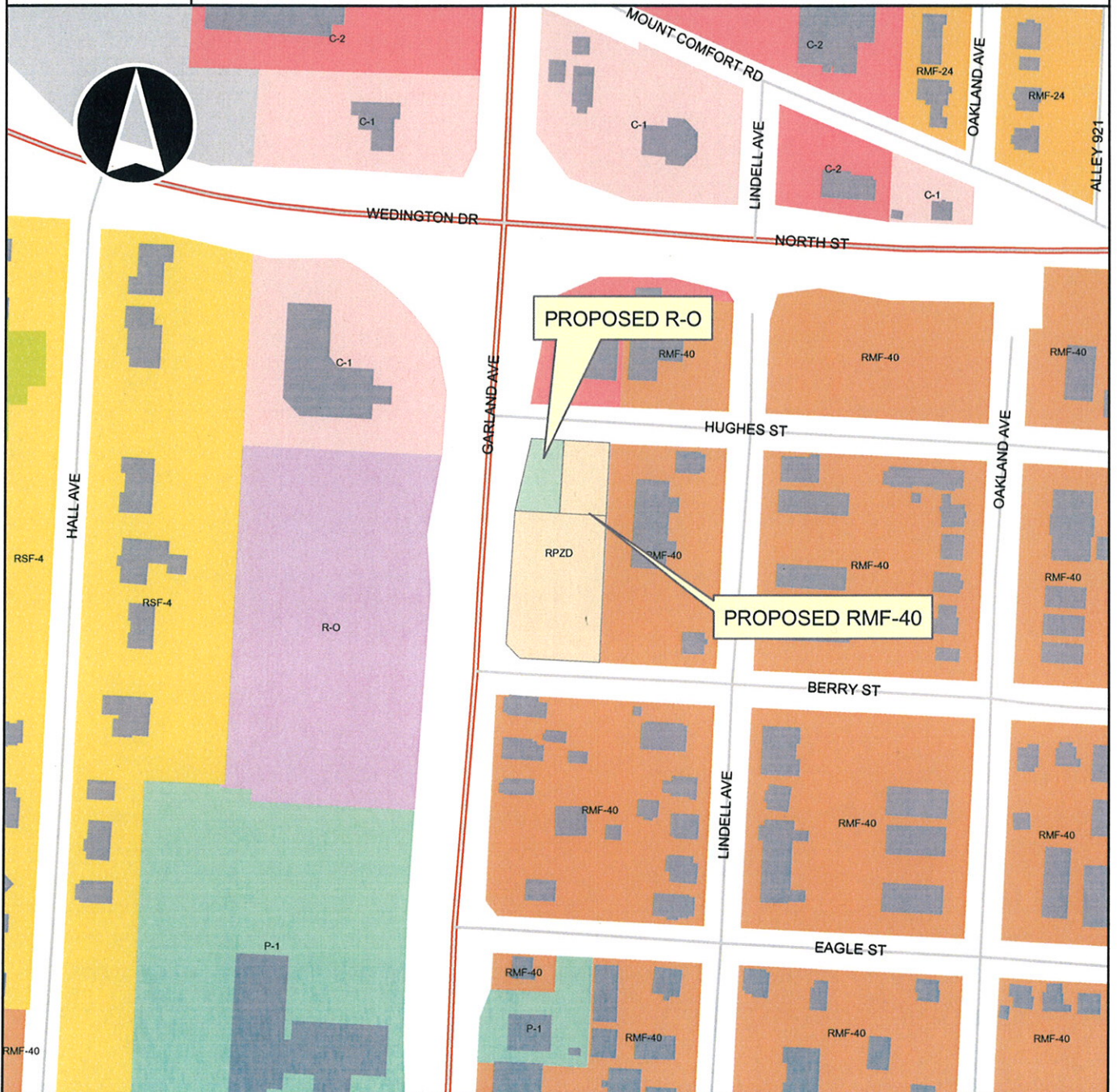
Boundary

0 0.25 0.5 1 Miles

RZN10-3566

Close Up View

932 GARLAND



Overview



City of Fayetteville Staff Review Form

C. 4
 ADM 09-3273 (Business Registry
 and License Program
 Page 1 of 24

City Council Agenda Items
 and
 Contracts, Leases or Agreements

6/15/2010

City Council Meeting Date
 Agenda Items Only

Karen Minkel

Submitted By

Division

Strategic Planning

Department

Action Required:

ADM 09-3273 (Business Registry and License Program): Submitted by Strategic Planning Staff to approve an ordinance to amend the Fayetteville Code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations in Fayetteville.

\$ -

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 ☐

Karen Minkel
 Department Director

5/27/10
 Date

Previous Ordinance or Resolution #

Original Contract Date:

none

Original Contract Number:

City Attorney

5-28-10
 Date

Paul A. Bealm
 Finance and Internal Services Director

5-28-10
 Date

Received in City
 Clerk's Office



Don Man
 Chief of Staff

5-28-10
 Date

Received in
 Mayor's Office



Mayor

6/1/10
 Date

Comments:

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Don Marr, Chief of Staff

From: Karen Minkel, Strategic Planning and Internal Consulting Director *KM.*

Date: May 26, 2010

Subject: ADM 09-3273: Administrative Item (Business Registry and License Program): Approval of an ordinance to amend the Fayetteville Code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations in Fayetteville.

PROPOSAL:

Strategic Planning staff began researching the feasibility of a business registry program in March 2009 at the request of Alderwoman Shirley Lucas and the Fayetteville Chamber of Commerce due to a lack of publicly accessible data about businesses located within City boundaries. This lack of data negatively affects the City's ability to measure economic development performance and ensure public safety.

Economic Development: The lack of data prevents economic development organizations from providing statistics on job growth and business sector growth and ultimately providing meaningful economic performance measures. Some of these measures include new jobs created and new businesses opened. Without a systematic method for collecting this information, confidence in the accuracy of the measures is compromised.

In addition, the economic development team at the Chamber of Commerce has stated that knowing Fayetteville's business demographics will enable them to find complementary businesses for prospective companies, support retention and expansion and promote existing businesses. Generating this information currently is at best inefficient and, at worst, impossible.

Public Safety: The lack of data also contributes to inefficiencies and public safety concerns. The Central Dispatch Division, the Fire Marshal's Office and the Arkansas Department of Health all spend significant time attempting to track new business openings, moves and re-namings. This lack of information significantly hinders the Fire Marshal's goal of preventing hazardous situations. Anecdotal evidence indicates that the Fire Marshal's office stumbles across a handful of business establishments each year after they have opened or just days before opening that did not undergo a fire inspection. In addition, the City lacks information on the storage of hazardous materials and installation of fire suppression systems. The accuracy of this information is crucial for responding to emergencies safely, effectively and efficiently.

The Ordinance Review Committee discussed the proposed ordinance on January 20, March 3, March 24 and April 21 of 2010. The Committee voted 4-0 to forward the ordinance to the full City Council with neither a recommendation for approval nor denial.

A full outline of the methodology and ordinance components is included in the attached report. Below is a summary of the major requirements.

Who Must Register: All businesses, institutions, corporations, LLCs, LLPs, partnerships, nonprofit associations, sole proprietorships or other non-governmental entities with a business with a physical address or which operates a legally permitted home occupation within the Fayetteville city limits shall be required to apply for a license. Businesses with multiple physical locations would have to obtain a separate license for each address. Religious entities, minors, and landlords with less than three dwelling units and not operating as a corporation, LLC, or LLP shall be exempt.

Program Start Date: The ordinance designates a renewal and application period between January 1 and February 28 each year, with an effective start date of January 3, 2011.

Fee: A cost-recovery fee of \$35 will be charged for a paper business application and \$32 for an electronic application, which reflects the cost-savings to the City. Home based businesses will be charged a fee of \$22.00 for a paper business application and \$20.00 for an electronic application. This review process will replace the existing Certificate of Zoning review process, which currently costs \$25. Renewal fees will be \$15 for all businesses.

New Businesses and Relocations: If a business or institution applies for a new license after September 1, the fee through February 28 of the next year will be half the fee of an annual renewal.

Penalties: Failure to submit a complete application by February 28 will result in the following fees.

- Less than 30 days late: 10% late charge
- 31-60 days late: 20% late charge
- >60 days late: 50% late charge

Grounds for suspension or revocation:

- 1) Valid complaints that the Business License Holder is operating the business in a dangerously unsanitary or unhealthy manner, or in such a manner as to unreasonably and adversely affect the peace, health or safety of neighbors or other Fayetteville citizens.
- 2) The determination that the premises are a fire hazard or otherwise unsafe for occupancy because of violations of building, property maintenance or fire codes.
- 3) The business is delinquent in submitting Hotel, Motel and Restaurant or City alcohol tax forms or in payment of the City's Hotel, Motel and Restaurant taxes or any other city or state taxes or required fees.
- 4) The business is being operated in violation of any federal or state law or city ordinance or has had a necessary state or city license suspended or revoked.
- 5) The business license was procured through fraud or misrepresentation.

Process for suspension or revocation: If the Development Services Director has reason to believe that grounds exist that could justify a suspension or revocation, the Director shall send a letter by first class mail and set a date for a due process hearing, which will be conducted by the Chief of Staff.

Appeals process: If the Chief of Staff determines that the license shall be suspended or revoked, the license holder shall have ten days to submit a written appeal to the City Clerk's office. If an appeal is submitted, the

appeal will be heard by the City Council and the City Council will make a final determination. If a written appeal is not submitted to the City Clerk's office during the ten-day period, the license owner automatically waives all rights to the appeal process.

Enforcement: If a license is suspended or revoked and the business continues to operate, each day of operation will constitute a separate violation. The City may withhold all municipal services, including water, sewer and solid waste services, if the business continues to operate with a suspended or revoked license.

Comparison to Other Cities (*Information accurate as of July 2009*)

City	Approximate Fee	Late fee charges	Other
North Little Rock	\$45-\$1,440	25% penalty if <3 months overdue 50% penalty if >3 months overdue	Additional charges based on employee numbers and stock. Has a renewal period (Jan. 1-Mar. 31)
Hot Springs	\$50-\$1,200	10% penalty after 30 days	
Springdale	\$20		Additional charges based on number of employees
Lowell	\$50	10% penalty after 30 days 20% penalty after 60 days 50% penalty after 90 days	Additional charges based on number of employees, number of seats (restaurants) or units (e.g. hotels).
Rogers	\$50-\$300	10% penalty after 30 days 20% penalty after 60 days 50% penalty after 90 days	Additional charges based on number of employees, number of seats (restaurants) or units (e.g. hotels).
Little Rock	\$75-\$102,000 (avg. \$500)	10% penalty after 30 days add'l 10% penalty after 60 days 30% penalty after 90 days	Additional charges based on number of employees and/or stock
Fort Smith	\$0	None	
Fayetteville (proposed)	\$35-paper \$32-electronic Home based business fees: \$22-paper \$20-electronic	10% penalty if late less than 30 days 20% penalty after 30 days 50% penalty after 60 days	

RECOMMENDATION:

Staff recommends that City Council approve an ordinance to amend the Fayetteville Code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations in Fayetteville.

BUDGET IMPACT:

This program is based on a cost-recovery model, which will make the program cost neutral.



Business Registry and Licensing Program

Prepared by the City of Fayetteville Strategic Planning and Internal
Consulting Department
125 W. Mountain St.
Fayetteville, Ar. 72701
479-575-8267

Updated April 22, 2010

Summary

Strategic Planning staff began researching the feasibility of a business registry program at the request of Alderwoman Shirley Lucas and the Fayetteville Chamber of Commerce in March 2009. The following report outlines the benefits and associated costs of establishing and operating a business registry and licensing program and the relevant departmental responsibilities.

A registry and licensing program will provide the following benefits:

- timely and accurate economic performance data addressing job and industry growth;
- accurate public safety data regarding location, fire suppression systems and the storage of hazardous materials; and
- leverage for the City Prosecutor's office in pursuing tax and code violations.

A three-step cost-recovery methodology determined that the expected cost of processing one business license is \$34.80. This cost includes labor and materials and takes into account that some applications will be processed with a minimum of effort while others will need additional staff time to resolve outstanding issues. The methodology also differentiates between a paper application and an electronic application process; the electronic process will result in a cost-savings of \$4.83, most of which can be passed on to the customer. In addition, the renewal license process will require less staff time, costing only \$15.17.

The project team included:

Don Marr, Chief of Staff;
Jeremy Pate, Development Services Director;
Paul Becker, Finance and Internal Services Director;
Sondra Smith, City Clerk;
Scott Huddleston, Information Technology Director;
Marsha Hertweck, Accounting Director;
Shelly Turberville, Accounting Manager;
Rainy Laycox, Billing and Collections Manager.

The Police Department, Central Dispatch Division, Fire Department City Attorney, Community Services Division, GIS Division, Internal Audit and City Prosecutor's office provided additional feedback on the process and materials.

Issue

The City of Fayetteville currently lacks publicly accessible data about businesses located within its boundaries. This lack of data negatively affects the City's ability to measure economic development performance, ensure public safety and enforce code compliance and tax payment.

Economic Development: The lack of data prevents economic development organizations from providing statistics on job growth and business sector growth and ultimately providing meaningful economic performance measures. Some of these measures include new jobs created and new businesses opened. Without a systematic method for collecting this information, confidence in the accuracy of the measures will be compromised.

Public Safety: The lack of data also contributes to inefficiencies and public safety concerns. The Central Dispatch Division, the Fire Marshal's Office and the Arkansas Department of Health all spend significant time attempting to track new business openings, moves and re-namings. This lack of information significantly hinders the Fire Marshal's goal of preventing hazardous situations. Anecdotal evidence indicates that the Fire Marshal's office stumbles across a handful of business establishments each year after they have opened or just days before opening that did not undergo a fire inspection. In addition, the City lacks information on the storage of hazardous materials and installation of fire suppression systems. The accuracy of this information is crucial for responding to emergencies safely, effectively and efficiently.

The Arkansas Department of Health also lacks information about restaurants and food related businesses in Fayetteville, resulting in inefficiencies in its ongoing inspection program. Determining when businesses open, relocate or close also takes significant staff time that could be better spent providing inspection services, according to an interview with James Shumate, Arkansas Health Department Inspector. The haphazard process also increases the likelihood that a restaurant or other food service provider will slip through the cracks, which if a problem arises, could be detrimental to the health of Fayetteville's citizens and visitors.

Law Enforcement: A business registry and license program will also assist the City Prosecutor's Office in addressing code and tax violations. An ordinance that requires a business license in order to conduct business in the City of Fayetteville will provide additional leverage for the City Prosecutor's office in resolving code and tax violations before they result in a warrant or criminal summons.

Methodology

Staff determined the costs to the City through a three-step process.

Step one: Staff created a process flow chart that illustrates how staff would process an application, incorporating electronic and manual steps. This model also shows the average time it would take each staff member to complete a task. These time allotments were determined after conversations with staff members who would be responsible for the task or who complete similar tasks as part of their daily activities. Colors on the flow chart distinguish between departments. The model incorporates the current certificate of zoning review process, and most additional tasks occur in Development Services. The Accounting Division will review for HMR tax violations and the Fire Marshal's office will review new businesses.

Step two: Staff determined the labor cost per minute using the weighted market salary, which includes benefits, for each staff member identified in the process model. The spreadsheet separated components of the process in order to identify the costs of a paper versus electronic application submittal as well as the initial start-up costs and follow-up costs if an application is unable to be processed. In addition, the spreadsheet calculates the costs associated with materials and mailings. The methodology assumes that there are at least 2,600 businesses in Fayetteville that would be required to register based on a survey completed in 2003 by the City that counted 2,595 businesses within the City limits.

Step three: A decision tree diagram was utilized to determine the expected costs to the City. The diagram incorporates the probability of different events into the cost model, enabling an approximation of the expected costs of processing one license. Assumptions about the assigned probabilities were based on similar City processes and experiences. For example, initial online payments for utility bills averaged two percent upon initial rollout in 2002. Staff assumed this percentage would likely be greater in 2010 and predicted that approximately five percent of businesses would utilize online application and payment services. The Diagram also accounts for initial start up and ongoing costs, which include creating the online application and payment capabilities and annual notifications, respectively. Separate models were utilized to determine renewal costs and costs for home based businesses.

The models determined the following:

- 1) The total expected cost for processing one license is \$34.80.
- 2) The completion of an online application results in a savings of \$4.83 to the City, most of which can be passed on to the customer after covering the service charge associated with online payments.

- 3) The total expected cost for processing one renewal application is \$15.17.
- 4) The total expected cost for processing one home based business license is \$22.49 for a paper application.

Comparison to other Cities in Arkansas¹

Fayetteville is the only city in Arkansas with a population greater than 50,000 that does not require a business license. Springdale, Rogers, Lowell, Fort Smith, Siloam Springs, Benton, Cabot, Jacksonville, Hot Springs, North Little Rock, Little Rock, Pine Bluff, Sherwood and Eureka Springs all require a business license to conduct business within their city limits.

Cities in Arkansas employ a wide range of methods to determine costs to the applicant. Most other cities charge a base fee depending on the type of business and then add costs based on the number employees and/or a percentage of total stock value. For example, Springdale charges a base fee of \$20 and then an additional \$2.50 for each employee up to 25 employees; the fee is an additional \$1.00 for every employee after the first 25. Little Rock charges \$200 plus 0.24% of stock.

Table 1: The average fee for all the cities below except Springdale and Fort Smith are greater than Fayetteville's proposed fee.

City	Fee	Late fee charges	Other
North Little Rock	\$45-\$1,440	25% penalty if <3 months overdue 50% penalty if >3 months overdue	Additional charges based on employee numbers and stock. Also has a renewal period (Jan. 1-Mar. 31)
Hot Springs	\$50-\$1,200	10% penalty after 30 days	
Springdale	\$20		Additional charges based on number of employees

¹ The information provided in the table is accurate as of July 2009.

Lowell	\$50	10% penalty after 30 days 20% penalty after 60 days 50% penalty after 90 days	Additional charges based on number of employees, number of seats (restaurants) or units (e.g. hotels).
Rogers	\$50-\$300	10% penalty after 30 days 20% penalty after 60 days 50% penalty after 90 days	Additional charges based on number of employees, number of seats (restaurants) or units (e.g. hotels).
Little Rock	\$75-\$102,000 (avg. \$500)	10% penalty after 30 days add'l 10% penalty after 60 days 30% penalty after 90 days	Additional charges based on number of employees and/or stock
Fort Smith	\$0	None	
Fayetteville (proposed)	\$35-paper \$32-electronic Home based business fees: \$22-paper \$20-electronic	10% penalty if late less than 30 days 20% penalty after 30 days 50% penalty after 60 days	Proposed renewal fee is \$15.00

Program Structure

Who Must Register

All businesses, institutions, corporations, LLCs, LLPs, partnerships, nonprofit associations, sole proprietorships or other non-governmental entities with a business with a physical address or which operates a legally permitted home occupation within the Fayetteville city limits shall be required to apply for a license. Businesses with multiple physical locations would have to obtain a separate license for each address. Religious entities, minors, and landlords with less than three dwelling units and not operating as a corporation, LLC, or LLP shall be exempt.

Program Start Date

The IT Division estimates that approximately six months will be needed to complete the electronic processing and online payment capabilities. The

ordinance designates a renewal and application period between January 1 and February 28 each year, with an effective start date of January 3, 2011.

General Requirements

Fee: A cost-recovery fee of \$35 will be charged for a paper business application and \$32 for an electronic application, which reflects the cost-savings to the City. Home based businesses will be charged a fee of \$22.00 for a paper business application and \$20.00 for an electronic application. This review process will replace the existing Certificate of Zoning review process, which currently costs \$25. Renewal fees will be \$15 for all businesses.

New Businesses and Relocations: If a business or institution applies for a new license after September 1, the fee through February 28 of the next year will be half the fee of an annual renewal.

Posting: Each license shall be posted in a highly visible place where the business, occupation or profession is carried on, and the holder of such license shall exhibit such license to any designated agent or official of the city upon request.

Transfer: A business license shall be nontransferable from one person to another nor from one location to another.

Penalties: Failure to submit a complete application by February 28 will result in the following fees.

- Less than 30 days late: (10%)
- 31-60 days late: (20%)
- >60 days late: (50%)

Grounds for suspension or revocation:

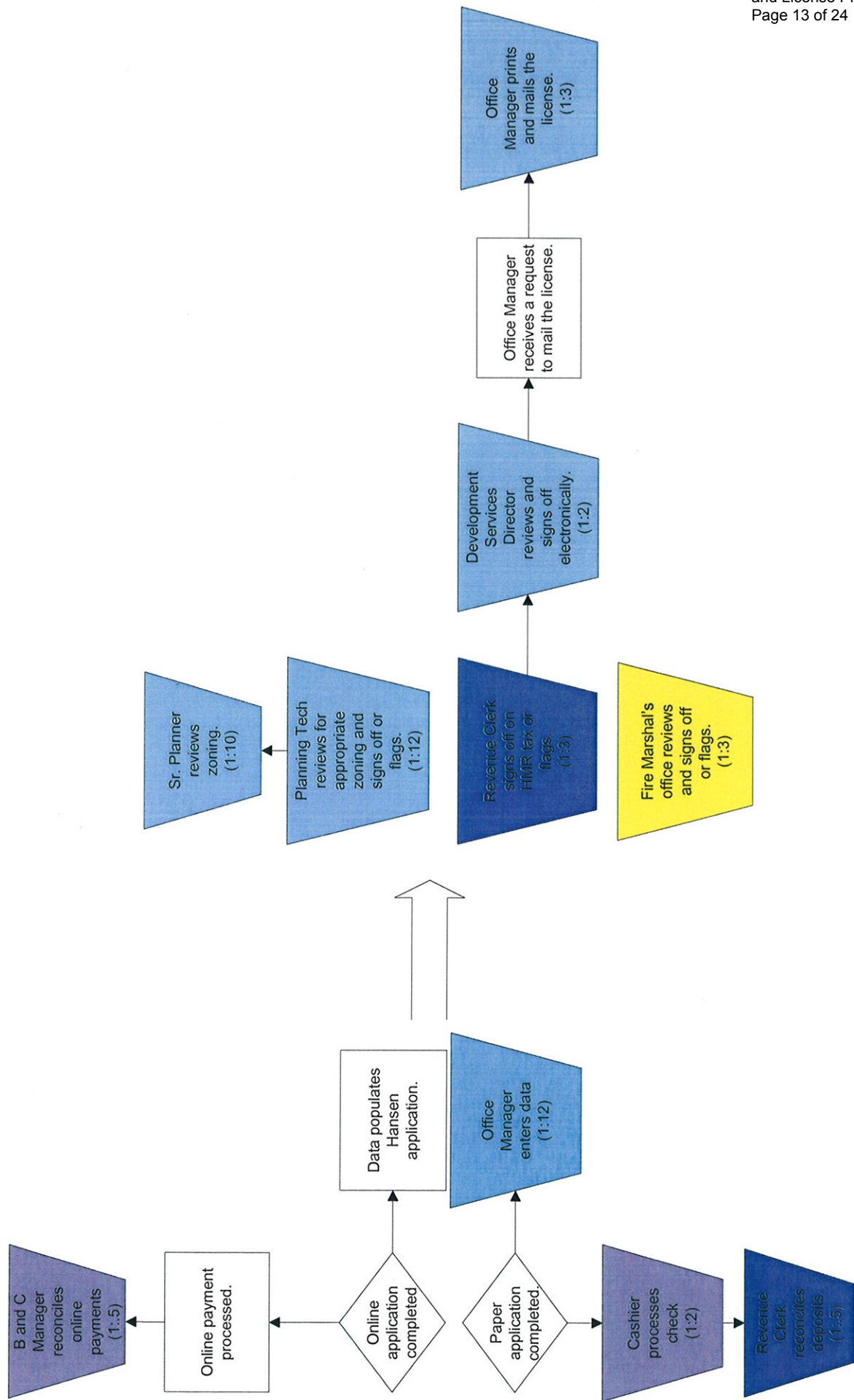
- 1) Valid complaints that the Business License Holder is operating the business in a dangerously unsanitary or unhealthy manner, or in such a manner as to unreasonably and adversely affect the peace, health or safety of neighbors or other Fayetteville citizens.
- 2) The determination that the premises are a fire hazard or otherwise unsafe for occupancy because of violations of building, property maintenance or fire codes.
- 3) The business is delinquent in submitting Hotel, Motel and Restaurant or City alcohol tax forms or in payment of the City's Hotel, Motel and Restaurant taxes or any other city or state taxes or required fees.
- 4) The business is being operated in violation of any federal or state law or city ordinance or has had a necessary state or city license suspended or revoked.
- 5) The business license was procured through fraud or misrepresentation.

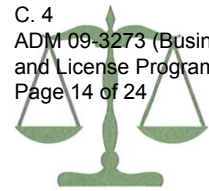
Process for suspension or revocation: If the Development Services Director has reason to believe that grounds exist that could justify a suspension or revocation, the Director shall send a letter by first class mail and set a date for a due process hearing, which will be conducted by the Chief of Staff.

Appeals process: If the Chief of Staff determines that the license shall be suspended or revoked, the license holder shall have ten days to submit a written appeal to the City Clerk's office. If an appeal is submitted, the appeal will be heard by the City Council and the City Council will make a final determination. If a written appeal is not submitted to the City Clerk's office during the ten-day period, the license owner automatically waives all rights to the appeal process.

Enforcement: If a license is suspended or revoked and the business continues to operate, each day of operation will constitute a separate violation. The City may withhold all municipal services, including water, sewer and solid waste services, if the business continues to operate with a suspended or revoked license.

Business Registry Application Process





TO: **Mayor Jordan**
City Council

CC: **Don Marr**, Chief of Staff
Karen Minkel, Strategic Planning Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in blue ink, appearing to read "Kit Williams", written over a horizontal line.

DATE: **May 28, 2010**

RE: **Business Registry and License Ordinance referral to City Council**

After at least four Ordinance Review Committee meetings and one meeting conducted by Eva Madison through her position with Fayetteville Forward, the Ordinance Review Committee has agreed that the ordinance they are forwarding to you is in its preferred form and content. The Ordinance Review Committee neither recommended approval nor denial of the proposed Business Registry and License Ordinance, but wanted to present it to the full City Council for further public comment and final decision.

This ordinance is designed to require virtually every person or nongovernmental entity conducting business or nonprofit work from a Fayetteville location to fill out an application, pay a fee, register for the City Business Registry, and obtain a business license to conduct business, professional or nonprofit activity in Fayetteville

The proposed fee for the Business Registry application has been reduced from the initially proposed \$64.00 to the currently proposed \$35.00 for most businesses and nonprofits and to \$22.00 for "home based businesses." The annual renewal has been dropped even further to \$15.00 (less than a quarter of the initial proposal).

I believe enacting the proposed ordinance is within the power and authority of the City Council. I take no position on the merits or drawbacks of establishing a business license requirement.

BUSINESS LICENSE HISTORY IN FAYETTEVILLE

The Fayetteville occupation license tax was imposed by the voters (3,013 for and 2,507 against) in an election on May 26, 1976. The license fee was \$50.00 for each "professional"; \$15.00 for each "non-professional employer", plus \$6.00 for each employee (up to \$500 for a business). Other independent workers (non-employees) working 30 hours or more weekly were supposed to pay \$15.00.

On July 7, 1981, the City of Fayetteville Board of Directors unanimously passed a motion to approve a recommendation from the Board Finance Committee that stated in part: "The Board has reaffirmed, however, that the city will cancel the occupation license tax ... if the city-county sales tax passes." (Board of Directors meeting minutes) The sales tax passed and is still in effect today. On August 4, 1981, the Fayetteville Board passed Ordinance No. 2739 "An Ordinance Repealing The Fayetteville Occupation Tax."

I was initially concerned that the efficient city staff might actually be able to administer the business registry and license program for less than the proposed \$64.00 fee (\$57.00 for internet application). I asked that the anticipated city savings (for 911 dispatch, etc.) be deducted from the administrative costs to ensure the City would not be making a "profit" on the business license fee which would legally change this fee into a tax. . *City of Texarkana v. Hudgins Produce Company*, 112 Ark. 17, 164 S.W. 739 (1914); *Carpenter v. City of Little Rock*, 101 Ark. 238, 142 S.W. 163 (1911).

The proposed fee now takes into account all anticipated savings for the City and has been reduced about 50% (and more than 75% for renewals). These lower fees ensure that there should be no successful legal challenges to the amount of the fee proposed by staff and approved by the Ordinance Review Committee. The Courts grant discretion to the City Council to fix a reasonable fee. *City of Fayetteville v. Carter*, 52 Ark. 301, 12 S.W. 573 (1889).

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FAYETTEVILLE CODE
BY ENACTING A CHAPTER TO CREATE A BUSINESS
REGISTRY AND TO REQUIRE ANNUAL BUSINESS
LICENSES FOR ALL BUSINESSES AND NON-PROFITS WITH
LOCATIONS WITHIN FAYETTEVILLE

WHEREAS, collecting accurate business and employee data will help the City better track business growth, employment and development; and

WHEREAS, all information will be compiled and collected within the Business Registry which will be available to the businesses and public; and

WHEREAS, accurate reporting of new businesses entering Fayetteville and their addresses will assist Central Dispatch keeping their 911 information up-to-date; and

WHEREAS, accurate reporting of flammable or explosive material storage will provide increased safety for Fayetteville Fire Fighters responding to building fires; and

WHEREAS, the City's effort to collect overdue Hotel, Motel and Restaurant taxes will be assisted if the offending business could lose its business license for failing to promptly and completely remit to the City the taxes paid by its customers.

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 **Chapter 118 Business Registry and Licenses** of the Fayetteville Code as shown below:

"Chapter 118 Business Registry and Licenses

"§118.01 Applicability.

"(A) General businesses.

"(1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates a legally permitted home occupation within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.

"(2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

"(3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

"(B) Religious entities.

"Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The City Business License shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

"(C) Minors exempt.

"No individual under eighteen years of age shall be required to register or obtain a business license.

“(D) Individual landlords renting less than three dwelling units exempt.

“An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter.

“§118.02 Entry upon Business Registry and Issuance of Business License.

“(A) Annual application required.

“Every applicable business or other entity identified in §118.01 shall annually complete the Application For Business Registry And License (substantially as shown on Exhibit A and which can be administratively amended by the Mayor) and pay the appropriate fee as required by this chapter.

“(B) Time for Application submittal.

“Applications and annual renewals for existing business license holders shall be completed between January 1 and February 28 each year. Business licenses shall be issued for a fiscal year of March 1 to February 28. New businesses, businesses locating to Fayetteville or entities to which these provisions become applicable in the future shall register and obtain their business license within two months of their move into Fayetteville or commencement of activities.

“(C) Fees.

“(1) *Home based business.* A resident conducting a non-traffic generating occupation, profession or business within the resident’s dwelling unit who is registering for the first time shall pay an annual fee to submit an Application For Business Registry and License of \$22.00 if submitted by February 28, except if the home based business owner registers electronically, the owner shall receive a \$2.00 credit against the annual fee and pay only \$20.00.

Applications submitted after the February 28 deadline shall incur a fee of \$24.00 if submitted by March 31; \$26.00 if submitted by April 30, and \$30.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal fee shall be \$15.00 if timely paid. Otherwise, late payment fees shall be as assessed above.

"(2) All other (non-home based) businesses. Annual fees to submit the business's first Application For Business Registry and License shall be \$35.00 if submitted by February 28, except that if a business registers electronically it shall receive a \$3.00 credit against its annual fee and only be assessed \$32.00. Applications submitted after the February 28 deadline shall incur a fee of \$38.00 if submitted by March 31; \$41.00 if submitted by April 30, and \$52.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal shall be \$15.00 if timely paid. Otherwise, the late payment fees shall be assessed as above.

"(3) Partial year registration fee for new business. If a new business or entity registers and applies for a license after September 1, the fee for the business license through February 28 of the next year shall be \$17.00 except that if a business registers electronically it shall receive a \$2.00 credit against its partial year fee and only be assessed \$15.00.

"(D) Issuance of Business License.

"(1) The Director of Development Services or designee shall promptly issue a business license to any applicable business or entity which properly completes the Application For Business Registry and License, pays the proper fee, and is not ineligible for a business license because of prior suspension or revocation of the license, lack of a required state or city permit, or violation of state law or city ordinance.

"(2) The registration and business license is not transferable nor assignable. Upon the sale, merger or transfer of business ownership, the new owner must register and apply for a new business license within thirty days of the date of transfer or reopening of the business.

“(3) If the Director of Development Services initially refuses to issue a business license, the applicant shall be entitled to a due process hearing before the Chief of Staff concerning the grounds for refusal to issue the license. An applicant can appeal the Chief of Staff’s decision to the City Council in the same manner prescribed for an appeal of the Chief of Staff’s decision to suspend or revoke a business license.

“(E) *Display of business license.*

“Every business and other entity receiving a business license shall prominently display the business license near any other licenses required for the business and issued by a government entity. The business license shall be displayed where customers or visitors entering the establishment will be able to view the business license.

“§118.03 **Suspension and Revocation of Business License**

“(A) *Grounds That Could Support Suspension or Revocation of Business License.*

“(1) Valid complaints that the Business License Holder is operating the business in a dangerously unsanitary or unhealthy manner, or in such manner as to unreasonable and adversely affect the peace, health or safety of neighbors or other Fayetteville citizens.

“(2) The determination that the premises are a fire hazard or otherwise unsafe for occupancy because of violations of building, property maintenance or fire codes.

“(3) The business is delinquent in submitting Hotel, Motel and Restaurant or City alcohol tax forms or in payment of the City’s Hotel, Motel and Restaurant taxes or any other city or state taxes or required fees.

“(4) The business is being operated in violation of any federal or state law or city ordinance or has had a necessary state or city license suspended or revoked.

“(5) The business license was procured through fraud or misrepresentation.

“(B) *Notice.*

“If the Director of Development Services has reason to believe that grounds exist that could justify the suspension or revocation of a business license, the Director shall mail a letter to the Business Mailing Address shown on the application by first class mail notifying the business owner of the possible grounds to suspend or revoke the license and setting a due process hearing in not less than five nor more than ten business days. The Director shall also telephone the business owner using the Business Phone number provided on the Application (as well as the Emergency Phone Number if the owner cannot be reached on the Business Phone number) and provide the same information as is within the letter.

“(C) *Conduct of the Due Process Hearing.*

“(1) The Chief of Staff shall provide a reasonable space for the due process hearing and shall receive evidence from city employees or others about the grounds to suspend or revoke the business license.

“(2) The Business License Holder shall then be granted an opportunity to explain or provide evidence to rebut any allegations and to show why the business license should not be suspended or revoked.

“(3) After the Business License Holder has had a reasonable opportunity to explain his side, the Chief of Staff can do one of the following depending upon the Chief of Staff’s judgment of the seriousness of any proven ground:

“(i) Revoke the Business License.

“(ii) Suspend the Business License for not more than Thirty (30) days.

“(iii) Place the Business on probation status for not more than ninety (90) days on condition that the grounds causing

the problems will be remedied by the business license owner and not be allowed to reoccur. If the business license owner complies with the probation, the probation status shall be lifted and no further action shall be taken. If the Chief of Staff determines that the business license owner has failed to correct the problems or new grounds or suspension or revocation have occurred, the Chief of Staff shall conduct a second due process hearing and consider all previous whether or not the business license should be suspended or revoked.

“(iv) Refuse to revoke or suspend the license which shall remain valid. Any complaint about events leading to the hearing shall not be considered again.

“§118.04 Appeal To City Council

“Any person or entity whose license has been suspended or revoked pursuant to §118.03 may appeal such suspension or revocation to the City Council by providing the City Clerk’s Office with a written request for City Council review within ten business days of the issuance of the suspension or revocation. The City Council may then determine, after a public hearing in which the business license owner may present evidence and explanations, whether the business owner’s license should be suspended for not more than thirty (30) days, revoked because of the grounds presented, or that no suspension or revocation is warranted.

“§118.05 Penalty

“(A) *Fines.*

“(1) No business or other entity who is required by this chapter to obtain a business license shall operate without having and displaying at the business a valid and current City of Fayetteville Business License. Operating without a license shall be a violation punishable by a fine of up to \$250.00 per day of operation.

“(B) *City Services Termination.*

“(1) If a business or entity continues to operate without a valid and current City of Fayetteville Business License for a period of one

week after notification by the Director of Development Services, the Mayor may order the withholding of all city services including water, sewer and solid waste for the business premises."

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance shall go into effect on January 3, 2011 to begin the issuance process of business licenses with the requirement that all affected entities shall have applied for the business registry and received their licenses by March 1, 2011.

PASSED and **APPROVED** this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff

Connie Edmonston, Director of Parks and Recreation *C.E.*

From: Alison Jumper, Park Planning Superintendent *aj*

Date: May 27, 2010

Subject: Code of Ordinances Amendment for Chapter 96: Parks and Recreation

PROPOSAL:

As the City of Fayetteville grows, the need for diverse recreational opportunities grows. Seeking partnerships and donations from private organizations and businesses can enhance the City's ability to provide parks and recreation services for park improvement projects. Private partnerships with businesses and individuals offering services and products consistent with the Parks and Recreation mission have the potential to reduce the City's investment in capital projects. Park staff has recently recognized the need for an avenue allowing donor recognition signs on park and trail property. Donor recognition is vital to successfully soliciting and securing funding for projects. The use of corporate names and logos are often used in recognizing contributions; however, these types of signs are not currently permissible by city ordinance.

Chapter 97 of the Unified Development Code (§97.088(B)) allows for signs on softball/baseball fences and scoreboards at locations and in sizes designated by the Parks and Recreation Director. Park staff proposes amending Chapter 97 to allow for donor recognition signs on park and trail property, thereby improving the ability to successfully secure funding from private sources.

RECOMMENDATION:

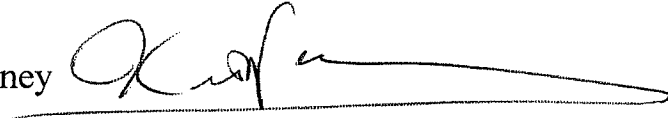
Parks Staff recommends approving and ordinance amending the Fayetteville Code of Ordinances Chapter 96: Parks and Recreation, Section 970.88 Signs Prohibited to permit donor recognition signs to be located in parks and trails.

BUDGET IMPACT:

This ordinance amendment would not impact the budget negatively. If approved, the potential for securing donations may increase, thereby positively impacting the budget.

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

FROM: **Kit Williams, City Attorney**



DATE: **May 28, 2010**

RE: **Authorizing Donor signs for city parks**

Chief of Staff Don Marr, Development Services Director Jeremy Pate and I reviewed and revised the Parks and Recreation Department's proposed amendment to the Parks and Recreation Chapter of the Fayetteville Code which would, for the first time, authorize donor signs to be displayed in City parks. We tried to strike a balance between recognizing (and attracting future major) donors while maintaining aesthetics and the noncommercial nature of all City parks.

Any facility to be named for a donor, volunteer or public servant would first have to be recommended by the Parks and Recreation Advisory Board and then approved by City Council resolution.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND CHAPTER 97 PARKS AND
RECREATION OF THE CODE OF FAYETTEVILLE TO
PERMIT AND REGULATE SIGNS RECOGNIZING DONOR
CONTRIBUTIONS**

WHEREAS, fairly small, aesthetically pleasing signs to recognize significant donors to our parks can help to generate needed funds to facilitate park improvements.

**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 repeals §97.088 (B) of the Code of Fayetteville in its entirety and enacts a replacement §97.088 (B) *Exceptions* to clarify athletic field signage restrictions and to authorize and regulate donor recognition signs as shown below:

“(B) *Exceptions.*

(1) *Athletic Field Signage.* Signs shall be permitted on softball/baseball outfield fences and scoreboards at locations and in sizes designated by the Parks and Recreation Director. Uniform fees shall be charged dependent upon placement and size of the permitted signs. The content of the sign and whether it is commercial or non-commercial may not be considered. Designated spaces shall be sold at the established price on a first come basis. The owner of a sign at a designated location shall have first right to renew before others can purchase the size/location for a new or replacement sign.

(2) *Donor Recognition Signs.* Signs located in City parks or on City trails that are used for the purpose of memorializing a person or family through naming, recognition of significant donors, or recognition of contributions to the facility or amenity on which the sign is installed shall meet the following conditions:

(a) *Maximum Size and Number.* A total of two (2) donor recognition signs, for any one donor memorialized, are allowed at remote locations of the same park facility. Trail signage shall not exceed four (4) square feet per sign. Park signage shall not exceed sixteen (16) square feet per sign.

(b) *Design Parameters.* The size and location of the sign(s) shall be approved by the Planning Division based on the following criteria:

(i) Signage may include the name and/or logo of the sponsor, donor or contributor to the facility or amenity.

(ii) Signage may not include corporate slogans, colors or advertising associated with a particular company, organization or corporation.

(iii) The Parks and Recreation Department shall provide sign design and construction standards for each park facility that is to utilize donor recognition. The standards shall ensure that donor recognition signage is consistent in size and style throughout the facility.

(iv) All signage shall be of high quality and constructed of durable materials such as masonry, bronze or wood.

(c) *Facility Naming.* The naming of facilities is permitted so long as the donor or honoree has made a significant contribution to the City, the Facility or the Parks and Recreation Department in terms of financial donations, voluntarism or dedicated public service. Final naming of a facility shall be recommended by the Parks and Recreation Advisory Board with final approval by the City Council."

PASSED and APPROVED this 15th day of June, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CURRENT LAW

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

(Code 1965, ' 17A-24, 17A-26; Ord. No. 1594, 4-1-68; Code 1991, §97.082)

Cross reference(s)-- Penalty, ' 97.999, Sale and use of fireworks, ' 94.04(B).

97.083 Soliciting Alms

No person in a park shall solicit alms or contributions for any purpose, whether public or private.

(Code 1965, ' 17A-25; Ord. No. 1594, 4-1-68; Code 1991, §97.083)

Cross reference(s)-- Penalty, ' 97.999.

97.084 Entering Closed Areas

No person in a park shall enter an area posted as "Closed to the Public", nor shall any person use, or abet the use of, any area in violation of posted notices.

(Code 1965, ' 17A-27; Ord. No. 1594, 4-1-68; Code 1991, §97.084)

Cross reference(s)-- Penalty, ' 97.999.

97.085 Going Onto Ice

No person in a park shall go onto the ice on any of the waters except such areas as are designated as skating fields, and provided a safety signal is displayed.

(Code 1965, ' 17A-28; Ord. No. 1594, 4-1-68; Code 1991, §97.085)

Cross reference(s)-- Penalty, ' 97.999.

97.086 Vending And Peddling

No person in a park shall expose or offer for sale any article or thing, nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the city and nonprofit groups on an annual basis.

(Code 1965, ' 17A-29; Ord. No. 1594, 4-1-68; Code 1991, §97.086)

Cross reference(s)-- Penalty, ' 97.999.

97.087 Advertising Prohibited

No person in a park shall announce, advertise, or call the public attention in any way to any article or service for sale or hire.

(Code 1965, ' 17A-30; Ord. No. 1594, 4-1-68; Code 1991, §97.087)

Cross reference(s)-- Penalty, ' 97.999.

97.088 Signs Prohibited

(A) No person in a park shall paste, glue, tack,

or otherwise post any sign, placards, advertisement, or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever on any public lands or highways or roads adjacent to a park, except as set forth hereinbelow.

(B) Signs shall be permitted on softball/baseball fences and scoreboards at locations and in sizes designated by the Parks and Recreation Director. Uniform fees shall be charged dependent upon placement and size of the permitted signs. The content of the sign and whether it is commercial or non-commercial may not be considered. Designated spaces shall be sold at the established price on a first come basis. Owner of a sign at a designated location shall have first right to renew before others can purchase the size/location for a new or replacement sign.

(Code 1965, ' 17A-31; Ord. No. 3677, ' 2, 3-2-93; Code 1991, §97.088)

Cross reference(s)-- Penalty, ' 97.999.

97.089-97.998 Reserved**97.999 Penalty**

(A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided shall be fined not more than \$500.00 or double that sum for each repetition of such offense, or violation; provided, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. If the violation of the chapter is, in its nature, continuous in respect to time, the penalty for allowing the continuation thereof shall not exceed \$250.00 for each day the same is unlawfully continued.

(B) Any person violating any provision of ' 97.070 shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00.

(Code 1965, ' 1-5, 13-12; Ord. No. 2128, 7-15-75; Ord. No. 2274, 9-7-76; Ord. No. 2903, 3-1-83; Ord. No. 3164, 1-21-86; Ord. No. 3203, 8-5-86; Code 1991, §97.999)

Slightly
Amended
and
Donor signs
Added

AGENDA REQUEST

FOR: COUNCIL MEETING OF JUNE 15, 2010

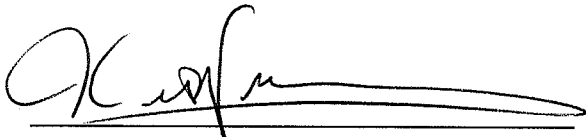
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

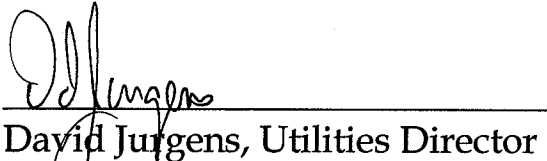
A Resolution To Approve A 15 Year Contract For Enhanced Water Service Between Fayetteville And Johnson

APPROVED FOR AGENDA:



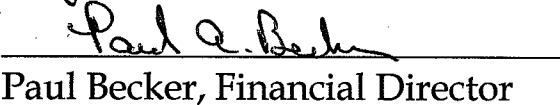
Kit Williams, City Attorney

May 26, 2010
Date



David Jurgens, Utilities Director

26 MAY 10
Date



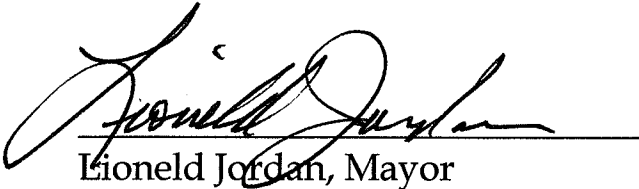
Paul Becker, Financial Director

5-26-2010
Date



Don Marr, Chief of Staff

6-1-2010
Date



Lioneld Jordan, Mayor

6/1/10
Date

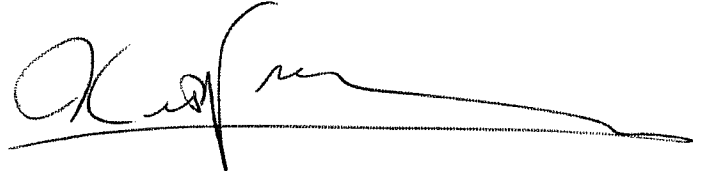


King

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

CC: **Don Marr**, Chief of Staff
David Jurgens, Utilities Director

FROM: **Kit Williams**, City Attorney



DATE: **May 26, 2010**

RE: **15 Year Contract for Enhanced Water Service
between Johnson and Fayetteville**

Fayetteville already has a contractual duty (with the Beaver Water District) to supply domestic water to its water service area which includes most of the City of Johnson south of Clear Creek. Supplying "domestic water" does not mean supplying "fire flow" water which requires substantially larger distribution mains, water storage or pumping. Utilities Director David Jurgens has informed the Water and Sewer Committee and City Council that our existing water mains and water distribution system have current capacity for "enhanced" water service within Johnson. The flow and pressure at some existing fire hydrants in Johnson may be sufficient to provide some fire fighting capability.

This contract intends to assure Johnson that Fayetteville will not purposefully degrade this enhanced flow and pressure although serving new customers and development may lower potential pressure and especially flow from a fire hydrant. Fayetteville does not assure Johnson that it will maintain the current enhanced water service nor expend resources for larger mains, new storage facilities or pumps to keep or

restore the current level of enhanced water service. Please read section (B) *Water services* in the water contract for a more precise description of what we are proposing in relation to "enhanced" water service.

This proposed contract was unanimously approved at the Water and Sewer Committee meeting on May 25th, but may need minor modifications before final approval by the City Council. Like the proposed Sewer Contract, this Enhanced Water Contract should be discussed, but then tabled at your June 15th meeting and then considered for passage at your July 6th meeting when David Jurgens can answer any of your questions. Please see my memo with the Sewer Contract for further information.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE A 15 YEAR CONTRACT FOR
ENHANCED WATER SERVICE BETWEEN FAYETTEVILLE
AND JOHNSON**

WHEREAS, Fayetteville owns and operates a public water system consisting of water mains, some of which are located within the corporate limits of the City of Johnson, Arkansas, and water storage facilities and pumps with sufficient capacity to treat current and foreseeable water flows needed for its corporate city limits as well as Johnson, and other out-of-town customers; and

WHEREAS, Fayetteville has provided water service to customers in Johnson for many years, and has now been requested by the City of Johnson to provide enhanced water service for its citizens within the Fayetteville water service area; and

WHEREAS, Johnson and Fayetteville desire to enter into an agreement whereby Fayetteville will provide access to enhanced water service on an individual basis to its water mains for customers in the City of Johnson who are within Fayetteville's water service area; and,

WHEREAS, all new customers of the Fayetteville water service and public water and treatment system are responsible to pay the system wide water and wastewater impact fee to ensure new development that increases demand upon the water and wastewater system will bear its proportionate share of necessary improvements caused by increasing demand; and

WHEREAS, it is to the mutual advantage of Johnson and Fayetteville and their citizens to enter into an agreement for Fayetteville to own, operate and maintain a water distribution system within Fayetteville's water service areas of the City of Johnson freely utilizing street and alley rights of way and easements to provide enhanced water service where feasible and practical to Johnson citizens and thereby protecting the public health and maintaining the quality of life desired by citizens of Johnson; and

WHEREAS, the cities and their citizens will be benefitted by establishing a procedure and framework for future expansion and improvements to Fayetteville's water system in the City of Johnson.

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the fifteen year Contract For Enhanced Water Service between the cities of Johnson and Fayetteville attached as Exhibit A and authorizes Mayor Jordan to execute this Contract upon its approval by the Johnson City Council and signature by Mayor Lonnie Barron and the approval of all other pending contracts between Johnson and Fayetteville and the ordinance for the simultaneous detachment and annexation into Fayetteville of the agreed 99 acre parcel by the Johnson City Council and signature by Mayor Barron

PASSED and APPROVED this 6th day of July, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

**CONTRACT FOR ENHANCED WATER SERVICE
BETWEEN THE CITIES OF
JOHNSON, ARKANSAS AND FAYETTEVILLE, ARKANSAS**

THIS CONTRACT is made and entered into this ____ day of July, 2010, by and between the City of Fayetteville, Arkansas, a municipal corporation, hereinafter referred to as "Fayetteville", and the City of Johnson, Arkansas, a municipal corporation, hereinafter referred to as "Johnson".

WHEREAS, Fayetteville owns and operates a public water system consisting of water mains, some of which are located within the corporate limits of the City of Johnson, Arkansas, and water storage facilities and pumps with sufficient capacity to treat current and foreseeable water flows needed for its corporate city limits as well as Johnson, and other out-of-town customers; and

WHEREAS, Fayetteville has provided water service to customers in Johnson for many years, and has now been requested by the City of Johnson to provide enhanced water service for its citizens within the Fayetteville water service area; and

WHEREAS, Johnson and Fayetteville desire to enter into an agreement whereby Fayetteville will provide access to enhanced water service on an individual basis to its water mains for customers in the City of Johnson who are within Fayetteville's water service area; and,

WHEREAS, all new customers of the Fayetteville water service and public water and treatment system are responsible to pay the system wide water and wastewater impact fee to ensure new development that increases demand upon the water and wastewater system will bear its proportionate share of necessary improvements caused by increasing demand; and

WHEREAS, it is to the mutual advantage of Johnson and Fayetteville and their citizens to enter into an agreement for Fayetteville to own, operate and maintain a water distribution system within Fayetteville's water service areas of the City of Johnson freely utilizing street and alley rights of way and easements to provide enhanced water service where feasible and practical to Johnson citizens and thereby protecting the public health and maintaining the quality of life desired by citizens of Johnson; and

WHEREAS, the cities and their citizens will be benefitted by establishing a procedure and framework for future expansion and improvements to Fayetteville's water system in the City of Johnson.

NOW, THEREFORE, THE CITY OF JOHNSON AND THE CITY OF FAYETTEVILLE AGREE AS FOLLOWS:

(1) ENHANCED WATER SERVICE PROVIDED TO JOHNSON CITIZENS AND BUSINESSES:

(A) Water service area.

The City of Fayetteville agrees to provide access to its enhanced water service facilities where feasible and practical to individual customers in Johnson who are located within Fayetteville's water service boundary area (shown on the attached map) as agreed by the Beaver Water District and the Cities of Fayetteville and Springdale. (This shall be referred to as the "water service area" hereinafter.) This water service area may be modified by future mutual agreement of Fayetteville and Springdale.

(B) Water services.

The City of Fayetteville agrees that it will maintain and service all water facilities within its water service area within Johnson in a reasonable manner with the aim of providing reasonably consistent water service similar to the water service enjoyed by Fayetteville's out-of-town customers. Although not previously required to do so, Fayetteville has supplied enhanced water service by providing water at sufficient flow and pressure to partially support fire hydrants in some places in Johnson within Fayetteville's water service area. Fayetteville will attempt (without having to build new water storage, larger mains or pumping stations in Johnson) to maintain adequate flow and pressure at these locations and may allow additional fire hydrant installation if an adequate flow and pressure is feasible and practical without additional cost to Fayetteville. Fayetteville is not responsible for any diminution in the enhanced flow and pressure caused by allowing the extension of water mains or water service lines to service new development or new customers. Fayetteville will not be required to increase the size of water mains, add pumping facilities or water tanks to maintain enhanced water service flow and pressure to the Johnson water service area. Fayetteville shall not be responsible nor liable for any damages or claims resulting from the interruption, discharge or failure of any part of the Fayetteville water system. If a scheduled interruption to water service in Johnson is necessary for system repair, maintenance, extension or rehabilitation, Fayetteville will attempt to notify the City of Johnson of such interruption prior to the commencement of the work. Fayetteville shall also attempt to notify affected Johnson customers similarly to how it attempts to notify its own citizens and other customers.

(C) *Effective date of this contract.*

This contract shall take effect and be in full force when approved by both city councils, signed by both mayors and after Johnson's ordinance detaching the 99 acre parcel has been approved by the Johnson City Council, approved and signed by Mayor Barron and the time for any legal challenges has expired or upon the final dismissal on the merits of such legal challenge.

(D) *Term of the contract.*

Fayetteville and Johnson agree that the term of this contract shall be fifteen (15) years. This contract may be renewed for another term of fifteen (15) years under the same terms and conditions upon the approval of both cities through city council resolutions.

(E) *Cooperation of the cities.*

Fayetteville and Johnson pledge to cooperate and work together to effectuate the goals and purposes of this contract for the benefit of their citizens.

(F) *Ownership of water mains and facilities; franchise and right to use rights-of-way and easements for water mains and facilities.*

Fayetteville shall continue to own and operate all water mains and facilities located within or serving the Johnson water service area. Johnson shall by ordinance grant Fayetteville a permanent franchise, free of charge but contingent upon Fayetteville providing water service to the Johnson water service area, so that Fayetteville has access to all street and alley rights-of-way, public easements, etc. for the use, maintenance, repair, replacement, and installation of water mains and water facilities necessary to properly serve the Johnson water service area and the Fayetteville Water Distribution System.

(G) *Water rates.*

Fayetteville shall supply water service through its distribution system and shall charge water customers located within Johnson's city limits according to the schedule of rates for customers located outside the corporate city limits of Fayetteville, Arkansas as established in the latest Fayetteville Ordinance prescribing water rates. Water rates may change periodically for both Fayetteville and out-of-town customers based upon a rate study and in accordance with state law. Fayetteville will notify Johnson of any public hearing for a water rate change before the Fayetteville City Council meeting in which a water rate increase is being proposed.

(H) Water and Wastewater Impact Fees.

Johnson agrees that the City of Fayetteville is empowered to charge its Water and Wastewater Impact Fees to new development customers in the Johnson water service area as Fayetteville does for new development in "all of the territory within the City's water and wastewater service areas" Unified Development Code of Fayetteville §159.02(A). Johnson agrees these impact fees may be changed by Fayetteville after following the procedures mandated by A.C.A. §14-56-103.

(I) Billing and collection powers.

Johnson agrees that Fayetteville may continue its meter reading, billing and collection procedures and operations, including discontinuing service to customers who fail to pay their bills, throughout all of its water service area within Johnson just as Fayetteville does throughout its entire water and wastewater service area.

(J) Water service connections.

All water customers of Fayetteville located within Johnson's water service area shall be required by Johnson to connect to the water distribution system in accordance with the rules and regulations as set out by the City of Fayetteville, the City of Johnson, the Arkansas Department of Health, the Arkansas Department of Environmental Quality, and the U. S. Environmental Protection Agency. The charges and requirements for water service connections shall be the same as for like service in the City of Fayetteville at the time the water service connections are made. Taps or connections to any and all water mains shall be made only by the Fayetteville Water and Water Department after Fayetteville has approved such taps. Johnson authorizes Fayetteville to make street cuts and openings where necessary to make new taps or connections. Fayetteville agrees to repair street cuts required in street crossings, street taps and/or repairs with materials equal to or better than the material and street condition prior to such street cut.

(K) Plumbing.

Johnson shall require each customer within the Johnson water service area to pay Fayetteville's current plumbing inspection fee and to install all plumbing in accordance with the then current ordinances, rules and regulations of the City of Fayetteville. All plumbing shall be inspected by inspectors of the Fayetteville Building Safety Division. Water service shall not be provided if the plumbing fails to meet the requirements of the applicable Fayetteville Code.

(L) Ensuring viability of water valve boxes, fire hydrants, water meters and other water system components.

Johnson agrees to ensure that water valve boxes, fire hydrants, water meters and other water system components are re-established to the proper elevation after all street widening, reconstruction or overlay projects permitted or constructed by the City of Johnson have been completed. Any water valve box, fire hydrant, water meter or other water system component repair or reconstruction must meet the City of Fayetteville's specifications and pass inspection by Fayetteville. Water valve boxes, fire hydrants, water meters and other water system components must be raised or lowered to grade within fifteen (15) days of being covered. Johnson agrees to hold Fayetteville harmless from any claims or cost incurred that are worsened by water valve boxes, fire hydrants, water meters and other water system components being covered by a City of Johnson street project. Any water valve boxes, fire hydrants, water meters and other water system components or any other water system components that have to be raised, moved, or otherwise changed as a result of work performed in any way by Johnson shall be at Johnson's expense.

(M) Johnson to allow construction and operation of water distribution system by Fayetteville.

Johnson agrees to adopt such ordinances, rules and regulations as will allow Fayetteville to construct, maintain and operate the water distribution system in accordance with the rules, regulations, or specifications of the Arkansas Department of Health, the Arkansas Department of Environmental Quality, the U.S. Environmental Protection Agency, and Fayetteville. Noncompliance with said rules, regulations or specifications by any customer may result in discontinuance of service to that customer. Fayetteville shall determine if such noncompliance has occurred. Johnson also agrees to adopt the necessary ordinances to provide Fayetteville with the necessary authority to implement any enforcement action of local, state and federal law or regulation.

(N) Public health regulation compliance.

Johnson agrees to ensure and require that all of its water customers within the water service area shall constantly comply with the ordinances, rules and regulations of Fayetteville, the U.S. Environmental Protection Agency, the Arkansas Department of Health, and the Arkansas Department of Environmental Quality governing public health and water operations and usage which may now exist or may hereinafter be promulgated. Failure or refusal of any customer to comply with such ordinances, rules or regulations will subject the customer to immediate discontinuance of water and water service and Fayetteville shall not be liable for any damages or expenses which might result from any discontinuance.

(O) Discontinuance of water service.

Fayetteville reserves the right to discontinue water service to individual customers without notice for any of the following reasons:

1. For fraudulent representation as to the condition of plumbing system as it relates to the protection and safety of Fayetteville's water or sewer system;
2. For improperly connected appliances and fixtures resulting in hazardous, potentially hazardous, or defective conditions;
3. For emergencies where damage to property, equipment or health may occur;
4. By order or request of the Arkansas Department of Health;
5. By order or request of the Arkansas Department of Environmental Quality;
6. If rules and regulations of the Arkansas Department of Health, or the U.S. Environmental Protection Agency relating to the safety and of the public water or sewer collection or treatment system are being neglected or violated;
7. If Ordinances of the City of Johnson or City of Fayetteville relating to the safety and protection of public water system are being neglected or violated; and
8. For failure to fully and timely pay water and sewer bills.

(P) Taxes and fees prohibited.

Johnson will not during the period of this contract or any renewal thereof, levy any franchise tax, occupation tax or any other tax of any form whatsoever nor assess any fee upon Fayetteville, the water distribution or the sewer systems operations called for by this contract. Nothing contained herein shall preclude the collection of any gross receipts tax (i.e. state, county or local sales tax) enacted in accordance with state law and not otherwise made exempt by state law.

(Q) Developers extending water mains.

Water mains to meet the needs of new development are primarily the responsibility of the developer and not the City of Fayetteville. Engineering, placement, size and construction of new water mains by a developer within the Johnson water service area must be inspected and approved by Fayetteville. The developer shall pay to

Fayetteville the normal system wide inspection and permit fee rate for these services by Fayetteville.

(R) Obtaining necessary new public water/sewer easements.

Johnson hereby grants to Fayetteville the right to construct, operate and own additional water facilities on or within the rights-of-way of dedicated public streets and alleys or within utility easements and other passageways. Fayetteville shall not construct or lay a water main across private property unless Johnson and/or the owners of such private property shall furnish to Fayetteville an executed easement by the owners of such property giving and granting to Fayetteville the right to construct, lay and maintain such water main across the private property. These easements shall be on forms as prescribed by Fayetteville. The form of such easements and their provisions or deeds shall show Fayetteville as the Grantee. In order to facilitate required improvements, Johnson agrees to cooperate with Fayetteville and assist in obtaining authority to cross private property with water mains. Johnson agrees to participate in any necessary eminent domain actions regarding property within the corporate limits of Johnson if Fayetteville so requests. Johnson further agrees it will not unreasonably impair, hinder or delay the obtaining of such easements or the construction of such required improvements. Johnson agrees that it will offer its full support to accomplish such improvements and obtain necessary easements.

(S) Backflow prevention.

Backflow prevention is necessary to protect the public water supply. Fayetteville shall be responsible for any determinations relating to which customers may need backflow prevention on their plumbing system. All such systems will be subject to Fayetteville's plan approval, inspection criteria, etc. Each customer that is required to install a backflow prevention assembly shall install and maintain the backflow assembly in accordance with the ordinances, rules and regulations of the City of Fayetteville

(T) Water conservation.

Johnson covenants and agrees that it will adopt an ordinance that provides enforcement of any necessary and mandatory water conservation measures proclaimed by the Mayor of Fayetteville that may become necessary due to an emergency resulting from limited supply of raw water, water treatment interruptions, failure of distribution system, pumping equipment, plant equipment, electrical facilities, or from any other source.

(U) Fire hydrants.

Without warranting their capacity to provide sufficient water for fire fighting, Fayetteville will allow the current fire hydrants connected to its distribution system within its water service area within Johnson to remain and will provide maintenance for those fire hydrants. Fayetteville will allow additional fire hydrants to be

placed within its water service area in Johnson where feasible and practical. Fayetteville will provide maintenance of these fire hydrants. Fayetteville will furnish unmetered (free) water service for the Johnson Fire Department at each fire hydrant **for emergency fire protection purposes only**. Non-emergency water from fire hydrants must be metered and shall be billed to the user. Fire hydrant meter installations must comply with the ordinances, rules and regulations of the City of Fayetteville. Fire hydrant meters can be obtained from the Fayetteville Meter Division.

(2) NOTICES:

Any written notices provided for herein shall be sufficient if hand-delivered or sent by certified mail, return receipt requested, postage prepaid, to the respective Mayor of the City.

(3) COMPLETE AGREEMENT:

It is agreed that neither city hereto is relying upon any oral or written information made by the other prior to the signing of this contract unless expressly provided herein, and that this contract constitutes the entire agreement between the City of Johnson and the City of Fayetteville and the contract shall not be hereafter amended or modified unless reduced to writing, approved by both City Councils and signed by the Mayors.

(4) SEVERABILITY:

If any phrase, clause, sentence or paragraph of this contract shall be declared invalid by the Judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining sentences or paragraphs of this contract and this contract shall remain in effect.

(5) SOVEREIGN IMMUNITY:

Nothing in this contract shall be construed to waive or limit the sovereign immunity enjoyed by both cities. Any provision that could be interpreted as a waiver or limitation of either city's sovereign immunity is expressly rejected and invalidated to the extent of such waiver or limitation. Nothing in this contract shall be construed as creating a partnership or joint venture between the City of Johnson and the City of Fayetteville for the provision of water services.

IN WITNESS WHEREOF, the Mayor and City Recorder/Treasurer of the City of Johnson, Arkansas, by authority of a resolution adopted by the City Council of the City of Johnson, Arkansas and the Mayor and City Clerk/Treasurer of the City of Fayetteville, Arkansas, by authority of a resolution adopted by the City Council of the City of Fayetteville, Arkansas, have hereunto set their hand and caused the corporation seal to be affixed and dated this the _____ day of July, 2010.

**CITY OF JOHNSON,
ARKANSAS**

**CITY OF FAYETTEVILLE,
ARKANSAS**

MAYOR LONNIE BARRON

MAYOR LIONELD JORDAN

ATTEST:

ATTEST:

JENNIFER ALLEN
City Recorder/Treasurer

SONDRA E. SMITH
City Clerk/Treasurer

AGENDA REQUEST

FOR: COUNCIL MEETING OF JUNE 15, 2010

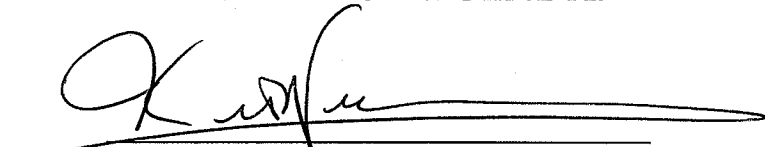
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

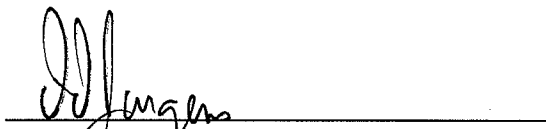
A Resolution To Approve A 15 Year Contract For Sanitary Sewer Service
Between Fayetteville And Johnson

APPROVED FOR AGENDA:



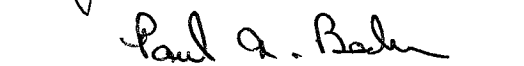
Kit Williams, City Attorney

May 26, 2010
Date



David Jurgens, Utilities Director

26 MAY 10
Date



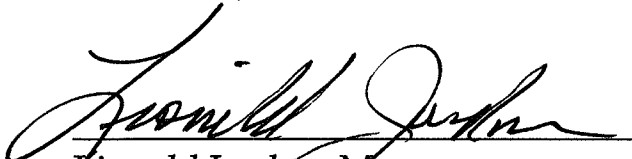
Paul Becker, Financial Director

26 MAY 2010
Date



Don Marr, Chief of Staff

6-1-2010
Date



Lioneld Jordan, Mayor

6/1/10
Date



Kim G.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

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

CC: **Don Marr**, Chief of Staff
David Jurgens, Utilities Director

FROM: **Kit Williams**, City Attorney

DATE: **May 26, 2010**

RE: **Contract for Sanitary Sewer Service between the
Cities of Johnson and Fayetteville**

A very important part of our agreement with Johnson for simultaneous detachment and annexation of the 99 acres parcel adjoining the north side of the Van Asche extension is a contract with Johnson to provide sewer service to its citizens and businesses within our water service area in Johnson. We are already supplying service to over a hundred Johnson customers, but this contract will make our sewer mains available to all residents and businesses within our water service area. Our water service area is a contractual commitment between Fayetteville and the Beaver Water District. It includes most of Johnson south of Clear Creek.

The Contract for Sanitary Sewer Service between the Cities of Johnson and Fayetteville was explained to the Sewer Committee by David Jurgens and me during their meeting after the Agenda Session on May 25, 2010. The Sewer Committee unanimously approved it and recommended it to the City Council. I will soon provide it to the Johnson City Attorney for what I hope is a quick, tentative approval. (Only our City Councils can give real, final approval.) There may be some minor adjustments needed. Any such changes will be explained and placed before you for approval before you as asked to approve the resolution.

David Jurgens, Utilities Director, has assured us that our sewer mains currently serving part of Johnson and our overall wastewater capacity are adequate to serve the entire remaining Fayetteville water service area within Johnson with

sanitary sewer service without significant additional expenditures by our current sewer customers.

Extension of sewer mains to reach new customers and development within our water service area in Johnson will be at the developer's cost just as it is with normal development within Fayetteville. It is the intent of the contract and both cities that Fayetteville will not be burdened by additional, new expenses (not paid for by sewer rates and impact fees) as a result of extending sewer service to our water service area within the City of Johnson. Sewer rates shall be those currently paid by Johnson citizens and businesses served with sewer by Fayetteville. Sewer rates can be raised by the Fayetteville City Council in the future to cover increasing costs.

This is one of several contracts that both Fayetteville and Johnson need to approve and have their mayors sign to complete the overall agreement regarding the detachment and annexation of the 99 acre parcel. I will soon provide to you the proposed Contract for Enhanced Water Service between Johnson and Fayetteville. The City Attorney of Johnson and I are working on an Agreement concerning maintaining the current Van Asche and Ball Streets as city streets (although the old Van Asche may be subject to vacation in the future); permitting Johnson emergency vehicles to run "hot" on Van Asche and Ball to reach parts of Johnson needing an emergency response; paying to the City of Johnson the \$35,000.00 agreed to by the City Council in its Resolution as an offset of sales tax loss to Johnson for detaching and annexing a couple of active businesses into Fayetteville; and agreeing to cooperate and acquire necessary rights-of-way on the north side of Van Asche west of I-540. (This property is in Johnson).

Please discuss this sewer agreement at your June 15th meeting, but table it until your July 6th meeting to ensure plenty of advance notice to our citizens. David Jurgens will be out of the country on duty during the June 15th meeting, but will attend and can answer any questions and explain the details during the July 6th meeting. I am having knee replacement surgery a week before the July 6th meeting and so am not certain whether I will be able to attend.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE A 15 YEAR CONTRACT FOR
SANITARY SEWER SERVICE BETWEEN FAYETTEVILLE
AND JOHNSON**

WHEREAS, Fayetteville owns and operates a public sewerage system consisting of gravity mains, sewage lift stations and force mains, some of which are located within the corporate limits of the City of Johnson, Arkansas, and wastewater treatment facilities with sufficient capacity to treat current and foreseeable sewage flows generated in its corporate city limits as well as future sewage flows from Johnson, and other out-of-town customers; and

WHEREAS, Fayetteville has provided sewer service to customers in Johnson for many years, but had to refrain from providing service to new customers in Johnson until its new Westside Wastewater Facility could be completed; and

WHEREAS, Johnson and Fayetteville desire to enter into an agreement whereby Fayetteville will provide access on an individual basis to its sewer mains for customers in the City of Johnson who are within Fayetteville's water service area; and,

WHEREAS, all new customers of the Fayetteville public sewage and treatment system are responsible to pay the system wide sewer impact fee to ensure new development that increases demand upon the wastewater system will bear its proportionate share of necessary improvements caused by increasing demand; and

WHEREAS, it is to the mutual advantage of Johnson and Fayetteville and their citizens to enter into an agreement for Fayetteville to own, operate and maintain a public sewerage system within Fayetteville's water service areas of the City of Johnson freely utilizing street and alley rights of way and easements to provide sewer service to Johnson citizens and thereby protecting the public health and maintaining the quality of life desired by citizens of Johnson; and

WHEREAS, the cities and their citizens will be benefitted by establishing a procedure and framework for future expansion and improvements to Fayetteville's sanitary sewer system in the City of Johnson.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the fifteen year Contract For Sanitary Sewer Service between the cities of Johnson and Fayetteville attached as Exhibit A and authorizes Mayor Jordan to execute this Contract upon its approval by the Johnson City Council and signature by Mayor Lonnie Barron and the approval of all other pending contracts between Johnson and Fayetteville and the ordinance for the simultaneous detachment and annexation into Fayetteville of the agreed 99 acre parcel by the Johnson City Council and signature by Mayor Barron

PASSED and APPROVED this 6th day of July, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

CONTRACT FOR SANITARY SEWER SERVICE
BETWEEN THE CITIES OF
JOHNSON, ARKANSAS AND FAYETTEVILLE, ARKANSAS

THIS CONTRACT is made and entered into this ____ day of July, 2010, by and between the City of Fayetteville, Arkansas, a municipal corporation, hereinafter referred to as "Fayetteville", and the City of Johnson, Arkansas, a municipal corporation, hereinafter referred to as "Johnson".

WHEREAS, Fayetteville owns and operates a public sewerage system consisting of gravity mains, sewage lift stations and force mains, some of which are located within the corporate limits of the City of Johnson, Arkansas, and wastewater treatment facilities with sufficient capacity to treat current and foreseeable sewage flows generated in its corporate city limits as well as future sewage flows from Johnson, and other out-of-town customers; and

WHEREAS, Fayetteville has provided sewer service to customers in Johnson for many years, but had to refrain from providing service to new customers in Johnson until its new Westside Wastewater Facility could be completed; and

WHEREAS, Johnson and Fayetteville desire to enter into an agreement whereby Fayetteville will provide access on an individual basis to its sewer mains for customers in the City of Johnson who are within Fayetteville's water service area; and,

WHEREAS, all new customers of the Fayetteville public sewage and treatment system are responsible to pay the system wide sewer impact fee to ensure new development that increases demand upon the wastewater system will bear its proportionate share of necessary improvements caused by increasing demand; and

WHEREAS, it is to the mutual advantage of Johnson and Fayetteville and their citizens to enter into an agreement for Fayetteville to own, operate and maintain a public sewerage system within Fayetteville's water service areas of the City of Johnson freely utilizing street and alley rights of way and easements to provide sewer service to Johnson citizens and thereby protecting the public health and maintaining the quality of life desired by citizens of Johnson; and

WHEREAS, the cities and their citizens will be benefitted by establishing a procedure and framework for future expansion and improvements to Fayetteville's sanitary sewer system in the City of Johnson.

NOW, THEREFORE, THE CITY OF JOHNSON AND THE CITY OF FAYETTEVILLE AGREE AS FOLLOWS:

(1) SEWER SERVICE PROVIDED TO JOHNSON CITIZENS AND BUSINESSES:

(A) Sewer service area.

The City of Fayetteville agrees to provide access to its sewerage facilities to individual customers in Johnson who are located within Fayetteville's water service boundary area (shown on the attached map) as agreed by the Beaver Water District and the Cities of Fayetteville and Springdale. (This shall be referred to as the "sewer service area" hereinafter.) If this water service boundary area is modified by future mutual agreement of Fayetteville and Springdale, the sewer service area may be modified by the consent of Johnson and Fayetteville to match the modified water service area.

(B) Sewer services.

The City of Fayetteville agrees that it will maintain and service all sewer facilities within its sewer service area within Johnson in a reasonable manner with the aim of providing reasonably consistent sewer service similar to the sewer service enjoyed by all of Fayetteville's in-town and out-of-town customers. Fayetteville shall not be responsible nor liable for any damages or claims resulting from the interruption, discharge or failure of any part of the Fayetteville Wastewater Treatment (Sewerage) System. If scheduled interruptions to sewer service in Johnson are necessary for system repair, maintenance, extension or rehabilitation, Fayetteville will attempt to notify the City of Johnson of such interruption prior to the commencement of the work. Fayetteville shall also attempt to notify affected Johnson customers similarly to how it attempts to notify its own citizens and other customers.

(C) Effective date of this contract.

This contract shall take effect and be in full force when approved by both city councils, signed by both mayors and after Johnson's ordinance detaching the 99 acre parcel has been approved by the Johnson City Council, approved and signed by Mayor Barron and the time for any legal challenges has expired or upon the final dismissal on the merits of such legal challenge.

(D) Term of the contract.

Fayetteville and Johnson agree that the term of this contract shall be fifteen (15) years. This contract may be renewed for another term of fifteen (15) years under the same terms and conditions upon the approval of both cities through city council resolutions.

(E) *Cooperation of the cities.*

Fayetteville and Johnson pledge to cooperate and work together to effectuate the goals and purposes of this contract for the benefit of their citizens.

(F) *Ownership of sewer mains and facilities; franchise and right to use rights-of-way and easements for sewer mains and facilities.*

Fayetteville shall continue to own and operate all sewer mains and facilities located within or serving the Johnson sewer service area. Johnson shall by ordinance grant Fayetteville a permanent franchise, free of charge but contingent upon Fayetteville providing sewer service to the Johnson sewer service area, so that Fayetteville has access to all street and alley rights-of-way, public easements, etc. for the use, maintenance, repair, replacement, and installation of sewer mains and sewage facilities necessary to properly serve the Johnson sewer service area and the Fayetteville Wastewater System.

(G) *Sewer rates.*

Fayetteville shall supply sanitary sewer service through its collection system and shall charge sewer customers located within Johnson's city limits according to the schedule of rates for customers located outside the corporate city limits of Fayetteville, Arkansas as established in the latest Fayetteville Ordinance prescribing sewer rates. Sewer rates may change periodically for both Fayetteville and out-of-town customers based upon a rate study and in accordance with state law. Fayetteville will notify Johnson of any public hearing for a sewer rate change before the Fayetteville City Council meeting in which a sewer rate increase is being proposed.

(H) *Water and Wastewater Impact Fees.*

Johnson agrees that the City of Fayetteville is empowered to charge its Water and Wastewater Impact Fees to new development customers in the Johnson sewer service area as Fayetteville does for new development in "all of the territory within the City's water and wastewater service areas" Unified Development Code of Fayetteville §159.02(A). Johnson agrees these impact fees may be changed by Fayetteville after following the procedures mandated by A.C.A. §14-56-103.

(I) *Billing and collection powers.*

Johnson agrees that Fayetteville may continue its meter reading, billing and collection procedures and operations, including discontinuing service to customers who fail to pay their bills, throughout all of its sewer service area within Johnson just as Fayetteville does throughout its entire water and wastewater service area.

(J) Sewer service connections.

All water customers of Fayetteville located within Johnson's sewer service area shall be required by Johnson to connect to the sewer system in accordance with the rules and regulations as set out by the City of Fayetteville, the City of Johnson, the Arkansas Department of Health, the Arkansas Department of Environmental Quality, and the U. S. Environmental Protection Agency. The charges and requirements for sewer service connections shall be the same as for like service in the City of Fayetteville at the time the sewer service connections are made. Taps or connections to any and all sewer lines shall be made only by the Fayetteville Water and Sewer Department after Fayetteville has approved such taps. Johnson authorizes Fayetteville to make street cuts and openings where necessary to make new taps or connections. Fayetteville agrees to repair street cuts required in street crossings, street taps and/or repairs with materials equal to or better than the material and street condition prior to such street cut.

(K) Plumbing.

Johnson shall require each customer within the Johnson sewer service area to pay Fayetteville's current plumbing inspection fee and to install all plumbing in accordance with the then current ordinances, rules and regulations of the City of Fayetteville. All plumbing shall be inspected by inspectors of the Fayetteville Building Safety Division. Water service shall not be provided if the plumbing fails to meet the requirements of the applicable Fayetteville Code.

(L) Ensuring viability of manholes.

Johnson agrees to ensure that manholes are re-established to the proper elevation after all street widening, reconstruction or overlay projects permitted or constructed by the City of Johnson have been completed. Any manhole repair or reconstruction must meet the City of Fayetteville's specifications and pass inspection by Fayetteville. Manholes must be raised or lowered to grade within thirty (30) days of being covered. Johnson agrees to hold Fayetteville harmless from any claims or cost incurred that are worsened by manholes being covered by a City of Johnson street project. Any manholes or any other sewer system components that have to be raised, moved, or otherwise changed as a result of work performed in any way by Johnson shall be at Johnson's expense.

(M) Johnson to allow construction and operation of sewer system by Fayetteville.

Johnson agrees to adopt such ordinances, rules and regulations as will allow Fayetteville to construct, maintain and operate the sewage system in accordance with the rules, regulations, or specifications of the Arkansas Department of Health, the Arkansas Department of Environmental Quality, the U.S. Environmental Protection Agency, and Fayetteville. Noncompliance with said rules, regulations or specifications by any

customer may result in discontinuance of service to that customer. Fayetteville shall determine if such noncompliance has occurred. Johnson also agrees to adopt the necessary ordinances to provide Fayetteville with the necessary authority to implement any enforcement action of local, state and federal law or regulation.

(N) *Public health regulation compliance.*

Johnson agrees to ensure and require that all of its sewer customers within the sewer service area shall constantly comply with the ordinances, rules and regulations of Fayetteville, the U.S. Environmental Protection Agency, the Arkansas Department of Health, and the Arkansas Department of Environmental Quality governing public health and sewer operations and usage which may now exist or may hereinafter be promulgated. Failure or refusal of any customer to comply with such ordinances, rules or regulations will subject the customer to immediate discontinuance of water and sewer service and Fayetteville shall not be liable for any damages or expenses which might result from any discontinuance.

(O) *Discontinuance of sewer service.*

Discontinuance of sewer service is most commonly executed by a discontinuance of water service. Fayetteville reserves the right to discontinue sewer service to individual customers without notice for any of the following reasons:

1. For fraudulent representation as to the condition of plumbing system as it relates to the protection and safety of Fayetteville's sewer system;
2. For improperly connected appliances and fixtures resulting in hazardous, potentially hazardous, or defective conditions;
3. For emergencies where damage to property, equipment or health may occur;
4. By order or request of the Arkansas Department of Health;
5. By order or request of the Arkansas Department of Environmental Quality;
6. If rules and regulations of the Arkansas Department of Health, or the U.S. Environmental Protection Agency relating to the safety and of the public sewer collection or treatment system are being neglected or violated;
7. If Ordinances of the City of Johnson or City of Fayetteville relating to the safety and protection of public sewer system are being neglected or violated; and
8. For failure to fully and timely pay water and sewer bills.

(P) Taxes and fees prohibited.

Johnson will not during the period of this contract or any renewal thereof, levy any franchise tax, occupation tax or any other tax of any form whatsoever nor assess any fee upon Fayetteville, the sewer system or the operations called for by this contract. Nothing contained herein shall preclude the collection of any gross receipts tax (i.e. state, county or local sales tax) enacted in accordance with state law and not otherwise made exempt by state law.

(Q) Developers extending sewer mains.

Sewer mains to meet the needs of new development are primarily the responsibility of the developer and not the City of Fayetteville. Engineering, placement, size and construction of new sewer mains by a developer within the Johnson sewer service area must be inspected and approved by Fayetteville. The developer shall pay to Fayetteville the normal system wide inspection and permit fee rate for these services by Fayetteville.

(R) Obtaining necessary new public water/sewer easements.

Johnson hereby grants to Fayetteville the right to construct, operate and own additional sewer facilities on or within the rights-of-way of dedicated public streets and alleys or within utility easements and other passageways. Fayetteville shall not construct or lay a sewer main across private property unless Johnson and/or the owners of such private property shall furnish to Fayetteville an executed easement by the owners of such property giving and granting to Fayetteville the right to construct, lay and maintain such sewer main across the private property. These easements shall be on forms as prescribed by Fayetteville. The form of such easements and their provisions or deeds shall show Fayetteville as the Grantee. In order to facilitate required improvements, Johnson agrees to cooperate with Fayetteville and assist in obtaining authority to cross private property with sewer mains. Johnson agrees to participate in any necessary eminent domain actions regarding property within the corporate limits of Johnson if Fayetteville so requests. Johnson further agrees it will not unreasonably impair, hinder or delay the obtaining of such easements or the construction of such required improvements. Johnson agrees that it will offer its full support to accomplish such improvements and obtain necessary easements.

(2) NOTICES:

Any written notices provided for herein shall be sufficient if hand-delivered or sent by certified mail, return receipt requested, postage prepaid, to the respective Mayor of the City.

(3) COMPLETE AGREEMENT:

It is agreed that neither city hereto is relying upon any oral or written information made by the other prior to the signing of this contract unless expressly provided herein, and that this contract constitutes the entire agreement between the City of Johnson and the City of Fayetteville and the contract shall not be hereafter amended or modified unless reduced to writing, approved by both City Councils and signed by the Mayors.

(4) SEVERABILITY:

If any phrase, clause, sentence or paragraph of this contract shall be declared invalid by the Judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining sentences or paragraphs of this contract and this contract shall remain in effect.

(5) SOVEREIGN IMMUNITY:

Nothing in this contract shall be construed to waive or limit the sovereign immunity enjoyed by both cities. Any provision that could be interpreted as a waiver or limitation of either city's sovereign immunity is expressly rejected and invalidated to the extent of such waiver or limitation. Nothing in this contract shall be construed as creating a partnership or joint venture between the City of Johnson and the City of Fayetteville for the provision of sewer services.

IN WITNESS WHEREOF, the Mayor and City Recorder/Treasurer of the City of Johnson, Arkansas, by authority of a resolution adopted by the City Council of the City of Johnson, Arkansas and the Mayor and City Clerk/Treasurer of the City of Fayetteville, Arkansas, by authority of a resolution adopted by the City Council of the City of Fayetteville, Arkansas, have hereunto set their hand and caused the corporation seal to be affixed and dated this the ____ day of July, 2010.

CITY OF JOHNSON, ARKANSAS

CITY OF FAYETTEVILLE, ARKANSAS

MAYOR LONNIE BARRON

MAYOR LIONELD JORDAN

ATTEST:

ATTEST:

JENNIFER ALLEN
City Recorder/Treasurer

SONDRA E. SMITH
City Clerk/Treasurer

Agenda Session 6-9-10

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
June 15, 2010**

A meeting of the Fayetteville City Council will be held on June 15, 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. Approval of the June 1, 2010 City Council meeting minutes.
2. **Bid #10-36 Premier Lighting Group:** A resolution awarding Bid #10-36 and approving the purchase of thirty-two (32) LED light fixtures and poles in the amount of \$55,776.00 from Premier Lighting Group for Installation as part of the Block Street Improvement Project.

- ✓ 3. **Bid #10-39 Chevrolet of Fayetteville:** A resolution awarding Bid #10-39 and approving the purchase of one (1) 2011 Chevrolet Tahoe K-9 unit from Chevrolet of Fayetteville in the amount of \$26,997.00 for use by the Fayetteville Police Department.
- ✓ 4. **Bid #10-40 Dynamic Lighting Solutions:** A resolution awarding Bid #10-40 and approving the purchase of thirty-three (33) LED light fixtures and poles in the amount of \$55,242.00 from Dynamic Lighting Solutions for installation on Scull Creek Trail between North Street and Maple Avenue.
- ✓ 5. **Vermeer Corporation:** A resolution authorizing the purchase of one (1) 521 Wildcat Trommel Screener from Vermeer Corporation through an NJPA bid in the amount of \$195,693.65 for use by the Solid Waste Division, and approving a budget adjustment.
- ✓ 6. **2009 Edward Byrne Memorial Justice Assistance Grant:** A resolution authorizing acceptance of a 2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$30,000.00 for drug enforcement equipment and supplies for the Fayetteville Police Department, and approving a budget adjustment recognizing the grant revenue.
- ✓ 7. **Garver, LLC Amendment No. 2:** A resolution approving Amendment No. 2 to the contract with Garver, LLC in the amount of \$196,350.00 for additional design and construction phase services for the Cato Springs Road Improvement Project.
- ✓ 8. **Fayetteville Expressway Economic Development Corridor Project:** A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for expansion of Van Asche Drive from Garland Avenue to Gregg Avenue.
- ✓ 9. **Off Street Parking Development Appointment:** A resolution to approve the appointment of four members of the Board of Improvement of the Downtown Off Street Parking Development District No. 1 of the City of Fayetteville.

B. Unfinished Business:

- Check ordinance to make sure it is the amended one.*
- ✓ 1. **Amend Chapter §163.14 Revocation or Change of Conditional Use:** An ordinance amending §163.14 of the Unified Development Code to permit a periodic review of conditional use permits as described herein. *This ordinance was left on the First Reading at the May 18, 2010 City Council meeting. This ordinance was left on the Second Reading at the June 1, 2010 City Council meeting.*

Left on the Second Reading.

C. New Business:

- ✓ 1. **Home Depot Foundation/SCI Pilot Cities Grant:** A resolution authorizing application and acceptance of a Home Depot Foundation/SCI Pilot Cities Grant in the amount of \$500,000.00 with a city matching amount of \$100,000.00 to complete an affordable housing project, develop a sustainability initiative, and perform an assessment of current sustainability efforts.

2. **Highway 16 Improvements Project:** A resolution amending resolution 101-06 expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16.
3. **RZN 10-3566 (932 Garland):** An ordinance rezoning that property described in rezoning petition RZN 10-3566, for approximately 0.84 acres, located at 932 Garland Avenue from R-PZD, Residential Planned Zoning District 06-2256 (932 Garland), to R-O, Residential Office and RMF-40, Residential Multi-family, 40 units per acre.
4. **ADM 09-3273 (Business Registry and License Program):** An ordinance to amend the Fayetteville code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations within Fayetteville.
5. **Amend Chapter 97 Parks and Recreation:** An ordinance to amend Chapter 97 Parks and Recreation of the Code of Fayetteville to permit and regulate signs recognizing donor contributions.
6. **Johnson Enhanced Water Service Contract:** A resolution to approve a 15 year contract for enhanced water service between Fayetteville and Johnson.
7. **Johnson Sanitary Sewer Service Contract:** A resolution to approve a 15 year contract for sanitary sewer service between Fayetteville and Johnson.

Announcements: ADD: N.B. #8 - Appeal of Planning Commission decision

Adjournment:

No Tour

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.

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Pre-Agenda Meeting 6/02/10

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
June 15, 2010**

A meeting of the Fayetteville City Council will be held on June 15, 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. Approval of the June 1, 2010 City Council meeting minutes.
- ✓ 2. **Bid #10-36 Premier Lighting Group:** A resolution awarding Bid #10-36 and approving the purchase of thirty-two (32) LED light fixtures and poles in the amount of \$55,776.00 from Premier Lighting Group for Installation as part of the Block Street Improvements Project.

- ✓ 3. **Bid #10-39 Chevrolet of Fayetteville:** A resolution awarding Bid #10-39 and approving the purchase of one (1) 2011 Chevrolet Tahoe K-9 unit from Chevrolet of Fayetteville in the amount of \$26,997.00 for use by the Fayetteville Police Department.

- Spelling 4. **Bid #10-40 Dynamic Lighting Solutions:** A resolution awarding Bid #10-40 and approving the purchase of thirty-three (33) LED light fixtures and poles in the amount of \$55,242.00 from Dynamic Lighting Solutions for installation ~~of~~ ^{ON} Scull Creek Trail between North Street and Maple Avenue.

- ✓ 5. **Vermeer Corporation:** A resolution authorizing the purchase of one (1) 521 Wildcat Trommel Screener from Vermeer Corporation through an NJPA bid in the amount of \$195,693.65 for use by the Solid Waste Division, and approving a budget adjustment.

- NB#1 6. **Home Depot Foundation/SCI Pilot Cities Grant:** A resolution authorizing application and acceptance of a Home Depot Foundation/SCI Pilot Cities Grant in the amount of \$500,000.00 with a city matching amount of \$100,000.00 to complete an affordable housing project, develop a sustainability initiative, and perform an assessment of current sustainability efforts.

- ✓ 7. **2009 Edward Byrne Memorial Justice Assistance Grant:** A resolution authorizing acceptance of a 2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$30,000.00 for drug enforcement equipment and supplies for the Fayetteville Police Department, and approving a budget adjustment recognizing the grant revenue.

- ✓ 8. **Garver, LLC Amendment No. 2:** A resolution approving Amendment No. 2 to the contract with Garver, LLC in the amount of \$196,350.00 for additional design and construction phase services for the Cato Springs Road Improvement Project.

- NB#2 9. **Highway 16 Improvements Project:** A resolution amending resolution 101-06 expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16.

- ✓ 10. **Fayetteville Expressway Economic Development Corridor Project:** A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for expansion of Van Asche Drive from Garland Avenue to Gregg Avenue.

B. Unfinished Business:

- ✓ 1. **Amend Chapter §163.14 Revocation or Change of Conditional Use:** An ordinance amending §163.14 of the Unified Development Code to permit a periodic review of conditional use permits as described herein. *This ordinance was left on the First Reading at the May 18, 2010 City Council meeting. This ordinance was left on the Second Reading at the June 1, 2010 City Council meeting.*

Left on the Second Reading.

C. New Business:

1. **RZN 10-3566 (932 Garland):** An ordinance rezoning that property described in rezoning petition RZN 10-3566, for approximately 0.84 acres, located at 932 Garland Avenue from R-PZD, Residential Planned Zoning District 06-2256 (932 Garland), to R-O, Residential Office and RMF-40, Residential Multi-family, 40 units per acre.
2. **ADM 09-3273 (Business Registry and License Program):** An ordinance to amend the Fayetteville code by enacting a chapter to create a business registry and to require annual business licenses for all businesses and non-profits with locations within Fayetteville.
3. **Amend Chapter 97 Parks and Recreation:** An ordinance to amend Chapter 97 Parks and Recreation of the Code of Fayetteville to permit and regulate signs recognizing donor contributions.
4. **Amend Chapter 171 Streets and Sidewalks:** An ordinance amending the Unified Development Code Chapter 171: Streets and Sidewalks to amend and clarify sidewalk and driveway approach construction standards.
5. **Johnson Water Service Contract:** A resolution to approve a 15 year contract for enhanced water service between Fayetteville and Johnson.
6. **Johnson Sanitary Sewer Service Contract:** A resolution to approve a 15 year contract for sanitary sewer service between Fayetteville and Johnson.

Announcements:

ADD: Consent:

Adjournment:

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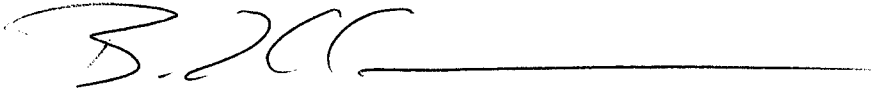
Handed out at the Council
meeting 6-15-10.

6-16-2010

Fayetteville Council Members

I wanted to write and express my support for a city business license in Fayetteville. I feel it would serve as a means to help with sales tax reporting and collections as well as a tracking system of new and closed businesses. Numerous surrounding and nationwide cities maintain a business licensing system and feel it would be beneficial for Fayetteville too.

Thank you for your time

A handwritten signature in dark ink, appearing to read 'B. Karn', followed by a horizontal line.

Brandon Karn

Fayetteville Business Owner

*Handed out at the
City Council Meeting 6-15-10*

Nominating Committee Report

Meeting Date: Monday, June 7, 2010

Meeting Location: Rm. 326, City Hall

Members Present: Kyle Cook, Bobby Ferrell, Adela Gray, and Shirley Lucas

The committee recommends the following applicants for City Council approval:

Animal Services Advisory Board

- Dr. Charles Blomberg – One veterinarian term ending 06/30/13
- Stacey Fraser – One business term ending 06/30/13
- Elizabeth Matthews – One citizen-at-large term ending 06/30/13.

Board of Adjustments

- Steve Bandy – One unexpired term ending 03/31/15
- Evan Niehues – One unexpired term ending 03/31/15.

Environmental Action Committee

- Robert Michaels – One term ending 06/30/13.

Fayetteville Arts Council

- Jay Baker – One working artist term ending 06/30/13
- Hank Kaminski – One working artist term ending 06/30/13
- Janie Agee – One arts and cultural/citizen-at-large term ending 06/30/13.

Historic District Commission

- Cheri Coley – One term ending 06/30/13
- Jonathan Story – One term ending 06/30/13.

Parks and Recreation Advisory Board

- Brian Bailey – One unexpired term ending 12/31/11.

Telecommunications Board

- Mike Russell – One term ending 06/30/14
- Blake Pennington – One term ending 06/30/14.

Walton Arts Center Council, Inc.

- Jeff Schomburger – One term ending 06/30/13
- Curt Rom – One term ending 06/30/13.

Walton Arts Center Foundation, Inc.

- Mary Ann Greenwood – One term ending 06/30/13.