

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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
August 17, 2010**

A meeting of the Fayetteville City Council will be held on August 17, 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:

City Council Meeting Presentations, Reports and Discussion Items:

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

Agenda Additions:

A. Consent:

1. Approval of the July 20, 2010 and August 3, 2010 City Council meeting minutes.

APPROVED

2. **Amend Resolution No. 98-09:** A resolution to amend Resolution No. 98-09 to change all references from “Arkansas Western Gas Company” to “SourceGas, LLC.”

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 149-10

3. **Bid #10-49 Danny Robinson Construction, LLC:** A resolution awarding Bid #10-49 and authorizing a contract with Danny Robinson Construction, LLC in the amount of \$394,450.00 for renovation and lighting of the Wilson Park Trail, approving a 15% project contingency, and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 150-10

4. **Arkansas Department of Aeronautics Grant:** A resolution authorizing application and acceptance of an Arkansas Department of Aeronautics Grant in the amount of \$18,984.00 to be used for the repair of airport fuel farm overflow protection and inventory management systems and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 151-10

5. **Arkansas Historic Preservation Program:** A resolution approving a grant agreement with the Arkansas Historic Preservation Program in the amount of \$4,500.00 for travel and training expenses in support of the Fayetteville Historic District Commission; and approving a budget adjustment recognizing the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 152-10

B. Unfinished Business: None

C. New Business:

1. **ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions and 164: Supplementary Zoning Regulations, in order to include additional definitions and requirements for vehicle related businesses.

THIS ORDINANCE WAS LEFT ON THE SECOND READING

2. **RZN 10-3614 (WRMC):** An ordinance rezoning that property described in rezoning petition RZN 10-3614, for approximately 4.37 acres, located at Lot 5 Brookstone Subdivision, the southeast corner of Wimberly Drive and Longview Street from R-O, Residential Office, to P-1, Institutional.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5344

3. **VAC 10-3617 (Timmermans):** An ordinance approving VAC 10-3617 submitted by Blew and Associates, Inc. for property located at 3968 Edgewater to vacate a utility easement, a total of 1,008 square feet.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5345

4. **Amend §117.80 Definitions (Pedicabs):** An ordinance to Amend §117.80 Definitions of the Fayetteville Code, to enact a new **Article IX Pedicabs of Chapter 117 Vehicle-Related Business** of the Fayetteville Code and to declare an emergency.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5346

D. Public Hearing:

1. **Certificate of Public Convenience and Necessity (Razorback Pedal Cab):** A resolution to approve the granting of a Pedicab Certificate of Public Convenience and Necessity to the Razorback Pedal Cab.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 153-10

2. **Certificate of Public Convenience and Necessity (Fayetteville Pedicab Company):** A resolution to approve the granting of a Pedicab Certificate of Public Convenience and Necessity to the Fayetteville Pedicab Company.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 154-10

Announcements:

Adjournment: 7:25 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

Subject:	Roll				
Alderman Lucas was absent	Lucas	Absent			
	Lewis	✓			
	Gray	✓			
Alderman Rhoads Arrived at 6:05 p.m.	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Jordan	✓			

8-0

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

Subject:	Consent				
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Thiel			
<i>passed</i> <i>Minutes</i> <i>approved</i> 149-10 thru 152-10	Lucas	Absent			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Jordan				

7-0

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

Subject:		ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses)			
Motion To:					
Motion By:			2nd Read		
Motion By:			Thiel		
Seconded:			Gray		
C. 1 New Business Left on the Second Reading	Lucas	Absent	absent	absent	
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Petty	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Jordan				

7-0

Subject:		RZN 10-3614 (WRMC)			
Motion To:					
Motion To:			2nd Read	3rd Read	
Motion By:			Petty	Thiel	
Motion By:			Thiel	Cook	
Seconded:					
C. 2 New Business Passed 5344	Lucas	Absent	Absent	absent	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Jordan				

7-0

7-0

7-0

Subject:		VAC 10-3617 (Timmermans)			
Motion To:			2nd Read	3rd Read	Pass
Motion By:			Gray	Gray	
Seconded:			Ferrell	Ferrell	
C. 3 New Business <u>Passed</u> 5345	Lucas	absent	absent	absent	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Jordan				
		7-0	7-0	7-0	

Subject:		Amend §117.80 Definitions (Pedicabs)			
Motion To:		Amend: Notification Process & No longer in business certificate void.	Amend: to one minor - helmets for children available	Amend to one zone & delete fee for two zones	
Motion By:		Petty	Petty	Rhoads	
Seconded:		Thiel	Lewis	Ferrell	
C. 4 New Business Continued to next page.	Lucas	absent	absent	absent	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Petty	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Jordan				
		7-0	7-0	7-0	

Subject:		Amend 117.80 Definitions (Pedicabs)			
Motion To:		2nd Read	3rd Read	Pass	Clause Emergency
Motion By:		Ferrell	Thiel		Thiel
Seconded:		Lewis	Ferrell		Petty
C. 4. New Business 5346	Lucas	Absent	Absent	Absent	Absent
	Lewis	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Petty	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Mayor Jordan				

7-0

7-0

7-0

7-0

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

Subject:	Certificate of Public Convenience and Necessity (Razorback Pedal Cab) <i>Amend name! Main Street Pedal Cab.</i>				
Motion To:		<i>Approve</i>			
Motion By:		<i>Rhoads</i>			
Seconded:		<i>Ferrell</i>			
D. 1 Public Hearing <i>153-10</i>	Lucas	<i>absent</i>			
	Lewis	<i>✓</i>			
	Gray	<i>✓</i>			
	Thiel	<i>✓</i>			
	Cook	<i>✓</i>			
	Petty	<i>✓</i>			
	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Mayor Jordan				

7-0

Subject:	Certificate of Public Convenience and Necessity (Fayetteville Pedicab Company)				
Motion To:		<i>Approve</i>			
Motion By:		<i>Ferrell</i>			
Seconded:		<i>Petty</i>			
D. 2 Public Hearing <i>154-10</i>	Lucas	<i>absent</i>			
	Lewis	<i>✓</i>			
	Gray	<i>✓</i>			
	Thiel	<i>✓</i>			
	Cook	<i>✓</i>			
	Petty	<i>✓</i>			
	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Mayor Jordan				

7-0

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Lioneld Jordan**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

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

DATE: **August 18, 2010**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of August 17, 2010**

1. **Amend Resolution No. 98-09:** A resolution to amend Resolution No. 98-09 to change all references from "Arkansas Western Gas Company" To "SourceGas, LLC."
2. **Bid #10-49:** A resolution awarding Bid #10-49 and authorizing a contract with Danny Robinson Construction, LLC in the amount of \$394,450.00 for renovation and lighting of the Wilson Park Trail, approving a 15% project contingency, and approving a budget adjustment.
3. **Arkansas Department of Aeronautics Grant:** A resolution authorizing application and acceptance of an Arkansas Aeronautics grant in the amount of \$18,984.00 to be used for the repair of Airport Fuel Farm Overfill Protection and Inventory Management Systems, and approving a budget adjustment.
4. **Amend §117.80 Definitions (Pedicabs):** An ordinance to amend §117.80 **Definitions** of the Fayetteville Code, to enact a new Article IX **Pedicabs** of Chapter 117 **Vehicle-Related Businesses** of the Fayetteville Code and to declare an emergency.
5. **Certificate of Public Convenience And Necessity:** A resolution to approve the granting of a Pedicab Certificate of Public Convenience And Necessity to Main Street Pedal Cab.
6. **Certificate of Public Convenience And Necessity:** A resolution to approve the granting of a Pedicab Certificate of Public Convenience And Necessity to the Fayetteville Pedicab Company.

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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2. **Certificate of Public Convenience and Necessity (Fayetteville Pedicab Company):** A resolution to approve the granting of a Pedicab Certificate of Public Convenience and Necessity to the Fayetteville Pedicab Company.

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Handed out
at Agenda
Session 8-10-10

A.3, 8-17-10 Agenda
Bid # 10-49 Danny Robinson Construction

A. 3
Bid #10-49 Danny Robinson
Construction, LLC
Page 1 of 2



www.accessfayetteville.org



Bid #10-49, Construction of Wilson Park Trail Renovation and Lighting July 20, 2010

- Construction of the existing asphalt trail in Wilson Park was completed in 1996. The trail has outlived its lifespan.
- Signs of erosion and buckling have been evident for several years and the trail is in need of replacement.
- Numerous citizens have requested lights on this trail since the trail was completed in 1996.
- Lighting is also needed along the trail due to heavy use in the evening and early morning hours. By lighting this trail, the City will provide a safer place for people to exercise and expanded hours for the trail to be used comfortably.
- The project also includes the construction of raised, colored concrete crosswalks at four of the existing entry drives providing an additional safety feature for trail users.
- Due to the popularity of the trail, the Parks and Recreation Advisory Board has supported the project, but funding has not been available for the project until this year.
- The project was approved as part of the 2010 CIP. The project is funded with Parks Development (HMR) and Park Land Dedication (Southwest Quadrant) funds.



South side of Wilson Park on Louise Street
facing west



North side of Wilson Park on Prospect Street
facing east



North side of Wilson Park corner of Prospect
Street and Wilson Avenue facing north



Existing entry on north side of Wilson Park on
Prospect Street facing east

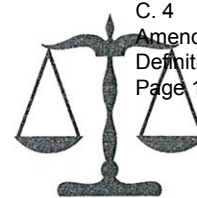
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

Final



C. 4
Amend §117.80
Definitions (Pedicabs)
Page 1 of 28

LEGAL DEPARTMENT

TO: **Mayor Jordan**
City Council
Sondra Smith, City Clerk

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', followed by a long horizontal line.

DATE: **August 11, 2010**

RE: **Pedicab Ordinance Amendments Suggested by City Clerk**

Pursuant to the City Council, I have drafted a proposed change that clearly places the duty of notification of current Certificate holders on the applicant seeking the City Council's approval for a new Certificate of Public Convenience and Necessity. I was able to accomplish this by changing one sentence in §117.101(C) **Public Hearing for Certificate**. Below is the new proposed (C) with the new sentence italicized.

“(C) **Public Hearing for Certificate**. When the Police Department notifies the City Clerk that a proper and adequate application has been filed, the City Clerk shall fix a time and place for a public hearing thereon. *The City Clerk shall thereupon notify the applicant who shall have the duty to notify all holders of current and valid Certificates of Public Convenience and Necessity for taxicabs and pedicabs and provide proof of such service to the City Council.* Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.”

When discussing this situation with Sondra, I discovered that she had records of many Certificates of Public Convenience and Necessity that had been issued through the decades, many of which were no longer "current" as the holder was no longer in business, did not operate any taxis, etc. This creates a real notification problem for a new applicant since we might not have accurate addresses for those out of business Certificate holders. Requiring Notification of an out of business Certificate holder makes no sense. This provision will allow City Clerk Sondra Smith (in cooperation with our Police Department) to clean up her files so that we will know who the active holders of Certificates are and which Certificate should be cancelled. Below is the new proposed subsection (C) of §117.111 **Suspension, Revocation and Cancellation of Certificate.**

"(C) If any holder of a Certificate goes out of business, fails to operate under the Certificate for one calendar year, fails to have any vehicle inspected to operate under the Certificate for one calendar year or fails to have any driver or operator properly permitted under the Certificate for one calendar year, the holder's Certificate of Public Convenience and Necessity shall be deemed abandoned and shall be denoted as cancelled and invalid by the City Clerk."

I plan to soon bring to you this same language as an amendment to the taxicab ordinance and the limousine ordinance which currently have Certificates that do not need to be renewed and thus should be able to be cancelled when abandoned.

We found a typo in the enacting ordinance and an improper reference to the Fayetteville Transit Board (instead of City Council) in the Pedicab Ordinance and have corrected both. Attached is what should be the **final proposed pedicab ordinance** with the change requested by the City Council at your Agenda meeting, the change requested by City Clerk Sondra Smith, and the typos corrected. Please amend the ordinance presented to you yesterday (and placed upon the Agenda) with these changes.

The City Council may also present any further amendments you desire. If any one has an amendment in mind, please let me know so I can draft appropriate language for your amendment.

Final 8-11-10

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §117.80 **DEFINITIONS** OF THE FAYETTEVILLE CODE, TO ENACT A NEW ARTICLE IX **PEDICABS** OF CHAPTER 117 **VEHICLE-RELATED BUSINESSES** OF THE FAYETTEVILLE CODE AND TO DECLARE AN EMERGENCY

WHEREAS, operators of pedicab companies have sought to begin operations within the City of Fayetteville; and

WHEREAS, there are no current comprehensive regulations for pedicab operations within Fayetteville, and such regulations are essential to protect the safety and welfare of Fayetteville citizens.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.80 **Definitions** of the Fayetteville Code by replacing the definition of *Nonmotorized passenger transport vehicle* with the following:

"Nonmotorized passenger transport vehicle. A horse-drawn carriage or similar vehicle pulled by horses or other livestock. "

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the Fayetteville City Code by enacting a new Article IX **Pedicabs** of Chapter 117 **Vehicle-Related Businesses** which is attached hereto as Exhibit "A" and incorporated herein as if set out word for word.

Final 8-11-10

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby determines that the immediate regulation of pedicabs is essential to protect the safety of Fayetteville citizens and therefore declares that an emergency exists such that this ordinance shall be in full force and effect from the date of its passage and approval.

PASSED and **APPROVED** this 17th day of August, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

FINAL

ARTICLE IX PEDICABS

§117.100 Definitions

For the purpose of this article, the following words and terms have the meaning ascribed thereto:

Driver. An individual who operates a pedicab.

Holder. A person who is granted a Certificate of Public Convenience and Necessity under this article to provide pedicab service in the city.

Motorized electric powered tricycle. A tricycle that is equipped with an electric assist motor.

Pedicab. A tricycle or a motorized electric powered tricycle, not wider than fifty-four (54) inches at its widest point, which transports or is held out to the public as available to transport passengers for hire, or for a gratuity, and is specifically designed and manufactured for that purpose.

Pedicab service. The business of offering or providing transportation of persons for hire, or for a gratuity, in a pedicab, when:

- (1) A driver is furnished as part of the service; and
- (2) The service is offered only in accordance with a pre-approved route or within a zone of operation by right.

Pedicab driver's permit. A permit issued to an individual by the Chief of Police to operate a pedicab for hire in the city.

Operate. To drive or be in actual physical control of a pedicab.

Permittee. An individual who has been issued a pedicab driver's permit under this article.

Person. An individual, corporation, governmental subdivision or an agency, trust, partnership, or two or more persons having a common economic interest.

Preapproved route. Pedicab service operating on a predetermined schedule with fixed pickup and destination points located on a route approved by and on file with the traffic superintendent.

Tricycle. A device that is propelled by human power on which a person may ride and that has three

(3) wheels in contact with the ground, any of which is more than sixteen (16) inches in diameter.

§117.101 Certificate of Public Convenience And Necessity Required; Issuance Procedure

(A) *Certificate needed for operation.* No person shall operate or permit a pedicab owned, leased or controlled by the person to be operated as a vehicle for hire upon the streets or trails of the city without having first obtained a Certificate of Public Convenience and Necessity from the Fayetteville City Council.

(B) *Information required for Certificate.* An application for a certificate shall be filed with the Police Department upon forms provided by the city, and said application shall be verified under oath and shall furnish the following information:

- (1) The name and address of the applicant, including the name and address of all officers and stockholders of the company, if incorporated, and the name, address and telephone number of the person to whom complaints should be directed;
- (2) The financial status of the applicant, including the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against the applicant (officers and stockholders of the company, if incorporated), and the nature of the transaction or acts giving rise to said judgments;
- (3) The experience of the applicant including all officers and stockholders of the company, if incorporated, in the transportation of passengers, especially as related to pedicabs;
- (4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;
- (5) The number of pedicabs to be available for operation or controlled by the applicant and the location of proposed storage areas for the pedicabs when not in active service. The applicant shall

furnish a minimum and maximum number of requested vehicles to be permitted;

(6) A complete description of each model or type of pedicab sought to be used to include length, width, brakes, any motor assist, year, make, model, rated capacity, lighting and safety features;

(7) The hours between which the applicant proposes to provide pedicab service to the general public, and the dates, if any, on which the applicant does not propose to provide pedicab service to the general public, and;

(8) The rate schedule or gratuity notice which the applicant proposes to use to charge passengers or receive gratuities.

(9) Any proposed predetermined route with scheduled and fixed pick-up and destination points and proposed fare for such pedicab service;

(10) Documentary evidence from an insurance company indicating a willingness to provide liability insurance as required by this chapter;

(11) Such additional information as the applicant desires to include to aid in the determination of whether the requested operating authority should be granted; and,

(12) Such additional information as may be determined to be necessary to assist or promote the implementation or enforcement of this article, or the protection of the public safety.

(C) **Public Hearing for Certificate.** When the Police Department notifies the City Clerk that a proper and adequate application has been filed, the City Clerk shall fix a time and place for a public hearing thereon. The City Clerk shall thereupon notify the applicant who shall have the duty to notify all holders of current and valid Certificates of Public Convenience and Necessity for taxicabs and pedicabs and provide proof of such service to the City Council. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.

(D) **Findings of the City Council.**

(1) If the City Council finds that pedicab or further pedicab service is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions

of this subchapter, then the city clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.

(2) The City Council shall deny any application in which the proposed hours of service, the proposed rate schedule or the gratuity request are found to be unreasonable to meet the public need.

(3) In making the above findings, the City Council shall take into consideration the number of taxicabs or pedicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions and traffic safety, and the character, experience, and responsibility of the applicant.

§117.102 Permitted Zones of Operation and Approved Fixed Routes

(A) **Permitted Zones of Operation.** Pedicabs may only operate and carry passengers within the permitted zones of operation (Western Zone, Central Zone, or both as shown on the attached map) as authorized by the City Council when granting a Certificate of Convenience and Necessity or on routes or for special events as authorized by the Transportation Services Director. Pedicabs (without passengers) may be taken by licensed pedicab operators from a storage, repair, maintenance or cleaning area outside the permitted zones of operation into such zones or onto an approved route where operations may begin. The City Council by Resolution may extend a pedicab company's originally permitted zone of operation from a single zone to both zones or may restrict the pedicab company's operation from both zones to a single zone. The City Council may further restrict the hours and dates of operation in permitted zones for any or all pedicab companies.

(B) **Route Approval.**

(1) All routes outside of the permitted zone of operation shall be approved by the city's Transportation Services Director. In no event shall a requested route permit operation of a pedicab on any street with a posted speed limit of thirty-five (35) miles per hour more, other than to cross said street.

(2) Operators shall submit to the city's Transportation Services Director all requests for temporary changes in authorized routes, or for participation in special events such as festivals, parades or weddings, not less than

three (3) days before the effective date of the change or event.

(C) No pedicab shall be operated in a location where such operation is not authorized by this ordinance or prohibited by the laws of the State of Arkansas or the Fayetteville City Code.

(D) No pedicab may operate on city transportation trails without the express prior approval of the route and fare by the Transportation Services Director. Pedicabs may not operate on any recreational trails in city parks (such as Lake Fayetteville, Wilson Park, Gullett Park, etc.).

(E) The operator of a pedicab shall maintain at least one hand on the handlebars at all times during movement of the pedicab.

(F) No pedicab shall be operated on a street with a posted speed limit of thirty-five (35) miles per hour or greater, except for the purpose of crossing that street.

(G) No pedicab shall be operated using a gas powered assist motor.

§117.103 Pedicab Driver's Permit

(A) **Pedicab Driver's Permit Required.** No person shall operate a pedicab for hire or for a gratuity upon the streets of the city, and no person who owns or controls a pedicab shall permit it to be so operated, unless the driver of said vehicle shall have first obtained and shall have then in force a pedicab driver's permit issued under the provisions of this article.

(B) **Pedicab Driver's Permit Application.**

(1) An application for a pedicab driver's permit shall be filed with the Fayetteville Police Department on forms provided by the city. Such application shall be verified under oath and shall contain the following information:

- (a) Valid current Arkansas Driver's license.
- (b) The names and addresses of four (4) residents of the county, who have known the applicant for a period of one year and who will vouch for the sobriety, honesty, and general good character of the applicant;
- (c) A concise history of the applicant's employment;
- (d) Proof of training in the use and operation of a pedicab pursuant to a curriculum approved by the chief of

police.

(e) Proof of existing employment or a promise of employment when a pedicab driver's permit is issued with the pedicab company that has a valid Certificate of Public Convenience and Necessity.

(C) **Police Investigation.** The police department shall conduct an investigation of each applicant for a pedicab driver's permit, and a report of such investigation with a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the chief of police.

(D) **Issuance of Permit.** The chief of police or designee shall, upon consideration of the application and the reports required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the city council to offer evidence why his/her application should be reconsidered.

(E) **Form and Term of Permit.**

(1) Upon approval of an application for a pedicab driver's permit, the chief of police or designee shall issue a permit to the applicant for an issuance fee of \$35.00, which shall bear the name, address, age, signature, and photograph of the applicant.

(2) The pedicab driver's permit shall remain in effect unless suspended or revoked until January 31, the following year. The pedicab driver's permit may be reissued for another year for a reissuance fee of \$35.00 by the chief of police or designee after ensuring the applicant continues to meet all requirements of this section.

(F) **Application Returned to Pedicab Company.** When a driver's permit is issued, the application and supporting information shall be returned to the holder of the Certificate of Public Convenience and Necessity to be held by the certificate holder so long as the driver is employed by the certificate holder.

§117.104 Display Of Permit

Every permittee under this article shall post his or her driver's permit in such a place as to be in full view of all passengers while the driver is operating a pedicab.

§117.105 Suspension, Revocation of Permit

The Chief of Police or Assistant Chief is given the authority to suspend any pedicab driver's permit issued under this article for a driver's failure or refusal to comply with the provisions of this article, such suspension to last for a period of not more than ten days. The Chief of Police or Assistant Chief is also given authority to revoke any driver's permit for failure to comply with the provisions of this article of for the violation of any local, state or federal law. However, a permit may not be suspended or revoked unless the driver has received notice and has had an opportunity to present evidence in his behalf.

§117.106 Insurance Requirements

- (A) A holder shall procure and keep in full force and effect commercial general liability insurance written by an insurance company approved by the State of Arkansas and acceptable to the city and issued in the standard form approved by the State Board of Insurance. All provisions of the policy must be acceptable to the city. The insured provisions of the policy must name the city as additional insured and the coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of a pedicab service by the holder.
- (B) The commercial general liability insurance must provide combined single limits of liability for bodily injury and property damage of not less than one million dollars (\$1,000,000.00) for each occurrence, or the equivalent, and include coverage for premises operations, independent contractors, products, completed operations, personal injury, contractual liability, and medical payments. Coverage for medical payments must include a minimum limit \$5,000.00 per person. Aggregate limits of liability are prohibited.
- (C) Insurance required under this section must include:
 - (1) A cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before canceling, failing to renew, or making a material change to the insurance policy; and,
 - (2) A provision to cover all pedicabs, whether owned or not by the holder if operated under the holder's Certificate of Public Convenience and Necessity.
- (D) No insurance required by this section may be obtained from an assigned risk pool.

- (E) A Certificate of Public Convenience and Necessity will not be granted and renewed unless the applicant or holder furnishes the city with such proof of insurance as the city considers necessary to determine whether the applicant or holder is adequately insured under this section.
- (F) If the insurance of the holder lapses or is canceled and new insurance is not obtained, the Certificate of Public Convenience and Necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a pedicab service while the certificate is suspended under this section.
- (G) The holder shall provide adequate employer's liability insurance for the employees as provided by law.

§117.107 Conduct Of Drivers

Drivers shall at all times:

- (A) Act in a reasonable, prudent, and courteous manner;
- (B) Maintain a sanitary and well-groomed appearance;
- (C) Not inhale or consume any alcoholic beverage, drug, or other substance that could adversely affect his or her ability to operate a pedicab;
- (D) Not permit a person other than another employee of the pedicab service with a valid Pedicab Driver's Permit to operate a pedicab under his or her control;
- (E) Not permit any person to ride on a place not intended for passengers of the pedicab.

§117.108 Pedicab Equipment; Inspection

- (A) **Inspection and maintenance.** Each pedicab shall comply with all the safety requirements imposed by all state, federal or local laws. Each pedicab shall submit to an annual inspection for compliance with the requirements of this article. The inspection shall be performed by the Transportation Department. The fee for inspection shall be \$50.00 per pedicab inspected. No certificate shall be issued or continued in operation unless the holder thereof provides proof of annual pedicab inspection for each pedicab in service.

(B) Required equipment.

(1) A holder or driver shall, at all times, provide and maintain in good operating condition the following equipment for each pedicab:

- (a) Headlight;
- (b) Tail lights;
- (c) lights or reflectors on the front and rear corners of the passenger compartment;
- (d) Approved braking system;
- (e) Pneumatic tires that conform with the manufacturer's specifications on all wheels with adequate tread depth;
- (f) Evidence of insurance and city map;
- (g) Mirrors;
- (h) No exposed rust, ripped upholstery or fabric, visible chips or scratches on any painted surface, exposed wood that is not painted and in good condition, or dirt or debris on any surface accessible to passengers.
- (i) Seat strap available for passenger use;
- (j) Rate card or gratuity notice card complying with their Certificate of Convenience and Necessity and this code posted in clear view of passengers;

§117.109 Transfer Of Certificate

No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the City Council.

§117.110 License Fees

No certificate shall be issued unless the applicant has paid a license fee of \$100.00 to offset the administrative costs to issue a Certificate of Public Convenience and Necessity.

§117.111 Suspension, Revocation, and Cancellation Of Certificate

- (A) A certificate issued under the provisions of this article may be revoked or suspended by the Fayetteville City Council if the holder thereof has:
 - (1) Violated any of the provisions of this article;
 - (2) Violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.
- (B) Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.
- (C) If any holder of a Certificate goes out of business, fails to operate under the Certificate for one calendar year, fails to have any vehicle inspected to operate under the Certificate for one calendar year or fails to have any driver or operator properly permitted under the Certificate for one calendar year, the holder's Certificate of Public Convenience and Necessity shall be deemed abandoned and shall be denoted as cancelled and invalid by the City Clerk.

§117.112 Maximum Pedicab Fares Established.

- (A) The maximum pedicab fare that can be charged for the transportation of each passenger is hereby established and will be conspicuously posted on each pedicab unless the pedicab will be operated upon a gratuity only basis. For travel within a single zone, the pedicab fare may not exceed \$8.00 per passenger. For travel that encompasses more than one zone, the pedicab fare may not exceed \$12.00 per passenger.
- (B) If a pedicab is operated on a gratuity only basis, no minimum fare or gratuity may be charged. The pedicab shall conspicuously post the following sign clearly visible to the passengers: "No fare or minimum gratuity may be charged by the pedicab driver for passengers. Passengers may offer whatever gratuity they believe is appropriate for the pedicab ride."

§117.113 Number of Passengers in Pedicabs Limited to Three Persons.

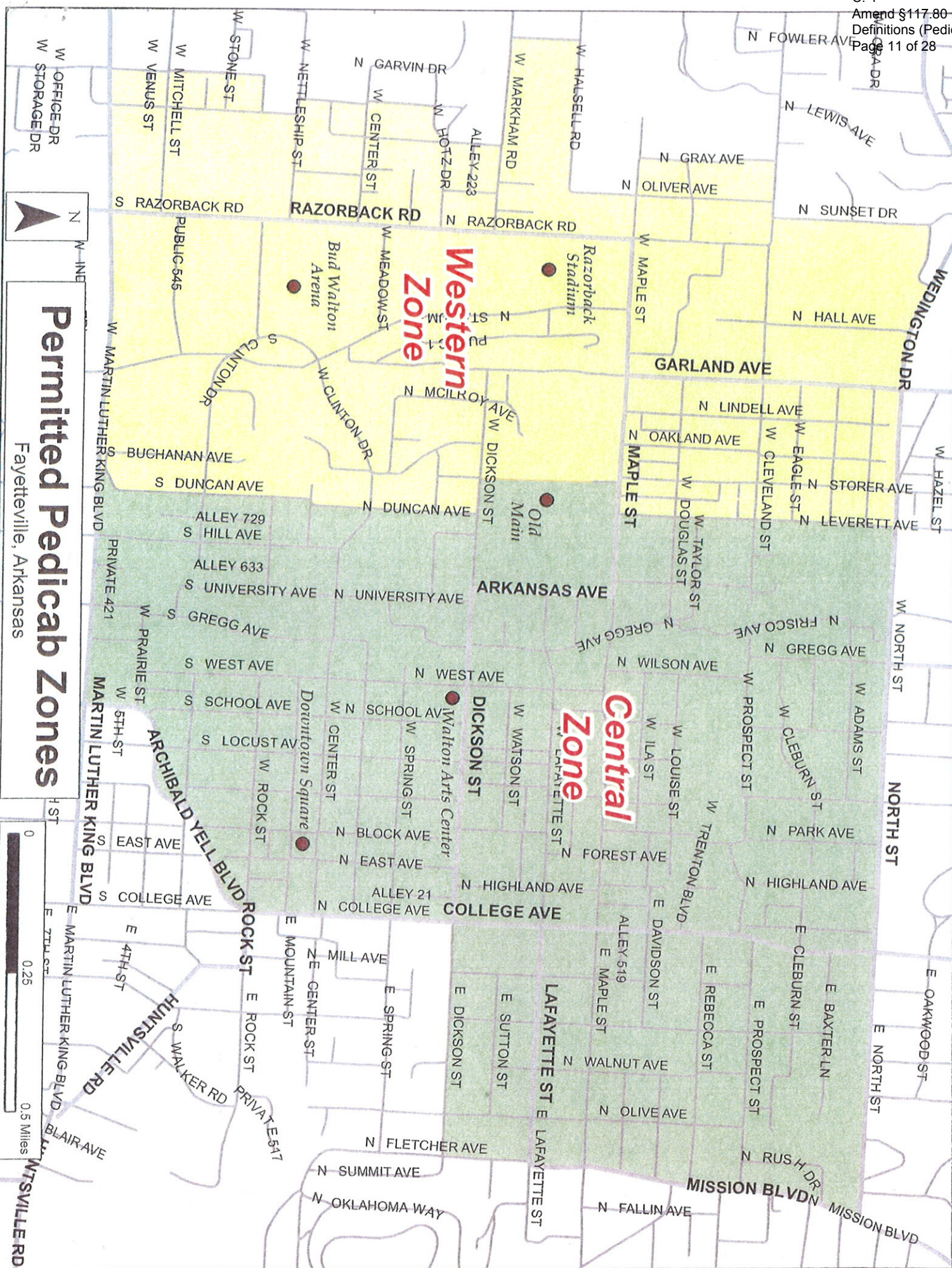
Pedicab drivers must ensure that the rated carrying capacity of their pedicabs is never exceeded. No more than three persons may be passengers in a pedicab.

§117.114 Pedicabs May Not Use Public Sidewalks.

Pedicabs may not operate on or park on public sidewalks in Fayetteville. Pedicabs must pay a full normal parking space fee when stopped for more than one minute or parked within a paid parking space.

§117.115 A.D.A. Compliance

Holders shall comply with all applicable provisions of the Americans with Disabilities Act.



AGENDA REQUEST

FOR: COUNCIL MEETING OF AUGUST 17, 2010

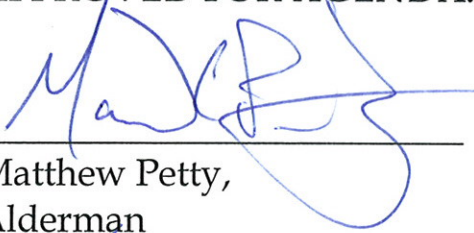
FROM:

ALDERMAN MATTHEW PETTY
LIONELD JORDAN, MAYOR

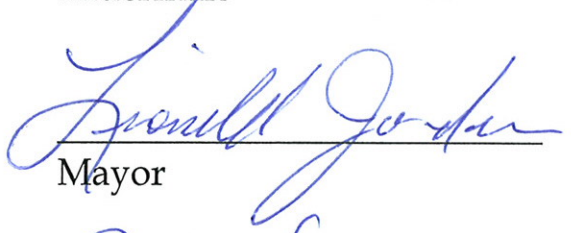
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §117.80 **Definitions** Of The Fayetteville Code, To Enact A New Article IX **Pedicabs** Of Chapter 117 **Vehicle-Related Businesses** Of The Fayetteville Code And To Declare An Emergency

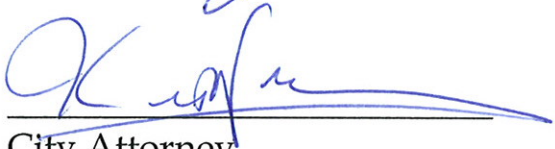
APPROVED FOR AGENDA:


Matthew Petty,
Alderman

8-10-2010
Date


Mayor

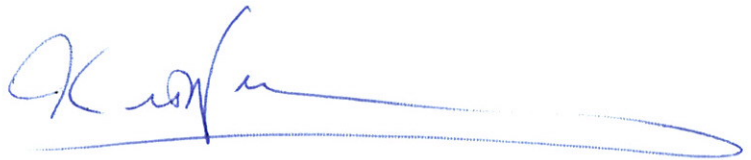
8/10/10
Date


City Attorney
(as to form)

8-10-10
Date

TO: **City Council**

FROM: **Kit Williams**, City Attorney



DATE: **August 10, 2010**

RE: **Pedicab Ordinance**

Alderman Petty and Mayor Jordan have agreed to recommend to you a pedicab ordinance that addresses most of the “unresolved issues” mentioned in my earlier memo. Attached is that agreed to ordinance.

The first minor change would be to **§117.102(A) Permitted Zones of Operation**. Mayor Jordan and Alderman Petty are recommending the two permitted zones of operation (Central and West) as shown on the map.

The second change relates to operation of pedicabs on city trails. Mayor Jordan and Alderman Petty have agreed that all such usage be allowed only upon express approval of such routes by the Transportation Services Director. Thus, **§117.102 (D)** had to be rewritten to remove the operation on city trails as an unqualified right within the permitted zone of operation.

Mayor Jordan and Alderman Petty agree that pedicabs should not operate on any recreational trails such as those around Lake Fayetteville, Wilson Park, and Gulley Park. These trails are narrower than our multiuse, transportation trails like Scull Creek, Mud Creek, etc. Allowing pedicabs to use the recreational trails in city parks would also violate our longstanding ordinances prohibiting commercial activity in our city parks.

Finally, Mayor Jordan and Alderman Petty believe that advertising signs should not be allowed on pedicabs. Such signs would be unnecessary, aesthetically unpleasing, dangerous to the continued validity of our sign ordinance and unpleasant for users of our city trails. Accordingly, I deleted the former **§117.116 Advertising** in its entirety.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §117.80 **DEFINITIONS** OF THE FAYETTEVILLE CODE, TO ENACT A NEW ARTICLE IX **PEDICABS** OF CHAPTER 117 **VEHICLE-RELATED BUSINESSES** OF THE FAYETTEVILLE CODE AND TO DECLARE AN EMERGENCY

WHEREAS, operators of pedicab companies have sought to begin operations within the City of Fayetteville; and

WHEREAS, there are no current comprehensive regulations for pedicab operations within Fayetteville, and such regulations are essential to protect the safety and welfare of Fayetteville citizens.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §117.08 **Definitions** of the Fayetteville Code by replacing the definition of *Nonmotorized passenger transport vehicle* with the following:

"Nonmotorized passenger transport vehicle. A horse-drawn carriage or similar vehicle pulled by horses or other livestock. "

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the Fayetteville City Code by enacting a new Article IX **Pedicabs** of Chapter 117 **Vehicle-Related Businesses** which is attached hereto as Exhibit "A" and incorporated herein as if set out word for word.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby determines that the immediate regulation of pedicabs is essential to protect the safety of Fayetteville citizens and therefore declares that an emergency exists such that this ordinance shall be in full force and effect from the date of its passage and approval.

PASSED and **APPROVED** this 17th day of August, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

ARTICLE IX PEDICABS

§117.100 Definitions

For the purpose of this article, the following words and terms have the meaning ascribed thereto:

Driver. An individual who operates a pedicab.

Holder. A person who is granted a Certificate of Public Convenience and Necessity under this article to provide pedicab service in the city.

Motorized electric powered tricycle. A tricycle that is equipped with an electric assist motor.

Pedicab. A tricycle or a motorized electric powered tricycle, not wider than fifty-four (54) inches at its widest point, which transports or is held out to the public as available to transport passengers for hire, or for a gratuity, and is specifically designed and manufactured for that purpose.

Pedicab service. The business of offering or providing transportation of persons for hire, or for a gratuity, in a pedicab, when:

- (1) A driver is furnished as part of the service; and
- (2) The service is offered only in accordance with a pre-approved route or within a zone of operation by right.

Pedicab driver's permit. A permit issued to an individual by the Chief of Police to operate a pedicab for hire in the city.

Operate. To drive or be in actual physical control of a pedicab.

Permittee. An individual who has been issued a pedicab driver's permit under this article.

Person. An individual, corporation, governmental subdivision or an agency, trust, partnership, or two or more persons having a common economic interest.

Preapproved route. Pedicab service operating on a predetermined schedule with fixed pickup and destination points located on a route approved by and on file with the traffic superintendent.

Tricycle. A device that is propelled by human power on which a person may ride and that has three

(3) wheels in contact with the ground, any of which is more than sixteen (16) inches in diameter.

§117.101 Certificate of Public Convenience And Necessity Required; Issuance Procedure

(A) *Certificate needed for operation.* No person shall operate or permit a pedicab owned, leased or controlled by the person to be operated as a vehicle for hire upon the streets or trails of the city without having first obtained a Certificate of Public Convenience and Necessity from the Fayetteville City Council.

(B) *Information required for Certificate.* An application for a certificate shall be filed with the Police Department upon forms provided by the city, and said application shall be verified under oath and shall furnish the following information:

(1) The name and address of the applicant, including the name and address of all officers and stockholders of the company, if incorporated, and the name, address and telephone number of the person to whom complaints should be directed;

(2) The financial status of the applicant, including the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against the applicant (officers and stockholders of the company, if incorporated), and the nature of the transaction or acts giving rise to said judgments;

(3) The experience of the applicant including all officers and stockholders of the company, if incorporated, in the transportation of passengers, especially as related to pedicabs;

(4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;

(5) The number of pedicabs to be available for operation or controlled by the applicant and the location of proposed storage areas for the pedicabs when not in active service. The applicant shall

furnish a minimum and maximum number of requested vehicles to be permitted;

(6) A complete description of each model or type of pedicab sought to be used to include length, width, brakes, any motor assist, year, make, model, rated capacity, lighting and safety features;

(7) The hours between which the applicant proposes to provide pedicab service to the general public, and the dates, if any, on which the applicant does not propose to provide pedicab service to the general public, and;

(8) The rate schedule or gratuity notice which the applicant proposes to use to charge passengers or receive gratuities.

(9) Any proposed predetermined route with scheduled and fixed pick-up and destination points and proposed fare for such pedicab service;

(10) Documentary evidence from an insurance company indicating a willingness to provide liability insurance as required by this chapter;

(11) Such additional information as the applicant desires to include to aid in the determination of whether the requested operating authority should be granted; and,

(12) Such additional information as may be determined to be necessary to assist or promote the implementation or enforcement of this article, or the protection of the public safety.

(C) Public Hearing for Certificate. When the Police Department notifies the City Clerk that a proper and adequate application has been filed, the City Clerk shall fix a time and place for a public hearing thereon. Written notice of such hearing shall be given to the applicant and to all persons possessing current and valid Certificates of Public Convenience and Necessity for taxicabs or pedicabs. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.

(D) Findings of the City Council.

(1) If the City Council finds that pedicab or further pedicab service is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this subchapter, then the city clerk shall issue a

certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.

(2) The City Council shall deny any application in which the proposed hours of service, the proposed rate schedule or the gratuity request are found to be unreasonable to meet the public need.

(3) In making the above findings, the City Council shall take into consideration the number of taxicabs or pedicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions and traffic safety, and the character, experience, and responsibility of the applicant.

§117.102 Permitted Zones of Operation and Approved Fixed Routes

(A) Permitted Zones of Operation. Pedicabs may only operate and carry passengers within the permitted zones of operation (Western Zone, Central Zone, or both as shown on the attached map) as authorized by the City Council when granting a Certificate of Convenience and Necessity or on routes or for special events as authorized by the Transportation Services Director. Pedicabs (without passengers) may be taken by licensed pedicab operators from a storage, repair, maintenance or cleaning area outside the permitted zones of operation into such zones or onto an approved route where operations may begin. The City Council by Resolution may extend a pedicab company's originally permitted zone of operation from a single zone to both zones or may restrict the pedicab company's operation from both zones to a single zone. The City Council may further restrict the hours and dates of operation in permitted zones for any or all pedicab companies.

(B) Route Approval.

(1) All routes outside of the permitted zone of operation shall be approved by the city's Transportation Services Director. In no event shall a requested route permit operation of a pedicab on any street with a posted speed limit of thirty-five (35) miles per hour more, other than to cross said street.

(2) Operators shall submit to the city's Transportation Services Director all requests for temporary changes in authorized routes, or for participation in special events such as festivals, parades or weddings, not less than

three (3) days before the effective date of the change or event.

(C) No pedicab shall be operated in a location where such operation is not authorized by this ordinance or prohibited by the laws of the State of Arkansas or the Fayetteville City Code.

(D) No pedicab may operate on city transportation trails without the express prior approval of the route and fare by the Transportation Services Director. Pedicabs may not operate on any recreational trails in city parks (such as Lake Fayetteville, Wilson Park, Gulley Park, etc.).

(E) The operator of a pedicab shall maintain at least one hand on the handlebars at all times during movement of the pedicab.

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(B) Pedicab Driver's Permit Application.

(1) An application for a pedicab driver's permit shall be filed with the Fayetteville Police Department on forms provided by the city. Such application shall be verified under oath and shall contain the following information:

- (a) Valid current Arkansas Driver's license.
- (b) The names and addresses of four (4) residents of the county, who have known the applicant for a period of one year and who will vouch for the sobriety, honesty, and general good character of the applicant;
- (c) A concise history of the applicant's employment;
- (d) Proof of training in the use and operation of a pedicab pursuant to a curriculum approved by the chief of

police.

(e) Proof of existing employment or a promise of employment when a pedicab driver's permit is issued with the pedicab company that has a valid Certificate of Public Convenience and Necessity.

(C) **Police Investigation.** The police department shall conduct an investigation of each applicant for a pedicab driver's permit, and a report of such investigation with a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the chief of police.

(D) **Issuance of Permit.** The chief of police or designee shall, upon consideration of the application and the reports required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the city council to offer evidence why his/her application should be reconsidered.

(E) Form and Term of Permit.

(1) Upon approval of an application for a pedicab driver's permit, the chief of police or designee shall issue a permit to the applicant for an issuance fee of \$35.00, which shall bear the name, address, age, signature, and photograph of the applicant.

(2) The pedicab driver's permit shall remain in effect unless suspended or revoked until January 31, the following year. The pedicab driver's permit may be reissued for another year for a reissuance fee of \$35.00 by the chief of police or designee after ensuring the applicant continues to meet all requirements of this section.

(F) **Application Returned to Pedicab Company.** When a driver's permit is issued, the application and supporting information shall be returned to the holder of the Certificate of Public Convenience and Necessity to be held by the certificate holder so long as the driver is employed by the certificate holder.

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- (A) A holder shall procure and keep in full force and effect commercial general liability insurance written by an insurance company approved by the State of Arkansas and acceptable to the city and issued in the standard form approved by the State Board of Insurance. All provisions of the policy must be acceptable to the city. The insured provisions of the policy must name the city as additional insured and the coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of a pedicab service by the holder.
- (B) The commercial general liability insurance must provide combined single limits of liability for bodily injury and property damage of not less than one million dollars (\$1,000,000.00) for each occurrence, or the equivalent, and include coverage for premises operations, independent contractors, products, completed operations, personal injury, contractual liability, and medical payments. Coverage for medical payments must include a minimum limit \$5,000.00 per person. Aggregate limits of liability are prohibited.
- (C) Insurance required under this section must include:
 - (1) A cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before canceling, failing to renew, or making a material change to the insurance policy; and,
 - (2) A provision to cover all pedicabs, whether owned or not by the holder if operated under the holder's Certificate of Public Convenience and Necessity.
- (D) No insurance required by this section may be obtained from an assigned risk pool.

- (E) A Certificate of Public Convenience and Necessity will not be granted and renewed unless the applicant or holder furnishes the city with such proof of insurance as the city considers necessary to determine whether the applicant or holder is adequately insured under this section.
- (F) If the insurance of the holder lapses or is canceled and new insurance is not obtained, the Certificate of Public Convenience and Necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a pedicab service while the certificate is suspended under this section.
- (G) The holder shall provide adequate employer's liability insurance for the employees as provided by law.

§117.107 Conduct Of Drivers

Drivers shall at all times:

- (A) Act in a reasonable, prudent, and courteous manner;
- (B) Maintain a sanitary and well-groomed appearance;
- (C) Not inhale or consume any alcoholic beverage, drug, or other substance that could adversely affect his or her ability to operate a pedicab;
- (D) Not permit a person other than another employee of the pedicab service with a valid Pedicab Driver's Permit to operate a pedicab under his or her control;
- (E) Not permit any person to ride on a place not intended for passengers of the pedicab.

§117.108 Pedicab Equipment; Inspection

- (A) **Inspection and maintenance.** Each pedicab shall comply with all the safety requirements imposed by all state, federal or local laws. Each pedicab shall submit to an annual inspection for compliance with the requirements of this article. The inspection shall be performed by the Transportation Department. The fee for inspection shall be \$50.00 per pedicab inspected. No certificate shall be issued or continued in operation unless the holder thereof provides proof of annual pedicab inspection for each pedicab in service.
- (B) **Required equipment.**

- (1) A holder or driver shall, at all times, provide and maintain in good operating

condition the following equipment for each pedicab:

- (a) Headlight;
- (b) Tail lights;
- (c) lights or reflectors on the front and rear corners of the passenger compartment;
- (d) Approved braking system;
- (e) Pneumatic tires that conform with the manufacturer's specifications on all wheels with adequate tread depth;
- (f) Evidence of insurance and city map;
- (g) Mirrors;
- (h) No exposed rust, ripped upholstery or fabric, visible chips or scratches on any painted surface, exposed wood that is not painted and in good condition, or dirt or debris on any surface accessible to passengers.
- (i) Seat strap available for passenger use;
- (j) Rate card or gratuity notice card complying with their Certificate of Convenience and Necessity and this code posted in clear view of passengers;

§117.109 Transfer Of Certificate

No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the Public Transit Board.

§117.110 License Fees

No certificate shall be issued unless the applicant has paid a license fee of \$100.00 to offset the administrative costs to issue a Certificate of Public Convenience and Necessity.

§117.111 Suspension, Revocation Of Certificate

- (A) A certificate issued under the provisions of this article may be revoked or suspended by the Fayetteville City Council if the holder thereof has:

- (1) Violated any of the provisions of this article;

- (2) Violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

- (B) Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

§117.112 Maximum Pedicab Fares Established.

- (A) The maximum pedicab fare that can be charged for the transportation of each passenger is hereby established and will be conspicuously posted on each pedicab unless the pedicab will be operated upon a gratuity only basis. For travel within a single zone, the pedicab fare may not exceed \$8.00 per passenger. For travel that encompasses more than one zone, the pedicab fare may not exceed \$12.00 per passenger.
- (B) If a pedicab is operated on a gratuity only basis, no minimum fare or gratuity may be charged. The pedicab shall conspicuously post the following sign clearly visible to the passengers: "No fare or minimum gratuity may be charged by the pedicab driver for passengers. Passengers may offer whatever gratuity they believe is appropriate for the pedicab ride."

§117.113 Number of Passengers in Pedicabs Limited to Three Persons.

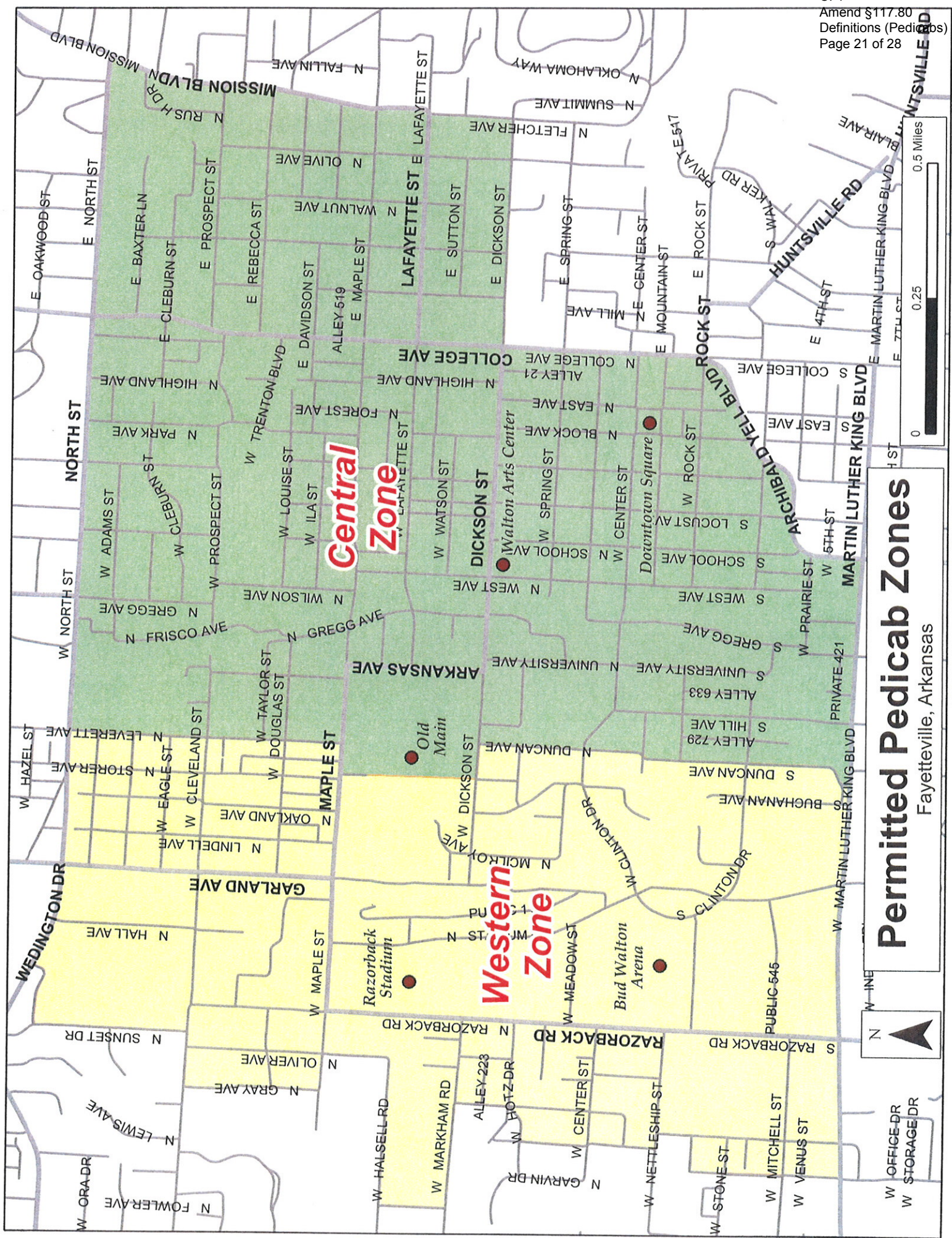
Pedicab drivers must ensure that the rated carrying capacity of their pedicabs is never exceeded. No more than three persons may be passengers in a pedicab.

§117.114 Pedicabs May Not Use Public Sidewalks.

Pedicabs may not operate on or park on public sidewalks in Fayetteville. Pedicabs must pay a full normal parking space fee when stopped for more than one minute or parked within a paid parking space.

§117.115 A.D.A. Compliance

Holders shall comply with all applicable provisions of the Americans with Disabilities Act.



Permitted Pedicab Zones

Fayetteville, Arkansas

TO: **Mayor Jordan**
City Council

CC: **Don Marr**, Chief of Staff
Greg Tabor, Police Chief
Terry Gulley, Transportation Services Director

FROM: **Kit Williams**, City Attorney



DATE: **August 6, 2010**

RE: **Results of Ordinance Review Committee re: Pedicabs**

The Ordinance Review Committee went over the proposed Pedicab regulating ordinance in detail Wednesday evening. The original draft had been prepared by Assistant City Attorney Jason Kelley after consulting with Alderman Petty and our Police Department. After my review, I suggested some modifications to this ordinance as did the Police Department. The Ordinance Review Committee concurred with several changes, but did not want to take a position on about five contentious issues that they felt should be discussed and decided at the City Council level.

Attached is the proposed ordinance and exhibit as recommended (except for the unresolved issues) by the Ordinance Review Committee.

UNRESOLVED ISSUES

The following are difficult or contentious issues on which the Ordinance Review Committee did not reach consensus or felt should be decided by the whole City Council. I will list the issues as they chronologically appear in the ordinance.

(1) **Permitted Zone of Operation for Pedicabs.** I had suggested a smaller area within or near the Entertainment Parking District Zone (to include outlying

free parking areas) to ease the introduction of pedicabs into Fayetteville car traffic. I believe Alderman Petty and the pedicab company owners want a larger pedicab permitted zone of operation than was initially proposed in the ordinance.

After listening to the Ordinance Review Committee and the pedicab owners, I modified my proposal to include two allowed zones (Central Zone and Western Zone) shown on the attached map. Together these zones are larger than currently proposed in the ordinance, but they offer the City Council the option of approving a pedicab company's operation in either or both zones. Thus, pedicabs could initially be limited to the Central Zone that runs basically from Old Main to Mission Boulevard. If pedicabs proved reliable, popular and safe, the City Council could then approve pedicab operations in the Western Zone which runs along the base of Markham Hill back to Old Main.

Having two zones (as we do in the taxicab ordinance) also allows a fairer maximum fee regulation. Like taxis, the maximum per passenger fee could be set at one amount for travel within a single zone and about 50% more for travel between two zones. I will have proper language ready for §117.102(A) for either my two zone concept or Alderman Petty's single larger zone proposal. The City Council will need to determine the proper maximum per passenger fee (which is \$8.00 and \$12.00 for taxis).

(2) Pedicabs allowed or prohibited on City Trails. By definition, a pedicab can be 54 inches (4 ½ feet) wide. Our major transportation trails are 12 feet wide with 6 foot travel lanes. Thus, a pedicab would take up virtually the entire travel lane on our trails. Walkers, joggers, wheel chairs and slow bicyclists would have to move completely off the trail or the pedicab would have to pass by taking up the entire oncoming traffic lane to pass.

Portions of the trails are more restrictive as the trail is narrowed when going under bridges and through tunnels to ten feet. It would be very tight if pedicabs met going opposite directions in the long tunnel under I-540. Keep in mind that cars are normally less than six feet wide, but the eleven foot travel lane on the reconstructed Block Avenue seems very narrow to most drivers. The trail going up the hill to Maple from the south can only be constructed to eight feet wide at this time. A pedicab driver laboring up this steep incline would take up more than his whole lane of travel. **Two pedicabs could not safely pass each other on this section of our trail.**

Whether or not to allow pedicabs to use the transportation trails is a policy decision for the City Council.

(3) **Pedicabs in the Parks.** The pedicab company wants to be allowed to operate on trails in the city parks. The park trails are only ten feet wide. The Fayetteville Code **prohibits** commercial activity in our City Parks.

“No person or business shall, within a city park, display, offer for sale, or sell any ... service” §97.086

A pedicab ride would certainly be such a service. Thus, if the City Council wanted to allow this commercial activity in our city parks, §97.086 *General prohibitions of selling or offering to sell items in city parks* would need to be amended to allow the pedicab companies to use our city parks for their economic benefit.

(4) **Number of passengers allowed for a pedicab.** Because Fayetteville is fairly hilly, I recommended a limit of two persons as passengers so that pedicabs do not go so slowly up an incline as to unduly impede normal traffic flow. The Ordinance Review Committee recommended a limit of three persons. The pedicab company wanted a 600 pound limitation which is what their pedicabs are rated to carry. The Police Chief stated a pound limitation would be too hard to enforce, so Chief Tabor recommended a limitation based upon number of passengers rather than total weight carried in the pedicab.

No amendment will be needed if the City Council agrees with the Ordinance Review Committee that three passengers is the proper limit.

(5) **Advertising Signs on Pedicabs.** Fayetteville’s long established and much litigated sign ordinance bans signs advertising a business unless the sign is located where the business is sited. This ban on “off site” signs removed the many billboards that once were scattered around Fayetteville. The Arkansas Supreme Court held that Fayetteville’s ban on billboards and other off-site signs was legal and constitutional because it was supported by our city’s desire to improve and maintain aesthetic attractiveness of our city and for traffic safety (billboards can divert drivers’ attention from the road).

A few years ago, the City Council allowed taxis and ORT buses to have relatively small advertising signs on the rear of their vehicles. The taxis and bus company had claimed they needed this additional revenue stream to survive and

provide transportation services for our citizens. I had opposed this as a weakening of the legal rationale and support of our sign ordinance.

Pedicab companies desire to enter into the transportation business in Fayetteville with much less expensive vehicles and far less operating costs for these human powered pedicabs. I recommend the City Council not further weaken the sign ordinance by allowing advertising signs on pedicabs as an unnecessary bonus revenue source for the pedicab companies. I anticipate that there will be many more pedicabs in Fayetteville than taxis or buses. We should not allow pedicabs to be roving commercial sign platforms.

Pedicabs want to operate on our trails. Our citizens expressed much concern about very small non-advertising signs along the trails to recognize donors or volunteers. If pedicabs are allowed **regular, full color advertising signs four times the size** of the permitted, aesthetic donor recognition signs, what type of trail experience will we be providing our citizens? Every exemption to the sign ordinance weakens it. Our park signage allowance was very restricted and did not allow any slogans, advertising, or full color logos even for major donors. Advertising signs should not be allowed for pedicabs in our streets or on our trails.

Advertising is expressly prohibited in city parks. §97.087 **Advertising Prohibited** states: "No person in a park shall announce, advertise or call public attention in any way to any article or service for sale or hire." Thus, **an advertising sign on a pedicab would be illegal in our city parks.**

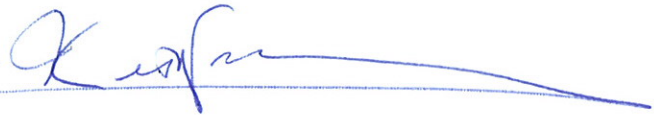
CONCLUSION

These five issues must be resolved by the City Council before passing this ordinance. Please remember that it would be easier in the future to amend the regulations to allow a larger zone of operation, to allow use of city trails, to allow more passengers per pedicab, or to allow advertising signs on pedicabs than it would be to prohibit those privileges once extended to the pedicab companies.

TO: **Mayor Jordan**
City Council
Sondra Smith, City Clerk

CC: **Chief Tabor**
Terry Gulley, Transportation Services Director

FROM: **Kit Williams**, City Attorney



DATE: **August 6, 2010**

RE: **Request from pedicab company to have the City Council conduct a hearing on its requested Certificate of Public Convenience and Necessity during the same City Council meeting when the Pedicab Ordinance is passed with an emergency clause**

I have been asked whether it would be legal for the City Council (after passing the Pedicab Ordinance with an emergency clause) to conduct a hearing and award a Certificate of Public Convenience and Necessity to a pedicab company.

If the Pedicab Ordinance goes through all three readings and is adopted and the emergency clause is approved by six members of the City Council, the ordinance "shall go into effect immediately upon passage ... regardless of publication or posting" A.C.A. §14-55-203 (c)(1)(C). This ordinance will need to be published, and no fine could be assessed for violation of the ordinance until it has been published. *Id.*

"When the Police Department notifies the City Clerk that a proper and adequate application has been filed, the City Clerk shall fix a time and place for a public hearing

thereon. Written notice of such hearing shall be given to the applicant and to all persons possessing current and valid Certificates of Public Convenience and Necessity for taxicabs or pedicabs. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.” §117.101(C) **Public Hearing For Certificate.**

With the ordinance in effect, whether a hearing could be held would be governed by this section.

First, proper notice of the time and place for the hearing for the application for a Certificate of Public Convenience and Necessity would have had to be given to all current holders of such Certificates. The Police Chief would need to notify the City Clerk that the pedicab company had filed “a proper and adequate application. “(T)he City Clerk shall fix a time and place for a public hearing thereon.” *Id.*

To make this viable, the Police Department would need to review the Pedicab Company’s application for ordinance compliance on the contingency that the pedicab ordinance will pass as now submitted. If the application is (contingent on approval of the ordinance) determined to be proper and adequate, the Police Department would need to notify the City Clerk of this fact.

Upon such notice from the Police Department, the City Clerk is charged under the ordinance “to fix a time and place for the public hearing thereon.” *Id.* If sufficient timely notice is provided to all holders of current Certificates of Public Convenience and Necessity for taxis for the public hearing, then it appears to be legal for the City Council to conduct such public hearing and then grant or refuse such Certificate.

This is not the normally recommended manner to handle new ordinances, nor to conduct public hearings required by an ordinance. The City Council might want to consider this so that the pedicab company will not have to wait three more weeks for the next regular City Council

meeting or to prevent the need for a special City Council meeting just for the issuance of a Certificate of Public Convenience and Necessity.

I believe it is legal to have the public hearing after passing the ordinance with an emergency clause at the August 17th City Council meeting if:

- (1) The applicant presents to the Police Department a properly completed the application that meets all requirements of the pedicab ordinance;
- (2) Proper notice is provided to all current Certificate holders.
- (3) The Police Department reviews and finds the application tentatively acceptable and proper contingent upon passage of the ordinance by the City Council; and
- (4) The City Clerk tentatively sets the public hearing for the August 17th meeting after the Pedicab Ordinance has passed; and
- (5) The City Council suspends the rules the add this Public Hearing to the agenda after passage of the Pedicab Ordinance.

It would be better parliamentary form to instead schedule a special meeting for the public hearing or to conduct it at the regular September 7th City Council meeting.

City of Fayetteville Staff Review Form

D. 1
Certificate of Public Convenience
(Razorback Pedal Cab)
Page 1 of 16

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

8/17/2010

**City Council Meeting Date
Agenda Items Only**

Sondra Smith
Submitted By

City Clerk
Division

City Clerk
Department

Action Required:

A public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Razorback Pedal Cab

N/A
Cost of this request

N/A
Category / Project Budget

N/A
Program Category / Project Name

N/A
Account Number

N/A
Funds Used to Date

N/A
Program / Project Category Name

N/A
Project Number

N/A
Remaining Balance

N/A
Fund Name

Budgeted Item N/A

Budget Adjustment Attached N/A

Sondra E. Smith
Department Director

8/11/10
Date

Previous Ordinance or Resolution # _____

K. [Signature]
City Attorney

8/11/10
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. [Signature]
Finance and Internal Services Director

8-11-2010
Date

Received in City Clerk's Office 08-11-10 A11:38 RCV

Chief of Staff

Date

Received in Mayor's Office



Mayor

Date

Comments:



Office of the City Clerk/Treasurer

Sondra E. Smith, City Clerk/Treasurer

Lisa Branson, Deputy City Clerk

Amber Wood, Deputy City Clerk

Phone: (479) 575-8323

Fax: (479) 718-7695

cityclerk@ci.fayetteville.ar.us

City Council Agenda Memo

To: Mayor Lioneld Jordan
Members of the City Council

From: Sondra Smith 

Date: August 11, 2010

Subject: A public hearing on a Certificate of Public Convenience and
Necessity for Razorback Pedal Cab

Recommendation:

A public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Razorback Pedal Cab. The public hearing has been placed on the August 17, 2010 City Council Agenda.

Background:

The City Council is proposing an ordinance that will govern Pedicab companies in Fayetteville. Should the ordinance be approved a Public Hearing will need to be conducted to consider approving this Pedicab company.

Discussion:

Attached is a copy of an application for a Certificate of Public Convenience and Necessity for Razorback Pedal Cab. If the City Council approves the application and the requirements in the ordinance are fulfilled a Certificate of Public Convenience and Necessity will be issued. Currently there are no Pedicab companies, within the City of Fayetteville, that hold a Certificate of Public Convenience and Necessity.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE THE GRANTING OF A PEDICAB
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO THE
RAZORBACK PEDAL CAB**

WHEREAS, the City Council has reviewed the application for a Pedicab Certificate of Public Convenience and Necessity submitted by the Razorback Pedal Cab which has been determined proper and adequate by the Fayetteville Police Department; and

WHEREAS, City Clerk Sondra Smith has set the public hearing to consider the granting of a Pedicab Certificate of Public Convenience and Necessity for the Razorback Pedal Cab for this date and time at the City Council Chambers; and

WHEREAS, the Razorback Pedal Cab has notified and provided the City Council with sufficient proof of its notification of all holders of current and valid Certificates of Public Convenience for taxicabs and pedicabs; and

WHEREAS, the Razorback Pedal Cab has fully complied with all requirements of §117.101 and the City Council has determined that pedicab service is required by the public convenience and necessity and that the Razorback Pedal Cab is fit, willing and able to perform such pedicab service and to conform with all ordinance requirements.

**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 determines that the Razorback Pedal Cab should be awarded a Pedicab Certificate of Public Convenience and Necessity and authorizes the City Clerk to issue such Certificate. Further, the City Council determines that the Razorback Pedal Cab shall be authorized to operate within the Central Zone of the City as shown on the map attached to the Pedicab Ordinance. Further the City Council authorizes the Razorback Pedal Cab to operate no more than four pedicabs during the hours of 8:00 a.m. until 3:00 a.m. on Thursdays, Fridays and Saturdays for whatever tips any passenger may decide to offer. No fare may be charged. Further, the Razorback Pedal Cab may be authorized to operate on other scheduled or special event routes at fares authorized by the Fayetteville Transportation Services Director pursuant to §117.102(B).

PASSED and APPROVED this 17th day of August, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

**Certificate of Public Convenience & Necessity
Application/Renewal**

As required to comply with Chapter 117 of the Fayetteville Code of Ordinances

James & Nena Mason 502-2340-02-3B 5067
Applicant Name Address Phone Number

Razorback Pedal Cab 313-5067
Name of Business Phone Number

Northwest AR
Business Location

P.O. Box 7646 Springdale, AR 727
Mailing Address

Solo Proprietor
Type of Business (Sole Proprietor, Corporation, LLC)

Name and address of all owners, officers and stockholders:

James Mason

Nena Mason

Name of person to whom complaints should be directed:

James Mason OR Nena Mason

Financial status of applicant (Attach financial statement or profit and loss statement)

List any unpaid judgments against any of the owners, officers and stockholders and the nature or acts giving rise to said judgments:

None

Describe the experience of all owners, officers and stockholders in the transportation of passengers:

Give any facts you believe tend to prove the necessity of granting a certificate:

more transportation For the city

List the number of vehicles that will be under your operation or control: 2

Minimum and Maximum number of vehicles to be permitted:

2 4
Minimum Maximum

List the location of proposed depots and terminals:

No depots

Describe the color scheme or insignia to be used to designate your vehicle:

black & Red

List your days and hours of operation:

Thurs, Friday, Saturday

List any days you do not propose to provide taxicab service to the general public:

List your proposed passenger rate schedule:

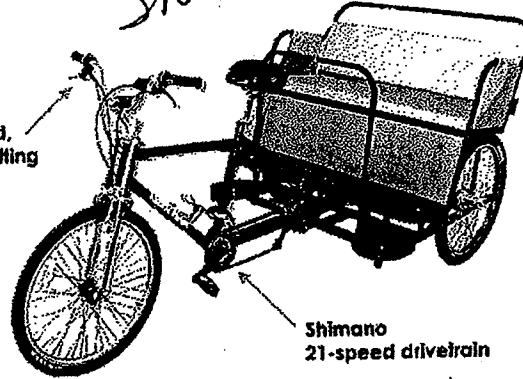
Tips

Sgt. Jan W. Harte
Police Department Representative

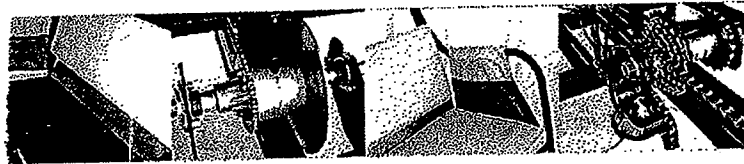
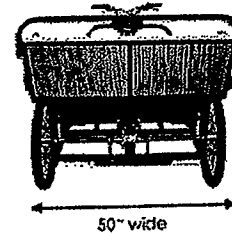
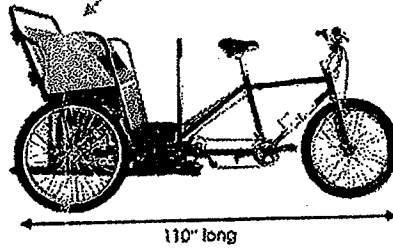
7-20-09
Date

1787300
crate ship

indexed,
grip-shifting



padded armrests



To order your new pedicab, we ask for half of the total as a deposit to begin assembly. Balance is due on delivery. We accept Bank Checks, Money Orders, Visa and Mastercard. All Main Street Pedicabs™ are made in the USA. St. #9 Broomfield, CO 80020. Contact us to purchase your new pedicab.

Boardwalk Pedicab
Classic Pedicab
Broadway Pedicab
Billboard Bike
Pedal Pickup
Electric Assist

Pedicab Advertising
Pedicab Blog
Press Releases
Pedicab Videos
Image Gallery
Shop Accessories

Pedicab FAQ
Product Support
Pedicab Operators
Community & Events
Product Placement
Contact

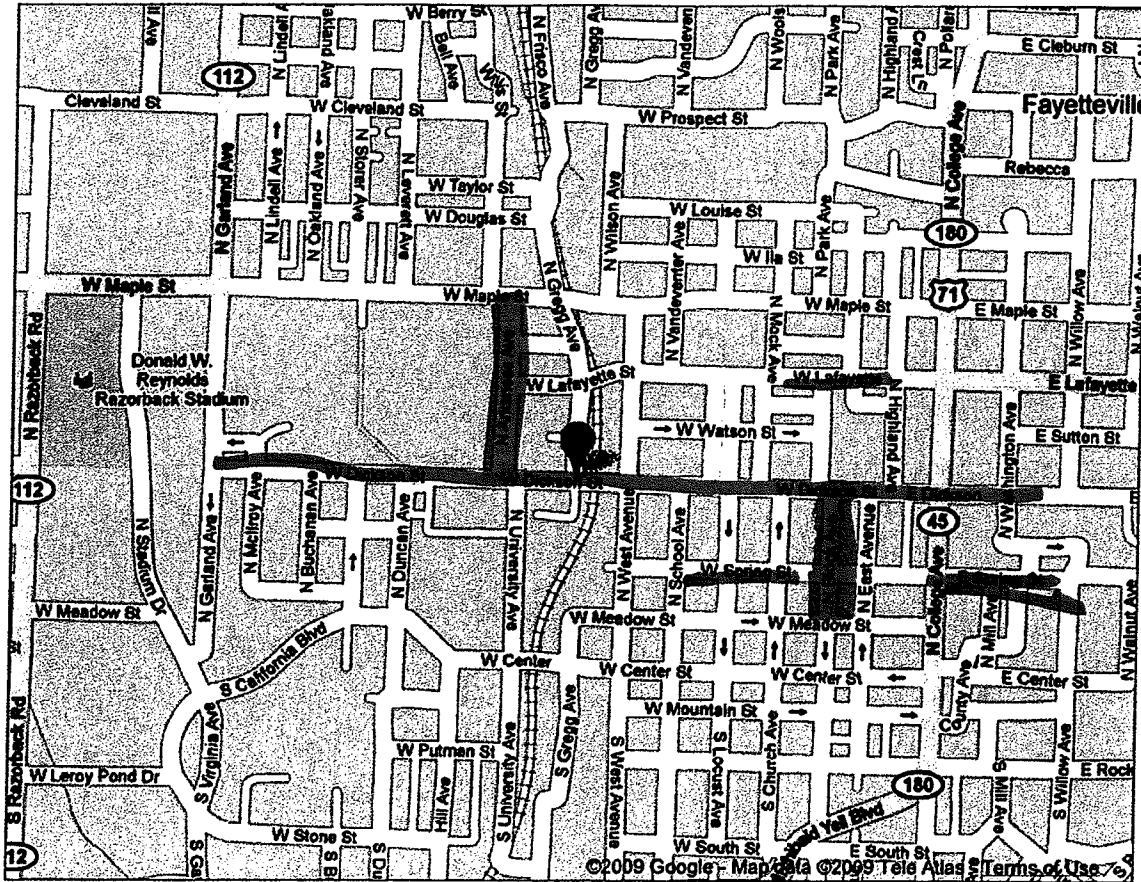
Human-powered vehicles since 1992. Available in pedicab, truck, and delivery van configurations, each vehicle shares the same design and components. The Boardwalk Pedicab™, Classic Pedicab™, Broadway Pedicab™, Billboard Bike™ and logos appearing on this website, are trademarks or registered trademarks of Main Street Pedicabs, Inc.™ or their affiliates. We are a proud supporter of all green initiatives that contribute to reducing our carbon footprint.

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895
352
1195
178
1373

2005
1375
375

Google maps Address



Razorback Peddle Cab
Area of operation Highlighted in Green

SMIMO-1

DS

08/27/2009

(Razorback Pedal Cab)
Page 2 of 16

TBD

CA-S

08/27/2009 08/27/2010

James & Nina Mason

**P. O. Box 7646
Springdale, AR 72766**

James & Nina

Re: Razorback Pedal Cabs

This memo is to advise that we can issue a general liability policy with a 1,000,000 liability limit for an annual premium of \$832.00.

Let me know if you need anything further.



Danny Schneider



WALKER BROTHERS INSURANCE, INC.
P.O. BOX 7570, SPRINGDALE, AR 72766-7570
PHONE (479) 306-4677
FAX (479) 306-5110
E-MAIL ADDRESS: insurance@walkerbr.com

DATE: August 10, 2010

TO: City of Fayetteville

ATTN: Sgt Harter

RE: James & Nena Mason dba Razorback Pedal Cabs

FROM: Danny Schneider

1 : TOTAL NUMBER OF PAGES, INCLUDING THIS PAGE

This fax is to confirm our intent to obtain quotes on the coverage for million per occurrence and 5,000 medical payments for the above referenced client.

Please contact me should you have any questions.

Sincerely,

Danny Schneider, CIC

From: "Danny Schneider" <danny@walkerbr.com>
To: <jharter@ci.fayetteville.ar.us>
Date: 8/10/2010 11:34 AM
Subject: Razorback Pedal Cabs

I cannot locate the old quotes on this so I have sent applications back out to my companies to get new quotes. Should be a day or two before I have the quotes in and I will e-mail you again at that time.

Danny Schneider, CIC

Walker Brothers Insurance, Inc.

P.O. Box 7570

Springdale, AR 72766

Phone: 479-306-4677

Fax: 479-306-5110

NOTICE: This e-mail and any files transmitted with it may contain confidential or privileged information that is intended only for the use of the individual or entity to whom they are addressed. This information should be treated with the appropriate level of security to preclude the disclosure of sensitive or privileged information. If you are not the intended recipient, you are hereby advised that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is prohibited. If you have received this e-mail in error, please notify the sender, delete this e-mail from your machine's memory, and destroy the hardcopy information. Thank you.

ACCOUNT NO. 5101522

**METROPOLITAN
NATIONAL BANK**

JAMES T MASON
DBA SMILEY'S MOBILE DETAIL
2501 MAGNOLIA DR
SPRINGDALE AR 72762

JUL 27 2009

4429

PREVIOUS STATEMENT BALANCE 316.59
CHECKS AND CHARGES 97 16,149.38
DEPOSITS AND CREDITS 16 16,293.28 **
BALANCE THIS STATEMENT 460.49

DATE	CHECK#	AMOUNT	BALANCE	TC
7/01/09		1,365.00 CR	1,681.59	20 DDA DEPOSIT
7/01/09		165.00 CR	1,846.59	20 DDA DEPOSIT
7/01/09		155.00 CR	2,001.59	20 DDA DEPOSIT
7/01/09		2.00	1,999.59	294 ATM WITHDRAWAL SERVICE CHARGE
7/01/09		1,465.00	534.59	89 CASHED CHECK
7/01/09		42.00	492.59	227 ATM WITHDRAWAL 2025 NORTH CR
7/01/09		40.00	452.59	89 CASHED CHECK
7/01/09		87.82	364.77	183 REVERSAL PH PPD
7/02/09		226.07 CR	590.84	20 DDA DEPOSIT
7/02/09		62.31	528.53	228 POS PURCHASE CATFISH HOLE
7/02/09		10.45	518.08	228 POS PURCHASE FLASH MARKET
7/02/09		4.28	513.80	28 POS PURCHASE/ SHELL Service
7/02/09		3.05	510.75	228 POS PURCHASE FLASH MARKET
7/03/09		1,265.00 CR	1,775.75	20 DDA DEPOSIT
7/03/09		490.00 CR	2,265.75	20 DDA DEPOSIT
7/03/09		800.00	1,465.75	89 CASHED CHECK
7/03/09		490.00	975.75	89 CASHED CHECK
7/03/09		230.00	745.75	227 ATM WITHDRAWAL 1950 S PLEASANT
7/03/09		42.39	703.36	28 POS PURCHASE/ NORTH SEARS ROEBUCK
7/03/09		38.45	664.91	228 POS PURCHASE ASHLEY STEWART
7/03/09		32.01	632.90	228 POS PURCHASE JOHNSON COUNT
7/03/09		30.01	602.89	228 POS PURCHASE JOHNSON COUNT
7/03/09		26.20	576.69	28 POS PURCHASE/ NORTH SEARS ROEBUCK
7/03/09		19.76	556.93	228 POS PURCHASE LOUIES BAR &

ACCOUNT NO. 5101522

JAMES T MASON
DBA SMILEY'S MOBILE DETAIL
2501 MAGNOLIA DR
SPRINGDALE AR 72762

PREVIOUS STATEMENT BALANCE 316.59
CHECKS AND CHARGES 97 16,149.38
DEPOSITS AND CREDITS 16 16,293.28 **
BALANCE THIS STATEMENT 460.49

DATE	CHECK#	AMOUNT	BALANCE	TC
7/03/09		17.58	539.35	28 POS PURCHASE/ WAL-MART #005
7/03/09		10.97	528.38	28 POS PURCHASE/ EVERETT MAXEY
7/03/09		10.00	518.38	228 POS PURCHASE FASTRIP #26
7/06/09		2.00	516.38	294 ATM WITHDRAWA SERVICE CHARG
7/06/09		64.59	451.79	28 POS PURCHASE/ WAL-MART #005
7/06/09		61.75	390.04	227 ATM WITHDRAWA 3111 S OLD MI
7/06/09		51.87	338.17	28 POS PURCHASE/ MURPHY EXPRES
7/06/09		30.00	308.17	89 CASHED CHECK
7/06/09		25.80	282.37	28 POS PURCHASE/ DILLARDS - 04
7/06/09		20.00	262.37	89 CASHED CHECK
7/06/09		12.56	249.81	228 POS PURCHASE HALE FIREWORK
7/06/09		8.78	241.03	228 POS PURCHASE CHARLIES CHIC
7/06/09		6.63	234.40	228 POS PURCHASE TACO BELL 340
7/06/09		3.38	231.02	28 POS PURCHASE/ WAL-MART #010
7/06/09		2.38	228.64	28 POS PURCHASE/ SHELL Service
7/06/09		15.80	212.84	183 GAS BILL AR PPD
7/07/09		25.00	187.84	28 POS PURCHASE/ KUM & GO #040
7/07/09		10.00	177.84	228 POS PURCHASE THE EXPRESS
7/07/09		7.96	169.88	28 POS PURCHASE/ HARP'S FOOD S
7/08/09		250.00	80.12-	89 CASHED CHECK

ACCOUNT NO. 5101522

JAMES T MASON
DBA SMILEY'S MOBILE DETAIL
2501 MAGNOLIA DR
SPRINGDALE AR 72762

PREVIOUS STATEMENT BALANCE 316.59
CHECKS AND CHARGES 97 16,149.38
DEPOSITS AND CREDITS 16 16,293.28 **
BALANCE THIS STATEMENT 460.49

DATE	CHECK#	AMOUNT	BALANCE	TC	
7/08/09		29.97	110.09-	178	Paid Item Fee
7/08/09		150.87	260.96-	228	POS PURCHASE
					GRANITIZE PRO
7/08/09		29.97	290.93-	178	Paid Item Fee
7/08/09		27.00	317.93-	228	POS PURCHASE
					SPRINGDALE #
7/08/09		29.97	347.90-	178	Paid Item Fee
7/08/09		18.88	366.78-	228	POS PURCHASE
					ORSCHLN SPRI
7/08/09		29.97	396.75-	178	Paid Item Fee
7/08/09		10.00	406.75-	228	POS PURCHASE
					FAST TRAX 3
7/08/09		29.97	436.72-	178	Paid Item Fee
7/08/09		6.53	443.25-	228	POS PURCHASE
					ORSCHLN SPRI
7/08/09		29.97	473.22-	178	Paid Item Fee
7/09/09		3.48	476.70-	228	POS PURCHASE
					FLASH MARKET
7/09/09		2.20	478.90-	228	POS PURCHASE
					BURGER KING #
7/09/09		29.97	508.87-	128	Paid Item Fee
7/09/09		29.97	538.84-	128	Paid Item Fee
7/10/09		3,215.00 CR	2,676.16	20	DDA DEPOSIT
7/10/09		8.95	2,667.21	228	POS PURCHASE
					CHICK-FIL-A #
7/10/09		1.53	2,665.68	228	POS PURCHASE
					WENDYS 25
7/10/09		29.97	2,635.71	128	Paid Item Fee
7/10/09		29.97	2,605.74	128	Paid Item Fee
7/10/09		890.00	1,715.74	89	CASHED CHECK
7/10/09		22.08	1,693.66	228	POS PURCHASE
					SHELL OIL 574
7/13/09		17.21 CR	1,710.87	222	POS RETURN
					DILLARDS - 04
7/13/09		1,035.00 CR	2,745.87	20	DDA DEPOSIT
7/13/09		2,050.00	695.87	89	CASHED CHECK
7/13/09		170.60	525.27	28	POS PURCHASE/
					WAL-MART #035

ACCOUNT NO. 5101522

JAMES T MASON
DBA SMILEY'S MOBILE DETAIL
2501 MAGNOLIA DR
SPRINGDALE AR 72762

PREVIOUS STATEMENT BALANCE 316.59
CHECKS AND CHARGES 97 16,149.38
DEPOSITS AND CREDITS 16 16,293.28 **
BALANCE THIS STATEMENT 460.49

DATE	CHECK#	AMOUNT	BALANCE	TC
7/13/09		80.00	445.27	28 POS PURCHASE/ TODAY CLEANER
7/13/09		65.08	380.19	28 POS PURCHASE/ WAL-MART #035
7/13/09		59.50	320.69	28 POS PURCHASE/ WAL-MART #035
7/13/09		41.09	279.60	28 POS PURCHASE/ HARP'S FOOD S
7/13/09		28.89	250.71	28 POS PURCHASE/ WAL-MART #035
7/13/09		27.25	223.46	28 POS PURCHASE/ WAL-MART #035
7/13/09		20.00	203.46	228 POS PURCHASE MURPHY7123ATW
7/13/09		12.44	191.02	228 POS PURCHASE SUBWAY
7/13/09		9.68	181.34	28 POS PURCHASE/ WAL-MART #035
7/13/09		2.19	179.15	228 POS PURCHASE REDBOX *DVD R
7/14/09		2,050.00 CR	2,229.15	20 DDA DEPOSIT
7/14/09		45.00 CR	2,274.15	20 DDA DEPOSIT
7/14/09		2,050.00	224.15	89 CASHED CHECK
7/15/09		1,755.00 CR	1,979.15	20 DDA DEPOSIT
7/15/09		100.00 CR	2,079.15	20 DDA DEPOSIT
7/15/09		1,255.00	824.15	89 CASHED CHECK
7/15/09		30.00	794.15	89 CASHED CHECK
7/15/09		26.72	767.43	228 POS PURCHASE FLASH MARKET
7/15/09		12.01	755.42	228 POS PURCHASE PIZZA HUT
7/16/09		100.00	655.42	89 CASHED CHECK
7/16/09		60.00	595.42	89 CASHED CHECK
7/17/09		1,930.00 CR	2,525.42	20 DDA DEPOSIT
7/17/09		330.00 CR	2,855.42	20 DDA DEPOSIT
7/17/09		1,300.00	1,555.42	89 CASHED CHECK
7/17/09		130.00	1,425.42	89 CASHED CHECK

ACCOUNT NO. 5101522

JAMES T MASON
DBA SMILEY'S MOBILE DETAIL
2501 MAGNOLIA DR
SPRINGDALE AR 72762

PREVIOUS STATEMENT BALANCE 316.59
CHECKS AND CHARGES 97 16,149.38
DEPOSITS AND CREDITS 16 16,293.28 **
BALANCE THIS STATEMENT 460.49

DATE	CHECK#	AMOUNT	BALANCE	TC	
7/17/09		132.42	1,293.00	183	CPPWDRAWAL AM PPD
7/20/09		887.00	406.00	89	CASHED CHECK
7/20/09		150.00	256.00	89	CASHED CHECK
7/20/09		30.00	226.00	89	CASHED CHECK
7/21/09		50.00	176.00	89	CASHED CHECK
7/22/09		30.00	146.00	89	CASHED CHECK
7/22/09		2.19	143.81	228	POS PURCHASE REDBOX *DVD R
7/23/09		20.00	123.81	89	CASHED CHECK
7/24/09		2,150.00 CR	2,273.81	20	DDA DEPOSIT
7/24/09		1,000.00	1,273.81	89	CASHED CHECK
7/24/09		85.00	1,188.81	89	CASHED CHECK
7/24/09		10.00	1,178.81	227	ATM WITHDRAWA 1950 S PLEASA
7/25/09		350.00	828.81	980	Memo Debit
7/26/09		108.05	720.76	229	POS Pre-Autho
7/26/09		89.58	631.18	229	POS Pre-Autho
7/26/09		84.87	546.31	228	POS Debit-DDA
7/26/09		15.82	530.49	228	POS Debit-DDA
7/27/09		70.00	460.49	227	ATM Withdrawa

THIS TEMPORARY STATEMENT IS NOT A FORMAL STATEMENT OF ACCOUNT
THESE ITEMS WILL BE REFLECTED AGAIN ON YOUR REGULARLY SCHEDULED
ACCOUNT STATEMENT

City of Fayetteville Staff Review Form

D. 2
Certificate of Public Convenience
(Fayetteville Pedicab Company)
Page 1 of 18

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

8/17/2010

**City Council Meeting Date
Agenda Items Only**

Sondra Smith

Submitted By

City Clerk

Division

City Clerk

Department

Action Required:

A public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Fayetteville Pedicab Company.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

N/A

Budget Adjustment Attached

N/A

Sondra E. Smith
Department Director

8/11/10
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

K. Smith
City Attorney

8/11/10
Date

Paul A. Burk
Finance and Internal Services Director

8-11-2010
Date

Received in City Clerk's Office 8-11-10A11:37 RCV

Chief of Staff

Date

Received in Mayor's Office



Mayor

Date

Comments:



D. 2
Certificate of Public Convenience
(Fayetteville Pedicab Company)
Page 1 of 1
Office of the City Clerk/Treasurer
Sondra E. Smith, City Clerk/Treasurer
Lisa Branson, Deputy City Clerk
Amber Wood, Deputy City Clerk
Phone: (479) 575-8323
Fax: (479) 718-7695
cityclerk@ci.fayetteville.ar.us

City Council Agenda Memo

To: Mayor Lioneld Jordan
Members of the City Council

From: Sondra Smith 

Date: August 11, 2010

Subject: A public hearing on a Certificate of Public Convenience and
Necessity for Fayetteville Pedicab Company

Recommendation:

A public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Fayetteville Pedicab Company. The public hearing has been placed on the August 17, 2010 City Council Agenda.

Background:

The City Council is proposing an ordinance that will govern Pedicab companies in Fayetteville. Should the ordinance be approved a Public Hearing will need to be conducted to consider approving this Pedicab company.

Discussion:

Attached is a copy of an application for a Certificate of Public Convenience and Necessity for Fayetteville Pedicab Company. If the City Council approves the application and the requirements in the ordinance are fulfilled a Certificate of Public Convenience and Necessity will be issued. Currently there are no Pedicab companies, within the City of Fayetteville, that hold a Certificate of Public Convenience and Necessity.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE THE GRANTING OF A PEDICAB
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO THE
FAYETTEVILLE PEDICAB COMPANY**

WHEREAS, the City Council has reviewed the application for a Pedicab Certificate of Public Convenience and Necessity submitted by the Fayetteville Pedicab Company which has been determined proper and adequate by the Fayetteville Police Department; and

WHEREAS, City Clerk Sondra Smith has set the public hearing to consider the granting of a Pedicab Certificate of Public Convenience and Necessity for the Fayetteville Pedicab Company for this date and time at the City Council Chambers; and

WHEREAS, the Fayetteville Pedicab Company has notified and provided the City Council with sufficient proof of its notification of all holders of current and valid Certificates of Public Convenience for taxicabs and pedicabs; and

WHEREAS, the Fayetteville Pedicab Company has fully complied with all requirements of §117.101 and the City Council has determined that pedicab service is required by the public convenience and necessity and that the Fayetteville Pedicab Company is fit, willing and able to perform such pedicab service and to conform with all ordinance requirements.

**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 determines that the Fayetteville Pedicab Company should be awarded a Pedicab Certificate of Public Convenience and Necessity and authorizes the City Clerk to issue such Certificate. Further, the City Council determines that the Fayetteville Pedicab Company shall be authorized to operate within the Central Zone (and Western Zone) of the City as shown on the map attached to the Pedicab Ordinance. Further the City Council authorizes the Fayetteville Pedicab Company to operate no more than eight pedicabs daily during the hours of 8:00 a.m. until 3:00 a.m. for a passenger rate of \$1.00 plus any tips any passenger may decide to offer. Further, the Fayetteville Pedicab Company may be authorized to operate on other scheduled or special event routes at fares authorized by the Fayetteville Transportation Services Director pursuant to §117.102(B).

PASSED and APPROVED this 17th day of August, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Certificate of Public Convenience & Necessity Application/Renewal

As required to comply with Chapter 117 of the Fayetteville Code of Ordinances

Jason R. Sexton 303 S. Gregg Ave., Fayetteville (479) 595-3158
Applicant Name Address Phone Number

Fayetteville Pedicab Co. (479) 595-3158
Name of Business Phone Number

517 Martin Luther King Blvd.
Business Location

64 W. Colt Square Fayetteville AR 72702
Mailing Address

Fayetteville Pedicab Co. LLC
Type of Business (Sole Proprietor, Corporation, LLC)

Name and address of all owners, officers and stockholders:

Jason Sexton 303 S. Gregg Ave., Fay. 72701

Todd Gilmore 8600 Palmer Ct. McKinney, TX 75070

* Fayetteville Pedicab Co. is owned by Razorblades Transportation LLC
which is owned by Jason Sexton & Todd Gilmore. See attached

Name of person to whom complaints should be directed:

Jason R. Sexton

Financial status of applicant (Attach financial statement or profit and loss statement)

See attached invoice for pedicabs. We are set up and
ready to do business.

List any unpaid judgments against any of the owners, officers and stockholders and the nature or acts giving rise to said judgments:

N/A

Describe the experience of all owners, officers and stockholders in the transportation of passengers:

see attached

Give any facts you believe tend to prove the necessity of granting a certificate:

see attached letter from Fayetteville Farmer's Market

please view Facebook page of Fayetteville Pedicab Co.

List the number of vehicles that will be under your operation or control: 8

Minimum and Maximum number of vehicles to be permitted:

8

Minimum

Maximum

List the location of proposed depots and terminals:

517 Martin Luther King Blvd.

Describe the color scheme or insignia to be used to designate your vehicle:

Red bike with red "bucket". On rear of bucket in white
reflective lettering it reads "Fayetteville Pedicab Co. (479) 595 3158"

List your days and hours of operation:

Mon - Sun., 8 a.m. - 3 a.m.

List any days you do not propose to provide taxicab service to the general public:

when weather is prohibitive

List your proposed passenger rate schedule:

\$1.00 flat rate + Tips

Sgt. Jan W. Hart
Police Department Representative

7-10-10
Date

Main Street Pedi-Cabs, Inc.

11811 Upham St. #9
Broomfield, CO 80020
303-295-3822

D. 2
Certificate of Public Convenience
(Fayetteville Pedicab Company)
Page 7 of 18

Invoice

Date	Invoice #
6/1/2010	05-4668

Bill To
Todd Gillmour Dallas, TX 75070 972-548-0413 toddgolf1@yahoo.com

PAID

Ship To
517 W. Martin Luther King Blvd. Fayetteville, AR 72701

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			6/1/2010	UPS		

Quantity	Item Code	Description	Price Each	Amount
8	MS PediCab, Classic	Classic model pedicab. 35.5" seat width. Classic includes under-seat storage, seatbelt and complete lighting system (head light, front and rear running lights, brake light and turn signals). Red Cab, Red Frame. MSP #E609, E610, E611, E613, E614, E616, E620, and E622.	3,400.00	27,200.00T
3	Discount		-200.00	-600.00T
1	shipping/handling		1,325.00	1,325.00
		Out-of-state sale, exempt from sales tax	0.00%	0.00

		Total	\$27,925.00
		Payments/Credits	\$-27,925.00
		Balance Due	\$0.00

Description of experience of all owners, officers and stockholders in the transportation of passengers.

To whom it may concern.

I have no experience in the transportation business.

Driving a pedicab involves taking people for a bike ride at slow speeds. This is a bicycle based business. I have 35 years experience with bicycles. I have been on a bicycle in Fayetteville for over 20 years.

I understand the dangers of the road from a cyclist perspective. This is critical to providing a fun and safe experience. My employee training is based on 35 years in the world of cycling. I can run a safe operation with high quality operators.

Best Reagrds,

Jason R. Sexton

Fayetteville Pedicab Co.

Fayetteville Farmers' Market

PO Box 3076

Fayetteville, AR 72702

July 13, 2010

To Whom It May Concern,

As manager of the Fayetteville Farmers' Market, I am very pleased to welcome the Fayetteville Pedicab Company to downtown Fayetteville. After experiencing a pedicab ride in downtown Louisville, KY, it was obvious what a wonderful addition these would make to downtown Fayetteville for residents and visitors alike. In my presentations to the Farmers' Market board, I have been including pedicabs on a wish list for the future, with the integration of a pedicab stand and parcel pickup in my vision of a more customer friendly market layout. It has been my dream that someday pedicabs would be available to help customers loaded down with market produce or to help the elderly with a shuttle service. Imagine my delight to actually see a pedicab pull up to the market!

The environmentally friendly nature of the business and the opportunity for job creation makes this such a positive addition to the Fayetteville community. Tourists will be enthralled with the concept and I would expect to see the pedicabs become a selling point as one of the reasons Fayetteville is such a great place to live and to visit. I offer my full support to the Fayetteville Pedicab Company.

Sincerely,

Peggy Maringer

Market Manager,

Fayetteville Farmers' Market

479-236-2910 fayettevillefm@gmail.com

INSURANCE SUMMARY

Razorbikes Transportation LLC

Proposal Date: July 13th, 2010

Company: Maxum Indemnity Company

Effective: 07/15/10

Location: 517 Martin Luther King Blvd Fayetteville, AR 72701

General Liability

Coverage:

Limits

General Aggregate Limit (other than products-completed operations)	\$2,000,000
Products-Completed Operations Aggregate Limit	\$2,000,000
Personal and Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Damage to Premises Rented to You Limit	\$100,000
Medical Expense Limit	\$1,000
Assault & Battery	\$25,000

Deductible:

\$1,000 BI/PD

Terms/Conditions:

Policy Term: 12 Months

Policy Form: Occurrence

Rated to operate up to 8 Pedicabs

Drivers

Leased to qualified, trained professional operators

A valid US drivers license is required or a valid license accompanied by a city license is acceptable

Pedicab Schedule

Main Street Pedicab Serial #'s: MSPE609, MSPE610, MSPE611, MSPE613,
MSPE614, MSPE616, MSPE620, MSPE622

Nielsen Insurance Agency

1.800.468.5647 www.niagency.com

12587 SW 68TH AVE Tigard OR 97223



INSURANCE SUMMARY**Razorbikes Transportation LLC**Proposal Date: July 13th, 2010**PREMIUM INDICATION**

Coverage		Premium
General Liability	\$	3,600.00
Taxes	\$	195.18
Fees	\$	375.00

Total Premium	\$	4,170.18
---------------	----	----------

The information contained in this proposal is for illustrative purposes only and is not an insurance contract.
This proposal was prepared with information you provided.
Premium is subject to modification pending underwriter review.
Rates proposed are valid for 30 days.

Accepted by: _____ Date: _____

Presented by:

Nielsen Insurance Agency
Dan Robinson, Agent
12587 SW 68th Ave
Tigard, OR 97223

(503) 684-6598 - Office
(503) 244-6881 - Fax
(503) 484-7757 - Cell
dan@niagency.com - Email

For servicing issues, please call or contact:

Taira Stronach - taira@niagency.com -
Katie Stewart - katie@niagency.com -

Licensed Commercial Service Rep.
Licensed Commercial Service Rep., Accounting

Nielsen Insurance Agency
1.800.468.5647 www.niagency.com
12587 SW 68TH AVE Tigard OR 97223



STATE OF ARKANSAS

Certificate of Public Comfort
(Fayetteville Pedicab Com
Page 12 of 18



Charlie Daniels
SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

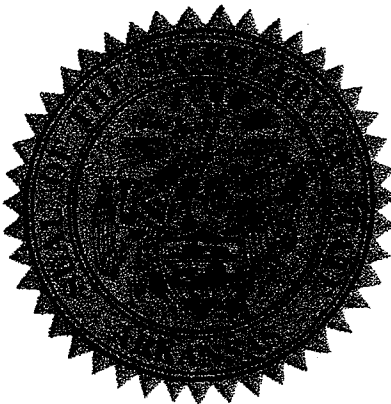
I, Charlie Daniels, Secretary of State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

Articles of Organization
of
FAYETTEVILLE PEDICAB L.L.C.

filed in this office

May 12, 2010

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 12th day of May 2010.



Charlie Daniels
Secretary of State

The undersigned authorized manager or member or person forming this Limited Liability Company under the Small Business Entity Tax Pass Through Act, Act 1003 of 1993, adopts the following Articles of Organization of such Limited Liability Company:

First: The Name of the Limited Liability Company is:

FAYETTEVILLE PEDICAB L.L.C.

Must contain the words "Limited Liability Company," "Limited Company," or the abbreviation "L.L.C.," "L.C.," "LLC," or "LC." The word "Limited" may be abbreviated as "Ltd.", and the "Company" may be abbreviated as "Co." Companies which perform Professional Service MUST additionally contain the words "Professional Limited Liability Company," "Professional Limited Company," or the abbreviations "P.L.L.C.," "P.L.C.," "PLLC," or "PLC" and may not contain the name of the person who is not a member except that of a deceased member. The word "Limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."

Second: Address of registered office of the Limited Liability Company which may be, but need not be, the place of business shall be:

Street Address: 64 W. COLT SQUARE

City: FAYETTEVILLE

State: AR

ZIP: 72703-

Third: The name of the registered agent and the physical business address of said agent shall be:

Name: JASON SEXTON

Street Address: 64 W. COLT SQUARE

City: FAYETTEVILLE

State: AR

ZIP: 72703-

Fourth: IF THE MANAGEMENT OF THIS COMPANY IS VESTED IN A MANAGER OR MANAGERS, A STATEMENT TO THAT EFFECT MUST BE INCLUDED IN THE SPACE PROVIDED OR BY ATTACHMENT:

The Name of the person(s) authorized to execute this document:

Name 1: JASON SEXTON

Name 2: TODD GILMOUR

Name 3:

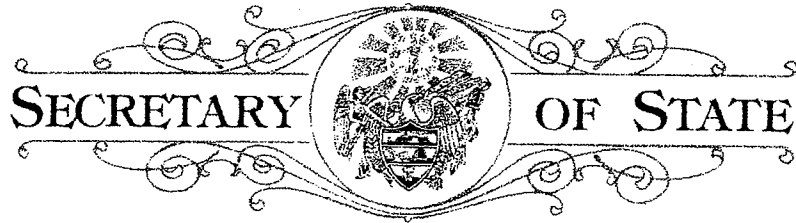
**THIS FILING HAS A DELAYED EFFECTIVE DATE OF MAY 12TH, 2010.
**

**Signature of authorized manager, member or person
forming this Company:**

JASON SEXTON

STATE OF ARKANSAS

(Fayetteville Pedicab Co
Page 15 of 18



Charlie Daniels
SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, Charlie Daniels, Secretary of State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

Articles of Organization

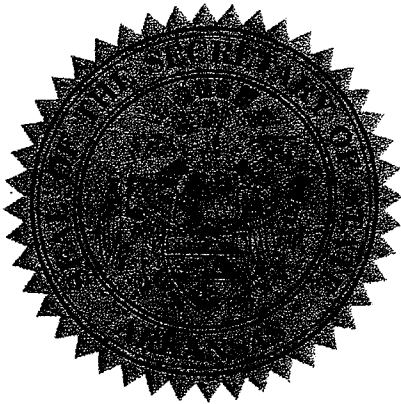
of

RAZORBIKES TRANSPORTATION LLC

filed in this office

April 9, 2010

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 9th day of April 2010.



Charlie Daniels

Secretary of State

The undersigned authorized manager or member or person forming this Limited Liability Company under the Small Business Entity Tax Pass Through Act, Act 1003 of 1993, adopts the following Articles of Organization of such Limited Liability Company:

First: The Name of the Limited Liability Company is:

RAZORBIKES TRANSPORTATION LLC

Must contain the words "Limited Liability Company," "Limited Company," or the abbreviation "L.L.C.," "L.C.," "LLC," or "LC." The word "Limited" may be abbreviated as "Ltd.," and the "Company" may be abbreviated as "Co." Companies which perform Professional Service **MUST** additionally contain the words "Professional Limited Liability Company," "Professional Limited Company," or the abbreviations "P.L.L.C.," "P.L.C.," "PLLC," or "PLC" and may not contain the name of the person who is not a member except that of a deceased member. The word "Limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."

Second: Address of registered office of the Limited Liability Company which may be, but need not be, the place of business shall be:

Street Address: 8600 PALMER CT.

City: MCKINNEY

State: TX

ZIP: 75070-

Third: The name of the registered agent and the physical business address of said agent shall be:

Name: JASON SEXTON

Street Address: 3424 REMINGTON ST.

City: SPRINGDALE

State: AR

ZIP: 72764-

Fourth: IF THE MANAGEMENT OF THIS COMPANY IS VESTED IN A MANAGER OR MANAGERS, A STATEMENT TO THAT EFFECT MUST BE INCLUDED IN THE SPACE PROVIDED OR BY ATTACHMENT:

The Name of the person(s) authorized to execute this document:

Name 1: JASON SEXTON

Name 2: TODD GILMOUR

Name 3:

**Signature of authorized manager, member or person
forming this Company:**

JASON SEXTON

ANNUAL P/L SHEET														Subtotals
	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	
Beginning Capital	\$ 10,000.00	Estimated \$ 5,000.00	Estimated \$ 6,000.00	Estimated \$ 8,000.00	Estimated \$ 9,000.00	Estimated \$ 9,000.00	Estimated \$ 4,000.00	Estimated \$ 2,000.00	Estimated \$ 9,000.00	Estimated \$ 9,000.00	Estimated \$ 9,000.00	Estimated \$ 9,000.00	Estimated \$ 9,000.00	\$ 98,000.00
Bay Bikes are Rented	8 Bikes	12	12	12	12	6	6	6	12	12	12	12	12	\$ 86,000.00
Advertising Revenue	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 12,000.00
Refunds Payment	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 2,400.00
Parts/Supplies	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 2,400.00
Telephone/2 way radio	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 200.00	\$ 2,400.00
Advertising/ Marketing	\$ 400.00	\$ 400.00	\$ 400.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 1,500.00
Insurance	\$ 1,500.00	\$ 2,250.00	\$ 2,250.00	\$ 2,250.00	\$ 2,250.00	\$ 1,000.00	\$ 500.00	\$ 1,000.00	\$ 2,250.00	\$ 2,250.00	\$ 2,250.00	\$ 2,250.00	\$ 2,250.00	\$ 4,800.00
Taxes & Licenses	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 22,000.00
Storage	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 400.00
TOTAL EXPENSES														\$ 38,100.00
REVENUE FOR MONTH	\$ 10,000.00	\$ 6,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 4,000.00	\$ 2,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 36,100.00
NET PROFIT/LOSS	\$ 3,450.00	\$ 5,700.00	\$ 5,200.00	\$ 5,200.00	\$ 5,700.00	\$ 1,450.00	\$ 450.00	\$ 1,950.00	\$ 5,200.00	\$ 5,700.00	\$ 5,700.00	\$ 5,700.00	\$ 5,700.00	\$ 61,900.00

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

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

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

Mayor Jordan called the meeting to order.

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

ABSENT: Alderman Lucas

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items:

Ambulance Authority Annual Report to the Council – Becky Stewart

Alderman Ferrell: Chief Dayringer and I are the City representatives on the Ambulance Authority. Alderman Ferrell welcomed Becky Stewart, Chief of EMS, Mr. Loyd Swope, Chairman of EMS, and Assistant Chief, Steve Harrison.

Becky Stewart gave a brief report of the Ambulance Authority. She stated the average emergency response time has been improved. The requirement by contract is eight minutes and routinely we have had a response time on six minutes and 30 seconds. The challenges for the future are work force. There are not enough paramedics to fill the vacancies in EMS across the nation.

Alderman Lewis: Do you think the paramedic shortage will increase?

Becky Stewart: I don't think the outlook is much better. Locally we are doing a grass roots effort to teach teenagers first responder classes called Camp Rescue.

Alderman Thiel: Seems like everything is going as we had hoped. You're doing a good job.

Becky Stewart: Thank you.

Agenda Additions: None

Consent:

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

Approved

Ranger's Pantry Pet Food Bank Donation: A resolution approving a budget adjustment to recognize Community Services donation revenue for the Ranger's Pantry Pet Food Bank in the amount of \$738.00.

Resolution 122-10 as recorded in the office of the City Clerk.

Animal Services Donation Revenue: A resolution approving a budget adjustment to recognize Animal Services donation revenue for the second quarter of 2010 in the amount of \$19,123.00.

Resolution 123-10 as recorded in the office of the City Clerk.

RFP #10-07 Score American Soccer Co.: A resolution awarding RFP #10-07 and approving the purchase of youth soccer uniforms from Score American Soccer Co. in the amount of \$27,097.00 for the Fall 2010 and Spring 2011 recreational season.

Resolution 124-10 as recorded in the office of the City Clerk.

Bid #10-44 Peterbilt of Fort Smith, LLC: A resolution awarding Bid #10-44 and approving the purchase of two (2) automated side-load solid waste trucks from Peterbilt of Fort Smith, LLC in the total amount of \$536,418.00 and approving a budget adjustment.

Resolution 125-10 as recorded in the office of the City Clerk.

Amend Resolution 63-08, Arkansas Western Gas Company: A resolution amending Resolution 63-08 by authorizing an additional appropriation of \$79,938.20 and approving an agreement with Arkansas Western Gas Company in the total amount of \$497,069.52 for relocation of gas lines and appurtenances to allow construction of improvements to Mount Comfort Road.

Resolution 126-10 as recorded in the office of the City Clerk.

Insituform Technologies, Inc.: A resolution approving a contract extension with Insituform Technologies, Inc. in the amount of \$330,000.00 for cured-in-place sanitary sewer linings.

Resolution 127-10 as recorded in the office of the City Clerk.

Forest Hills Partners, LLC: A resolution approving a cost-share agreement with Forest Hills Partners, LLC in the amount of \$135,000.00 for construction of the Broyles Avenue gravity sewer line, and approving a budget adjustment.

Resolution 128-10 as recorded in the office of the City Clerk.

Goodwin & Goodwin, Inc. Change Order No. 1: A resolution approving Change Order No. 1 to the construction contract with Goodwin & Goodwin, Inc. in the amount of \$367,518.17 for construction of the Broyles Avenue gravity sewer line, maintaining a \$45,000.00 project contingency, and approving a budget adjustment.

Resolution 129-10 as recorded in the office of the City Clerk.

Airport - Refinance Hangars: A resolution to amend Section 2 of Resolution No. 109-06 to lower the annual percentage rate and the monthly repayment amount.

Resolution 130-10 as recorded in the office of the City Clerk.

Today in America Contract: A resolution approving a contract with Today in America in the amount of \$19,800.00 for the production of a television segment pertaining to Economic Development in Fayetteville and approving a budget adjustment.

This resolution was removed from the Consent Agenda for discussion.

Alderman Cook moved to approve the Consent Agenda with A.11 Today in America Contract removed for discussion. Alderman Gray seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads was absent during the vote. Alderman Lucas was absent.

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

Today in America Contract: A resolution approving a contract with Today in America in the amount of \$19,800.00 for the production of a television segment pertaining to Economic Development in Fayetteville and approving a budget adjustment.

Alderman Cook: Is there a different way we can do this? Is this the right way to do this? Can we produce the video or have someone else produce the video to have it as tool for the future?

Mayor Jordan: Lindsley Smith was contacted by Today in America hosted by Terry Bradshaw. They sent a video and I looked at it before we started the process. They told us the \$19,800 will be for the show that they will produce. It will be on national television for five minutes which gives us national exposure. It also goes to twelve different markets. We will assist in the editing and we will keep the product. Lindsley didn't think we could do that kind of production for that amount of money. The funding comes out of the economic development fund. It is in the general fund but it is a set aside fund to be used only for economic development.

Alderman Cook: Who are we trying to reach and is this the right venue to reach those people? Who are we trying to reach as an economic development tool?

Mayor Jordan: It will reach cities all over the United States. I hope we can draw in businesses with this.

Don Marr, Chief of Staff: I think Lindsley was thinking that having a show that speaks about your community and gets national exposure from a third party perspective gives it more creditability than you yourself saying it as a city. I think it is an infomercial, one that is used and targeted for site selection consultants, individuals, and communities. The show is titled America's Best Hidden Gem Environments in Business. One of the areas of focus for promoting Fayetteville is a business friendly community and it is targeted for economic recruitment.

Alderman Cook: Once it is complete we get the rights to it. I assume the Chamber and City will use that as a tool. I'm curious how we might envision using that going forward.

Steve Clark: I was present during the phone calls with the Mayor, Lindsley, and others as this was being brought to the attention of the City. I recommended that the City move forward on this for a number of reasons. One of the reasons is that the City has editorial control over the script and the visual. We will be able to use the product when it is complete.

Alderman Thiel: As a representative of the Chamber you recommend it. Was there any consideration of the Chamber paying for this or part of this?

Steve Clark: There certainly was, we wouldn't have \$19,800 for this investment so we would not be able to do that as a matter of physical restraint and lack of funding. In the contract that we have with you it does not indicate that we would spend that amount of money on a production. As we are building our representation of the City this was not a tool that we would have had in this first year of this contract. It is now a tool that is coming to us if you choose to do this that will be a part of our second, third, and fourth years of doing this work that we will use.

Don Marr: The contract that the Council approved for economic development services outlined certain collateral pieces that would be used for the benefit of the City and would be passed through to the City at our cost. We had very specific action items in the contract.

Alderman Ferrell: Would one surmise that they probably weigh pretty heavy on our attempt to capitalize on green industry around here?

Steve Clark: Yes, when you talk about innovation and creativity you are talking about best green sustainable practices.

Alderman Gray: Steve, how many times will it show? You mentioned 18 or 19 times.

Steve Clark: That is my understanding. We get to pick the media markets. There are 100 media markets in the United States and we get to pick 19 of those. We will be able to use these materials in both local and state markets and we will be looking to use them in conjunction with other regional markets. We will be looking for other markets also and we will have the flexibility since we own the piece.

Alderman Gray: Our contract with them is for how many?

Steve Clark: 19 to 20 total.

Alderman Gray: That is how many times that five minutes will be shown?

Steve Clark: That's correct.

Alderman Lewis: I received an email about the legitimacy. I would like for you to speak about the process that went into validating the legitimacy of the organization.

Don Marr: Fritz Gisler and Lindsley Smith investigated the show. They talked to references who had worked with Today in America previously. We ran a Better Business Bureau background check, there were no issues and it was a valid company. The contract was reviewed by the City Attorney's office. We requested certain changes that were made to be in compliance with those that we normally request. We have no reason to believe that it is not a reputable organization.

Steve Clark: I did some verification myself and everything I saw indicated it is a very valid and a well run professional organization.

Alderman Rhoads: Is it a one time expense? Is there any chance they will come back and say we have you half way there but now we need another \$19,000?

Steve Clark: I understand it's a one time expense. If I heard the Mayor correctly he said they won't get the money until they deliver the product.

Mayor Jordan: I told them I wanted to run it through the City Council.

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

Resolution 131-10 as recorded in the office of the City Clerk.

Unfinished Business:

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 at the June 15, 2010 City Council meeting. This ordinance was left on the Third Reading at the July 6, 2010 City Council meeting and Tabled to the July 20, 2010 City Council meeting.*

Connie Edmonston, Director of Parks and Recreation: There have been several revisions to the ordinance and to the operational policy. We have added more specific language to the ordinance to establish fair and proper recognition of capital facility donations. She read the language that was added.

Allison Jumper, Park Planner gave a brief slide presentation on the different donation categories.

Don Marr: I asked Terry Easton a Fayetteville resident that has raised over \$8,000,000 in public, private, partnerships for cities and their trail programs to come speak to you specifically about the River Market Medical Mile.

Terry Easton gave a brief presentation and talked about why it is important to have a policy for corporate fund raising. She gave examples of what they were able to do in Little Rock.

Alderman Ferrell: What is your assessment about how the community of Little Rock has received these?

Terry Easton: The community of Little Rock loves the Medical Mile. It is featured in all of their advertisements.

Alderman Rhoads: Since the work was done, is there any factual, statistics available that show what the trail usage is for the Arkansas River Trail?

Terry Easton: The Arkansas Diabetes Association established a premier project to teach diabetic cooking in the River Market and then take their classes for a walk on the Medical Mile.

Alderman Rhoads: Are there statistics that say since that project was introduced and all the improvements took place that the usage went up from 1,000 people a day to 40,000?

Terry Easton: Those statistics don't exist but I can tell you that a multi million dollar playground was developed off of this project and is now a companion to it.

Alderman Rhoads: I see corporations using it when they have given money. Ultimately as I look at my role on this City Council I want something that the people will use. Signs or no signs they love the facility or because of the signs they won't use it because they don't like signs.

Alderman Lewis: One of the art displays was sponsored by Blue Cross and Blue Shield, were there any other insurance companies that donated?

Terry Easton: No. The position of the city and the position of the artist and my position is this is not an advertisement for your business and if you think it is we need to stop talking right now. This is a health messaging project where you are allowed to teach the public.

Karen Reese spoke in opposition of the ordinance. She stated she is concerned about the aesthetics and the messages. She stated she does not want logos when she goes to the parks.

Alderman Ferrell: How about the people that don't agree with you? What if we have someone that is investigating the possibility of building a tennis court, that a lot of citizens would like, but because you don't want it, should they not have a chance to be considered for that tennis court?

Karen Reese: I didn't understand who you said was going to do this.

Alderman Ferrell: Whoever is going to foot the bill realizes they can't put up a sign with chicken, as you referred to, and they want something esthetically pleasing. They contact staff and other people to arrive at something, within the parameters that we have, and they would be interested in building a tennis court.

Karen Reese: I think the problem you are going to have is whose esthetic is it going to be.

Alderman Ferrell: We have the City Council, Parks Board, and Parks staff, is there a link in there that you don't think would be responsible in looking at these things?

Karen Reese: I'm not convinced that the Council or staff will be able to pull this off in a way that is pleasing philosophically and esthetically to Fayetteville citizens.

Bill Mueller, Ward 4 resident: What I'm concerned about is esthetics. I want an esthetic experience on the trail and in the parks. I don't want my sense of esthetics offended by advertising. He voiced his concern about the size of logos that might be proposed.

Alderman Gray: Have you seen anything in any of our parks that you felt was not esthetically pleasing?

Bill Mueller: No, but a couple of pictures in the paper offended me. Not the fact that the photograph was taken or how it was taken but the picture of the parameter at Walker with the various signs along the fencing.

Alderman Gray: I think that's at the sports park.

Bill Mueller: Right.

Alderman Gray: That's entirely different from what we are talking about.

Bill Mueller: And the picture of the pavilion with Rotary Club sign.

Alderman Gray: The Fayetteville Rotary Club.

Bill Mueller: I felt that sign dominated that pavilion it was unnecessarily large. But where I normally go no.

Alderman Gray: The same people will be making those decisions in the future that have made them in the past.

Bill Mueller: There in lies a very important point. The system needs to be set up so that when there are changes in personnel things don't fall apart.

Alderman Gray: There will be the same input from the citizens of Fayetteville that there is today. That is going to keep Fayetteville esthetically pleasing.

Bill Mueller: As long as the ordinance permits that. I want to see the controls in the ordinance and I want to see things well defined in such a way that the esthetics will continue as they have been.

Alderman Gray: That is the reason our City Attorney has rewritten it twice.

Bill Mueller: I was unable to pull up the revised ordinance on the city website. I had to refer to the old version which was a month old.

Alderman Lewis: What are your thoughts about the option of naming a facility after an entity?

Bill Mueller: As long as it is under the control of the City Council to make the decision I don't have a big problem with it. I'm uncomfortable with that decision being assigned to city staff.

Don Marr: The ordinance previously did not include the operational policy. One of the things we did, to make sure it would be clear, was to say that we are going to have to have the majority of the Council vote to change the policy. The operational policy is part of the ordinance. It can't be changed by staff. I think there is a strong strengthening of naming within this proposal. Currently parks are named without City Council approval. It's done at the Parks Board level. It has a thirty day posting, after that period the park is named. We have put in greater control to the City Council.

Bill Mueller: Did I understand Don to say the operational policy will be incorporated in the ordinance?

Alderman Thiel: Yes it is.

Alderman Thiel moved to amend the ordinance as suggested by the City Attorney and the Parks Department. Alderman Petty seconded the motion.

City Attorney Kit Williams read the proposed ordinance.

Bill Mueller: I am much more comfortable this evening than I was previously. Some of the specific suggestions that I would have had, have been incorporated in that proposal. Esthetics is the big issue for me.

City Attorney Kit Williams: That is certainly the intent of this. The Mayor, Chief of Staff, Connie, and I listened to you all at the last meeting and we tried to make sure we were differentiating between the trail signs and parks signs. We wanted to make sure esthetics would be considered and enforced.

Bill Mueller: Some of the work done by staff showed a sign that was larger than the text. They talked about the sign being a certain size and it was measured by the text not the over all sign size. Have you dealt with that issue?

City Attorney Kit Williams: We have in our sign ordinance. We don't measure the support of the sign. We only measure the actually sign.

Bill Mueller: You do measure the total physical size of the sign?

City Attorney Kit Williams: Right, the part that is being held up.

Patty Besom, resident of Ward 2, 15 NW Avenue: Thanked Alderman Lewis for bringing up the issue of signs. It's great to go to the parks and bike paths and not see signs.

A representative of Smith Two-Way spoke in favor of the ordinance.

Alderman Thiel: I recognize some of the concerns we've heard. After the amendments have been made I don't feel like any of the signs will be distractive. I feel like this is a good move and I strongly support it.

Alderman Lewis: We are only amending it right now to add this.

Mayor Jordan: Yes.

Upon roll call the motion to amend the ordinance as suggested by the City Attorney and the Parks Department passed 6-1. Aldermen Rhoads, Ferrell, Gray, Thiel, Cook, and Petty voting yes. Alderman Lewis voting no. Alderman Lucas was absent.

The amendment passed.

Alderman Lewis moved to amend the ordinance to remove the use of logos. Alderman Rhoads seconded the motion.

Alderman Ferrell: I understand the way you feel Sarah but I disagree. I think it is important that it is done in an esthetically pleasing manner but I think it is important that we have the opportunity to be able to do that.

Alderman Lewis: The idea of a logo associates in an emotional why to an organization and their morals and visions. People should not have to make a moral decision when entering a public space.

Terry Easton: I do believe logos can be incorporated very effectively and inoffensively in park projects. When you remove that opportunity for a small logo you are telling that donor you don't value their donation.

Karen Reese: I agree with City Council member Lewis about the logo. I would be willing to change my stance if logos are removed as long as there is no advertising.

Bill Mueller: I'm with Alderman Lewis on that point.

Patty Besom: I agree with the two people that spoke. Sometimes logos are more powerful than the name itself. I don't like turning our public areas into private or corporate areas.

Ken Easton, resident of Jackson Drive: Spoke in favor of the ordinance.

Aubrey Shepherd: Logos change. A simple name of a corporation or a person who donated should be there.

Alderman Rhoads agreed with Aubrey that logos change. You would rather have your name than an old logo that you have been trying to get rid. I think it is a great compromise and I don't think it will keep us from getting money.

Upon roll call the motion failed 3-4. Aldermen Rhoads, Lewis, and Petty voting yes. Aldermen Ferrell, Gary, Thiel, and Cook voting no. Alderman Lucas was absent.

This amendment failed.

Alderman Lewis moved to amend the ordinance to allow 12 square feet maximum per sign. The motion failed due to no second.

Alderman Lewis expressed her concerns regarding the perception of a private entity being connected to an organization or facility. She stated logos invade, they catch your eye. The name of the facility causes you to associate that facility with that organization and therefore it is no longer public.

Alderman Rhoads: It makes sense to me that you do not want to go too far. You want people to use the facilities and enjoy getting out there. With all the changes that have been made it is a good compromise and I am all for it.

Alderman Thiel pointed out that there have been some very good changes made to this.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Lewis voting no. Alderman Lucas was absent.

Ordinance 5335 as Recorded in the office of the City Clerk

Street Name Change: A resolution renaming a section of N. Shiloh Drive to N. Farm Credit Drive due to street realignment. *This resolution was tabled at the July 6, 2010 City Council meeting to the July 20, 2010 City Council meeting.*

Alderman Lewis gave a brief description of the resolution. She explained the responsibilities of the Street Name and Address Committee.

John Goddard, GIS Coordinator gave a brief description of the responsibilities of the committee. He listed the names that were considered for the street. There are three names that have come to the top as favorites, Cowboy, Big Horn, and Henbest.

Ben Henbest, resident 2901 W. Mount Comfort Rd. and great grandson of John Henbest told the history of his grandfather and their land. It would be perfect to name the road after him.

Alderman Lewis: What was your great grandmother's name?

Ben Henbest: Genevieve Helena Tillitan Henbest and she taught school at the Salem School House that runs off of Mount Comfort Road and sits up on the hill.

Alderman Lewis moved to amend the resolution to name the street North Henbest Drive. Alderman Thiel Seconded the motion.

Representative with Farm Credit: I have no issue with the Henbest family. It is an agricultural community in that area, therefore our thought was we wanted to have something with an agricultural connotation.

Alderman Ferrell stated he thought the name was very appropriate.

Upon roll call the motion to amend the resolution passed 7-0. Alderman Lucas was absent.

The amendment passed.

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

Resolution 132-10 as recorded in the office of the City Clerk.

Amend Chapters 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control: An ordinance amending Chapter 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control of Title XV of the Code of Fayetteville (Unified Development Code), to clarify stabilization requirements, require phased construction for sites larger than 20 acres, clarify re-vegetation requirements, clarify requirements for cut and fill slopes and retaining walls, define maintenance responsibility for stormwater management systems, restrict location of dirt and topsoil storage and define stabilization practices for dirt and topsoil storage, define a qualified inspector for erosion and sediment control best management practices, and require site plans for one and two family residences to contain a plan for erosion and sediment control and final on-site drainage. *This ordinance was left on the First Reading at the July 6, 2010 City Council meeting.*

City Attorney Kit Williams read the ordinance.

Sarah Wrede, Staff Engineer: I'm here to answer any questions.

Alderman Lewis asked for clarification on the preliminary plat master build out section.

Sarah Wrede clarified the requested section of the ordinance. She stated we are encouraging upfront evaluation of what the drainage system is going to need to be.

Jeremy Pate, Internal Services and Development Director: This plan will be established during the preliminary plat infrastructure installation. Utilities are not typically installed at that time. If a developer goes in and puts these swales in and there is a utility easement there, when the utilities come through they change the grades and the drainage no longer works.

Alderman Lewis: The direction we are going is putting the utilities back there not the drainage.

Jeremy Pate: That's generally correct. There are some cases that can't happen where there is tree preservation in the rear.

Fran Alexander made a comment on the effects of sediment to the quality of water. She also requested that the ordinance be left on the second reading.

Alderman Lewis: The EAC had a chance to look.

Fran Alexander: Perhaps we could have a combined meeting of all three groups.

Aubrey Shepherd spoke in favor of the ordinance.

This ordinance was left on the Second Reading.

Amend Chapter 177: Landscape Regulations: An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 177: Landscape Regulations in order to modify existing requirements and regulations that address perimeter landscaping for

development. *This ordinance was left on the First Reading at the July 6, 2010 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Fran Alexander asked if the ordinance could be left on the second reading.

This ordinance was left on the Second Reading.

New Business:

Smith Communications (Ivey Road Cell Tower): A resolution approving a lease agreement with Smith Communications, LLC for the location of a cellular tower near Ivey Road.

Don Marr gave a brief description of the resolution. He stated staff recommended approval.

Alderman Ferrell moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed 6-0. Alderman Rhoads was absent during the vote. Alderman Lucas was absent.

Resolution 133-10 as recorded in the office of the City Clerk.

Announcements:

Chief of Staff Don Marr reminded City Council about the City Plan 2030 Discussion.

Jeremy Pate thanked everyone who participated in the Paws for a Bargain Rummage Sale for the Animal Shelter.

Meeting adjourned at 8:35 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

**City of Fayetteville Arkansas
City Council Meeting Minutes
August 03, 2010**

A meeting of the Fayetteville City Council was held on August 03, 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, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Lucas

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

Pedicab

Alderman Ferrell moved to add a Pedicab application to the agenda. Alderman Lewis seconded the motion.

Alderman Thiel: We are hoping to revise the current ordinance to allow Pedicabs to operate. I would rather wait and discuss this at the Ordinance Review Committee meeting tomorrow. I

realize this is an application and a different process. There are previous people that have applied but they were not successful. I think we need to revise our ordinance to allow them to operate. I do not support adding this to the agenda right now because I think we have further discussion tomorrow.

Alderman Petty: The reason I'm bringing it forward is because this is a company that is ready to operate. Our goal with the new ordinance for Pedicabs is to have that ordinance passed before the first football game. Their application is complete. They comply with the existing ordinance and I'd like to go ahead and put them in business.

Alderman Thiel: I'd like to ask City Attorney Kit Williams why this has not gone through the application process.

City Attorney Kit Williams: It's been the position of our office that they didn't fit with any of our current Certificate's of Necessity for taxi-cabs, limousine, or non-motorized transport vehicles. It doesn't seem like it fits the current definitions that we have. There are certain things I don't think this applicant can supply to meet the requirements of the non-motorized passenger transport ordinance as it is written. There must be pre-approved routes that are on file with the Traffic Superintendent.

Mr. Williams read portions of the current ordinance and what this application lacks in order to meet the current ordinance. He stated it would be better to bring this before the Ordinance Review Committee and then back to Council.

Alderman Ferrell: The email I received from the applicant sounds like he is doing the right thing to move forward. If this went to the Ordinance Review Committee and something was agreed upon, when might this be back before the Council to pass?

City Attorney Kit Williams: I think the Ordinance Review Committee can certainly forward it on to the next meeting. One way or another we need to have regulations relating to Pedicabs. We need some kind of definition for them and some regulations for them.

Alderman Petty: What prevents Pedicabs from operating at this point, if they are not regulated by our current City Code?

City Attorney Kit Williams: They are not mentioned anywhere in the State Traffic Code, however, it would be up to the police to determine if there are any traffic issues that might be involved with them. My recommendation to the Pedicab Company's is to go through the process, come before the City Council and state your case to see if you can get a Certificate of Public Convenience and Necessity.

Don Marr, Chief of Staff: All routes need to be approved by the Transportation Manager. We received routes from the applicant for this, but there are several of those that we need to discuss. It would be very difficult, if you add this to the agenda, for us to speak to all the routes that were submitted. I think there were a total of seven or eight routes submitted, some of them are on trails.

Alderman Petty: I think the existing ordinance and new ordinance are written so that new routes can be approved and existing routes can be altered and temporary routes and zones of operation can be approved for special events like football games and parades. It is my opinion that granting a certificate does not mean that they are allowed to operate.

Mayor Jordan: From an administrative point of view, we have been telling at least two other businesses for the last year that they can not operate within the city limits. I want all the businesses on a level playing field.

Alderman Petty: I'm sensitive to that Mayor. The reason I've chosen to bring this application forward is because it's my understanding that they are the only one of the three applicants that has already bought Pedicabs, hired drivers, and rented a storage facility.

Alderman Thiel: I think we'll be able to get this on the agenda and move this forward. They have already started their application process so they will be way ahead of the game. I think we'll do all we can to expedite the process to where they can operate.

A discussion followed on adding this to the current agenda or wait until the Ordinance Review Committee looks at the ordinance.

Upon roll call the motion failed 5-2. Alderman Ferrell, Lewis, Gray, Petty, and Rhoads voting yes. Alderman Cook and Thiel voting no. The motion to add this item to the agenda failed. (Six affirmative votes were needed to add it to the agenda.)

This item was not added to the agenda for discussion.

A & P Commission Appointment of William Lyle.

Alderman Cook moved to approve the appointment of William Lyle to the A&P Commission. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Approved

Consent:

Third Annual CDBG in the Park Event: A resolution approving a budget adjustment in the amount of \$200.00 to recognize revenue from the third annual CDBG in the Park Event.

Resolution 134-10 as recorded in the office of the City Clerk.

Bid #10-47 King Electrical Services: A resolution awarding Bid #10-47 and authorizing a contract with King Electrical Services for time and materials related to miscellaneous electrician services.

Resolution 135-10 as recorded in the office of the City Clerk.

Bid #10-48 Multi-Craft Contractors, Inc.: A resolution awarding Bid #10-48 and authorizing a contract with Multi-Craft Contractors, Inc. for time and materials related to miscellaneous plumbing services.

Resolution 136-10 as recorded in the office of the City Clerk.

RFP #10-09 GovDeals, Inc.: A resolution awarding RFP #10-09 and authorizing a contract with GovDeals, Inc. of Montgomery, Alabama for the provision of on-line auction services for disposition of surplus or obsolete city property.

Resolution 137-10 as recorded in the office of the City Clerk.

RFP #10-10 Treadwell Institute: A resolution awarding RFP #10-10 and approving a contract in an amount not to exceed \$55,000.00 with Treadwell Institute to provide administrator services for an energy efficiency and conservation block grant community revolving loan fund, and approving a budget adjustment.

Resolution 138-10 as recorded in the office of the City Clerk.

Arkansas Parks and Tourism Outdoor Recreation Grant: A resolution authorizing application for an Arkansas Parks and Tourism Outdoor Recreation Grant in the amount of \$125,000.00 for improvements to the Lake Fayetteville North Shore, the Yvonne Richardson Community Center and Walker Park.

Resolution 139-10 as recorded in the office of the City Clerk.

Arkansas Transportation Enhancement Program Grant: A resolution authorizing application for an Arkansas Transportation Enhancement Program 80/20 matching reimbursement grant for an award of up to \$500,000.00 to be used for construction of the Town Branch Trail.

Resolution 140-10 as recorded in the office of the City Clerk.

Arkansas Transportation Enhancement Program Reimbursement: A resolution authorizing application for an Arkansas Transportation Enhancement Program 80/20 matching reimbursement grant for an award of up to \$500,000.00 to complete rehabilitation of the Historic Lafayette Street and Maple Street Overpasses.

Resolution 141-10 as recorded in the office of the City Clerk.

Stephens, Inc.: A resolution approving the renewal of the contract with Stephens, Inc. as amended, to act as the City of Fayetteville's benefits broker and advisor.

Resolution 142-10 as recorded in the office of the City Clerk.

2011 Employee Benefit Package: A resolution approving a 2011 employee benefits package.

Resolution 143-10 as recorded in the office of the City Clerk.

Edward Byrne Memorial Justice Assistance Grant: A resolution authorizing acceptance of the 2010-2011 Edward Byrne Memorial Justice Assistance Grant in the total amount of \$197,333.59.

Resolution 144-10 as recorded in the office of the City Clerk.

Underage Drinking Laws Grant: A resolution authorizing acceptance of an Arkansas Department of Finance and Administration Grant for enforcement of Underage Drinking Laws in the amount of \$32,000.00 and approving a budget adjustment.

Resolution 145-10 as recorded in the office of the City Clerk.

RFP #10-06 NOVAtime Technology, Inc.: A resolution approving RFP #10-06 and authorizing a contract with NOVAtime Technology, Inc. in the amount of \$119,483.19 plus applicable sales tax and shipping not to exceed \$11,552.20 and a project contingency of 15% for the purchase of an electronic employee time keeping system.

Resolution 146-10 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 7-0. Alderman Lucas was absent.

Unfinished Business:

Amend Chapters 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control: An ordinance amending Chapter 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control of Title XV of the Code of Fayetteville (Unified Development Code), to clarify stabilization requirements, require phased construction for sites larger than 20 acres, clarify re-vegetation requirements, clarify requirements for cut and fill slopes and retaining walls, define maintenance responsibility for stormwater management systems, restrict location of dirt and topsoil storage and define stabilization practices for dirt and topsoil storage, define a qualified inspector for erosion and sediment control best management practices, and require site plans for one and two family residences to contain a plan for erosion and sediment control and final on-site drainage. *This ordinance was left on the First Reading at the July 6, 2010 City Council meeting. This ordinance was left on the Second Reading at the July 20, 2010 City Council meeting.*

There was no motion and second to suspend the rules. The City Attorney read the ordinance in full.

City Attorney Kit Williams read the ordinance in full.

Chris Brown, City Engineer: Gave a brief history of the ordinance. He also presented recommendations from the Green Infrastructure Committee

Alderman Petty moved to amend Section 169.04 Stabilization Practices of the ordinance. Alderman Lewis seconded the motion. Upon roll call the motion to amend passed 7-0. Alderman Lucas was absent.

Alderman Petty: I think staff has done a good job and this is a good ordinance.

Alderman Lewis: The Environmental Action Committee was supportive of it. Does this put expectations on creating rain gardens and requiring more of the natural design low-impact development? Should that type of language go in this or is that something that can be addressed by a policy where staff encourages that through building design.

I spoke with Jeremy Pate about impervious surface which is something they have to show up front. The EAC was supportive of this and liked that there is a plan up front, which enables you to choose to do more of the natural design. This will help a lot with how we manage our water that hits the ground.

Alderman Ferrell: How often do we get calls from citizens where drainage is a real problem? This goes right to the initial stage to stop that. I think it will work.

Alderman Lewis: If you're talking about stabilizing soil, phasing is essential.

Dot Neely, Ward 1 resident commended the City Council, Planning Department, and Street Department for revisiting ordinances and incorporating better management practices and looking forward for Fayetteville. This portion of the ordinance that is up for approval tonight looks at the land in its natural state, vegetation, and the drainage features on that land before a spade is turned to see what can be kept in the plan for the development that is serving a good functional purpose, is that what I understand?

Chris Brown: This ordinance doesn't exactly speak exactly to that. There are some discussions about preservation of natural vegetation. The grading ordinance and the environmental aspects of it are for protection of the water quality during construction. Some of the things Dot mentioned are more low impact development. We have a low impact development ordinance. We are working on a low impact development best management practices manual that will give folks a template and idea of how to develop those best management practices.

Alderman Lewis: It doesn't say you have to do anything, you just have to identify those and that has to be part of your plan. That is part of sharing with staff what's there.

Chris Brown: Identifying what type of soil erosion problems that you may have, and slopes are part of designing your erosion control methods during construction.

Aubrey Shepherd: Ten acres should be the maximum that's allowed to be cleared in this city for any purpose.

Jerry Hall voiced his concern about natural springs and wet lands. He stated you have to look at what is there before you approve a project. I hope you can work out a better system.

Alderman Ferrell: With regards to Mr. Shepherd's comment engineering has already said 20 acres. That could cause a problem with industry that wanted a large site. As far as economic development we would come closer to not having problems with twenty.

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

Ordinance 5336 as Recorded in the office of the City Clerk

Amend Chapter 177: Landscape Regulations: An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 177: Landscape Regulations in order to modify existing requirements and regulations that address perimeter landscaping for development. *This ordinance was left on the First Reading at the July 6, 2010 City Council meeting. This ordinance was left on the Second Reading at the July 20, 2010 City Council meeting.*

Alderman Thiel 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 Lucas was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Internal Services and Development Director stated this was presented at the Green Infrastructure meeting.

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

Ordinance 5337 as Recorded in the office of the City Clerk

New Business:

ADM 10-3618 (UDC Amendment Use Unit 2 Construction Facility): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapter 162: Use Units to modify the uses within use Unit 2, City-Wide Uses by Conditional Use.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. This proposal is to remove the construction facility (trailer) and in its place add a commercial facility on a temporary basis. Staff recommends approval and Planning Commission unanimously forwarded it to you.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5338 as Recorded in the office of the City Clerk

ADM 10-3619 (UDC Amendments: Chapters 151, 161, 162, and 164): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions, 161: Zoning Regulations, 162: Use Units, and 164: Supplementary District Regulations for drive-in restaurants and facilities.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5339 as Recorded in the office of the City Clerk

Amend Chapter 72 Parking Regulations: An ordinance amending Chapter 72 Parking Regulations of the Fayetteville City Code by amending Section 72.58(I)(1) to increase the rental rates for parking in certain areas of city parking garages.

City Attorney Kit Williams read the ordinance.

Sharon Waters, Parking and Telecommunications Manager gave a brief description of the ordinance.

Alderman Ferrell: What is the occupancy rate at the Town Center Deck?

Sharon Waters: It varies, they have different events there.

Alderman Ferrell: Monday through Friday average.

Sharon Waters: On average the occupancy is 53%.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5340 as Recorded in the office of the City Clerk

Ozark Asset Management Group, Inc.: A resolution approving a lease agreement with Ozark Asset Management Group, Inc. for the lease of 89 parking spaces on the first level of the Fayetteville Municipal Parking Garage at 25 E. Meadow Street.

Sharon Waters gave a brief description of the resolution.

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

Resolution 147-10 as recorded in the office of the City Clerk.

Watershed Conservation Resource Center (WCRC): An ordinance waiving the requirements of formal competitive bidding and approving a Memorandum of Understanding with the Watershed Conservation Resource Center to establish a general framework of cooperation to seek funding, conduct stream restoration projects and to work together on nonpoint source related issues.

City Attorney Kit Williams read the ordinance.

Chris Brown, City Engineer gave a brief description of the ordinance.

Mayor Jordan: This is just within the city limits of Fayetteville, correct?

Chris Brown: Correct.

Mayor Jordan: It doesn't involve the county.

Chris Brown: Typically within the city.

Alderman Ferrell: If this passes, as they come up, they will come back to the Mayor and the City Council for authorization.

Chris Brown: That is correct depending on the amount of the task order. In some cases the Mayor has approval of authority.

Alderman Ferrell: To your knowledge none of this is outside the city limits?

Chris Brown: Right.

Alderman Lewis: Is there a periodic review?

Chris Brown: This is a three year contract.

Larry Phipps stated his comments have been addressed.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5341 as Recorded in the office of the City Clerk

Amend Ordinance 5311: An ordinance amending Ordinance No. 5311 to accurately reflect the total contract amount with NEC, Inc. and H2 Engineering, Inc. of \$29,322.13 for sewer improvements at Veterans Memorial Park, and to reduce the project contingency.

City Attorney Kit Williams read the ordinance.

Carole Jones, Park Planner stated this change is necessary to match the actual cost.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5342 as Recorded in the office of the City Clerk

Street Name Change: A resolution renaming South California Boulevard to South and West Clinton Boulevard.

Marilyn Heifner representing the Advertising and Promotion Commission gave a brief description of the resolution.

Alderman Cook: Can we call this “Drive” instead of “Boulevard”?

John Goddard: “Drive” is fine.

Alderman Cook moved to amend the street name to remove “Boulevard” and add “Drive” as part of the name. Alderman Thiel seconded the motion. Upon roll call the ordinance passed 7-0. Alderman Lucas was absent.

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

Resolution 148-10 as recorded in the office of the City Clerk.

Rename Sidewalks and Trails Task Force: An ordinance to codify and rename the Sidewalks and Trails Task Force as the Active Transportation Advisory Committee.

City Attorney Kit Williams read the ordinance.

Alderman Cook gave a brief description of the ordinance. He stated this does not change what Sidewalks and Trails Task Force does. This will fall more in line with what they do.

Alderman Lewis: Would the Pedicab discussion relate to this? Is that considered an active form of transportation?

Alderman Cook: It could be but we haven't discussed it.

Alderman Ferrell: Is the composition the same today as it is proposed here.

Alderman Cook: Yes.

Alderman Ferrell: There is no change to the members of the committee.

Alderman Cook: No. It's a council member, representative from the Parks Board, Planning Commission, and some at large positions.

Alderman Ferrell: And some city employees also.

Alderman Cook: Yes, Matt Mihalevich.

Alderman Ferrell: Was there any compelling reason why you wanted to change the name of the committee?

Alderman Cook: Part of it was our push for a bicycle friendly community.

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

City Attorney Kit Williams read the ordinance.

Alderman Gray: Is this the place where the Pedicab ordinance should go?

Kit Williams, City Attorney: I don't think their jurisdiction is defined to say whether they could or could not. They deal with trails and if the issue is whether Pedicabs should be on the trails they could certainly give their advisory opinion. Whether we have Pedicabs on the street that would be beyond their jurisdiction and I don't think they would give advice on that.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5343 as Recorded in the office of the City Clerk

Announcements:

Alderman Thiel announced the upcoming Ordinance Review Committee meeting.

Alderman Lewis announced Thursday is First Thursday.

Don Marr, Chief of Staff reminded the Council and citizen that the next Mayor's Town Hall meeting will be August 16, 2010.

Meeting adjourned at 7:25 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Revised
Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
August 17, 2010**

A meeting of the Fayetteville City Council will be held on August 17, 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

City Council Agenda Session Presentations:

1. 2009 Comprehensive Annual Financial Report (CAFR) – Audit Committee Chairman Tony Uth
2. Fayetteville Chamber of Commerce - Economic Development Contract Quarterly Report

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

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

Agenda Additions:

A. Consent:

1. Approval of the July 20, 2010 and August 3, 2010 City Council meeting minutes.
2. **Amend Resolution No. 98-09:** A resolution to amend Resolution No. 98-09 to change all references from “Arkansas Western Gas Company” to “SourceGas, LLC.”
3. **Bid #10-49 Danny Robinson Construction, LLC:** A resolution awarding Bid #10-49 and authorizing a contract with Danny Robinson Construction, LLC in the amount of \$394,450.00 for renovation and lighting of the Wilson Park Trail, approving a 15% project contingency, and approving a budget adjustment.
4. **Arkansas Department of Aeronautics Grant:** A resolution authorizing application and acceptance of an Arkansas Department of Aeronautics Grant in the amount of \$18,984.00 to be used for the repair of airport fuel farm overflow protection and inventory management systems and approving a budget adjustment.
5. **Arkansas Historic Preservation Program:** A resolution approving a grant agreement with the Arkansas Historic Preservation Program in the amount of \$4,500.00 for travel and training expenses in support of the Fayetteville Historic District Commission; and approving a budget adjustment recognizing the grant revenue.

B. Unfinished Business: None

C. New Business:

1. **ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions and 164: Supplementary Zoning Regulations, in order to include additional definitions and requirements for vehicle related businesses.
2. **RZN 10-3614 (WRMC):** An ordinance rezoning that property described in rezoning petition RZN 10-3614, for approximately 4.37 acres, located at Lot 5 Brookstone Subdivision, the southeast corner of Wimberly Drive and Longview Street from R-O, Residential Office, to P-1, Institutional.
3. **VAC 10-3617 (Timmermans):** An ordinance approving VAC 10-3617 submitted by Blew and Associates, Inc. for property located at 3968 Edgewater to vacate a utility easement, a total of 1,008 square feet.

Announcements:

Adjournment:

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Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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Ward 1 Position 2 – Brenda Thiel
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AGENDA REQUEST

A. 2
Amend Resolution
No. 98-09
Page 1 of 8

FOR: COUNCIL MEETING OF AUGUST 17, 2010

FROM:

LIONELD JORDAN, MAYOR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Amend Resolution No. 98-09 To Change All References From "Arkansas Western Gas Company" To "SourceGas, LLC"

APPROVED FOR AGENDA:


City Attorney

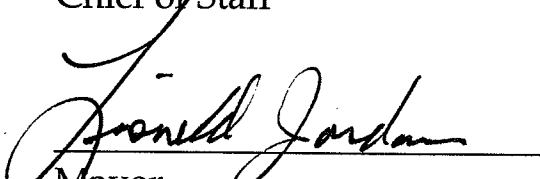
July 29, 2010
Date


Finance Director

7-29-10
Date


Chief of Staff

7-29-10
Date


Mayor

7/30/10
Date



07-29-10P01:52 RCVD

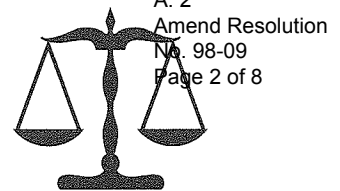
Kim J.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Lioneld Jordan, Mayor**
Sondra Smith, City Clerk

FROM: **Kit Williams, City Attorney**

DATE: **July 29, 2010**

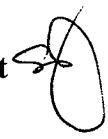
RE: **Sales Tax Refund Approved for Arkansas Western Gas**
on April 21, 2009 (Resolution No. 98-09)

On March 26, 2009, Mr. Charles V. Stevens, Vice-President of Operations of Arkansas Western Gas Company signed a "Tax Back Application" listing the **Arkansas Western Gas Company as the applicant for this refund** of state and local sales taxes spent on equipping its enlarged call center on Millsap Road in Fayetteville. Mr. Stevens then requested that Washington County and the City of Fayetteville pass Resolutions to approve and certify the participation of the **Arkansas Western Gas Company** in the Arkansas Tax Back Program and to authorize the Arkansas Department of Finance and Administration to refund the local sales tax that Arkansas Western Gas would pay to buy more than two million dollars worth of equipment for its expanded call center.

The Fayetteville City Council agreed to refund the one penny operation sales tax back to Arkansas Western Gas, but not the bond penny (which was all pledged to paying off the sewer, street, and trail bonds). Accordingly, the City Council passed and Mayor Jordan signed Resolution No. 98-09 **authorizing this refund to the Arkansas Western Gas Company per their application and request.**

Arkansas Western Gas Company has been purchased by or merged into SourceGas, LLC and wants the Sales Tax Refund to go to SourceGas, LLC. The Arkansas Department of Finance and Administration will not refund to "SourceGas, LLC" unless we amend our authorizing Resolution to change "Arkansas Western Gas" to "SourceGas, LLC". Accordingly, Mayor Jordan has asked me to draft a Resolution to amend your initial Resolution to substitute "SourceGas, LLC" for "Arkansas Western Gas Company." Attached is that proposed Resolution.



To: Mayor Lioneld Jordan
From: Chung Tan, Manager, Economic Development 
Date: July 29th, 2010
Subject: Resolution 98-09

Dear Mayor Jordan:

In April 2009, the City Council passed Resolution 98-09 to approve the Sales and Use Tax Refund for Arkansas Western Gas (AWG). Please see attached resolution.

There arises an issue because the name of the company to be written on the resolution should have been AWG's parent company, SourceGas, LLC instead of AWG. The Department of Finance Administration is unable to process the refunds because of the incorrect name used.

I request that the City make a change in the Resolution to reflect the correct name on the resolution.

Thank you for your kind assistance in this matter.

RESOLUTION NO. _____

A RESOLUTION TO AMEND RESOLUTION NO. 98-09 TO CHANGE ALL REFERENCES FROM "ARKANSAS WESTERN GAS COMPANY" TO "SOURCEGAS, LLC"

WHEREAS, the City of Fayetteville received an application from the Arkansas Western Gas Company dated March 26, 2009 requesting that the City of Fayetteville authorize the Department of Finance and Administration to refund sales tax back to the Arkansas Western Gas Company for equipment purchased for its enlarged call center on Millsap in Fayetteville; and

WHEREAS, the City Council agreed to such refund for the Arkansas Western Gas Company pursuant to its express request; and

WHEREAS, Arkansas Western Gas has been acquired or merged into SourceGas, LLC and the Department of Finance and Administration will not refund the local sales tax to "SourceGas, LLC" until the authorizing Resolution is amended to provide that the sales tax refund should go to SourceGas, LLC rather than to Arkansas Western Gas Company.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Resolution No. 98-09 (attached) passed on April 21, 2009, by replacing all references to "Arkansas Western Gas Company" with "SourceGas, LLC" so that SourceGas, LLC will be refunded the local one penny sales tax it used to purchase to equipment for its expanded call center at 655 East Millsap in Fayetteville, Arkansas. The local bond penny sales tax shall not be refunded and will be unaffected by this Resolution authorizing the refunding of the one penny operating sales tax to SourceGas, LLC.

PASSED and APPROVED this 17th day of August, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

RESOLUTION NO. 98-09

A RESOLUTION TO APPROVE AND CERTIFY THE PARTICIPATION OF ARKANSAS WESTERN GAS COMPANY IN THE ARKANSAS TAX BACK PROGRAM AND TO AGREE TO AUTHORIZE DF&A TO REFUND CITY SALES TAX BACK TO ARKANSAS WESTERN GAS COMPANY

WHEREAS, Arkansas Western Gas Company is planning to relocate a major call center to the former Proctor & Gamble building on Millsap which will create 80 new jobs; and

WHEREAS, in order to certify Arkansas Western Gas Company to participate in the sales and use tax refund program, either Washington County or the City of Fayetteville, or both, must "(s)pecify that the Department of Finance and Administration is authorized to refund local sales taxes to the qualified business." {A.C.A. § 15-4-2706 (d)(B)(ii)}; and

WHEREAS, the City of Fayetteville or Washington County must also endorse Arkansas Western Gas Company's participation in this state and local sales and use tax refund program; and

WHEREAS, bond indentures prevent diversion of sales tax proceeds from the city's bonded penny sales and use tax.

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 endorses Arkansas Western Gas Company's participation in the sales and use tax refund program authorized by A.C.A. § 15-4-2706 (d) in relation to its equipping of a new call center located at Millsap in Fayetteville, Arkansas.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby specifies that the Department of Finance and Administration is authorized to refund the non-bonded penny city sales tax to Arkansas Western Gas Company for qualified equipment purchased for its expanded call center at 655 East Millsap in Fayetteville, Arkansas.

PASSED and APPROVED this 21st day of April, 2009.

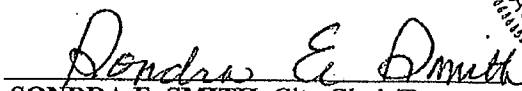
APPROVED:

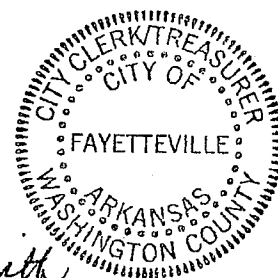
ATTEST:

By:


LIGNELD JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer



Tax Back Application



OFFICE USE ONLY

Project Number: _____

Project Manager: _____

Date Received: _____

Qualifying Job Creation Program:

☐ Create Rebate ☐ Advantage AR

Project Number: _____

Applicant

Arkansas Western Gas Company

Local Operating Name of Firm

P O Box 13288

Fayetteville, AR 72703-1002

Mailing Address

655 E Millsap

City/State/Zip

Fayetteville, AR 72703

Washington

Physical Location

Glenn Morgan, Director, Special Projects

City/State/Zip

479-582-8225

County

479-582-8277

Name and Title of Company Contact

Phone

Fax

Complete Company Name, if company is filing for tax credit under a different name

Taxpayer Consultant (Optional)

Name of Consultant filing this application

Phone

Fax

Company Name of Consultant

Mailing Address

City/State/Zip

Project Cost Estimate

Project Cost Estimate

Land \$ _____

Building (a) New construction \$ _____

(b) Existing building \$ _____

Equipment \$2,211,724

Other (Describe in the project plan.) \$ _____

TOTAL.....\$2,211,724

NOTE: This application MUST include a project plan that details, in full, the proposed facility, equipment, land and "other" expenditures pertaining to this project. Please use the attached template.

Employment

Present employment: 342

Number of new employees resulting from this project: 80

Average annual payroll of new, full-time, permanent employees: \$2,365,452

NOTE: To qualify for the sales and use tax refund, the business MUST commit to additional job creation under the Advantage Arkansas Program; or, if offered by the director of the Arkansas Department of Economic Development, the Create Rebate Program or the ArkPlus Program. The requisite payroll for new permanent employees must be reached within 24-months. The 24-month time period starts with the signing of this financial incentive agreement by the Department of Economic Development.

SIC/NAICS Classification	<u>561421</u>
Customer Care Call Center Description of principal business activity, products manufactured, etc.	
NOTE: Information contained in this application is subject to audit by the Arkansas Department of Finance and Administration. If the SIC/NAICS classification is found to be inaccurate and does not qualify, the business will be decertified and shall not receive any benefits under the program.	
I.D. Numbers	Employer's Federal I.D. Number <u>71-0521274</u>
	Arkansas Sales or Consumer Use Tax Number <u>0045841-78-001</u>
What percentage of your gross sales are retail sales to the public? <u>0%</u>	
If you are a computer-related company, a distribution center or a motion picture company, what percentage of sales is out of state? _____ %	

CERTIFICATION

BEFORE ME, the undersigned authority, Charles V. Stevens
Company Official

personally came and appeared and being duly sworn did depose and say that he/she is

Vice-President - AWG Operations of Arkansas Western Gas Company
Title Company

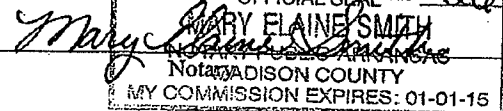
This affidavit is made for the specific purpose of verifying that the information contained in these two pages is true and correct. The company does hereby agree to report new job creation and investment figures annually to the Arkansas Department of Economic Development for the term of the incentive agreement.

Charles V. Stevens
Signature of Company Official

Vice-President - AWG Operations
Title

3/26/09
Date

Sworn to and subscribed before me this 26 day of March, 2009.



My Commission expires January 1, 2015.

I X do ☐ do not hereby authorize the Arkansas Department of Economic Development to release to the press the new job creation and investment figures.

(Signing this authorization to release job creation and investment numbers is not mandatory. However, information about benefits received is public information and may be obtained through a Freedom of Information request filed with the Arkansas Department of Finance and Administration.)

Charles V. Stevens
Signature of Company Official

Vice-President - AWG Operations
Title

3/26/09
Date

Tax Back

Resolution



RESOLUTION No. _____

RESOLUTION OF THE CITY OF FAYETTEVILLE CERTIFYING ARKANSAS WESTERN GAS COMPANY, TO PARTICIPATE IN THE TAX BACK PROGRAM (AS AUTHORIZED BY SECTION 15-4-2706(d) OF THE CONSOLIDATED INCENTIVE ACT OF 2003).

WHEREAS, in order to be considered for participation in the Tax Back Program, the local government must endorse a business to participate in the Tax Back Program; and

WHEREAS, the local government must authorize the refund of local sales and use taxes as provided in the Consolidated Incentive Act of 2003; and

WHEREAS, said endorsement must be made on specific form available from the Arkansas Department of Economic Development; and

WHEREAS, ARKANSAS WESTERN GAS COMPANY located at 655 EAST MILSAP, Fayetteville, Arkansas has sought to participate in the program and more specifically has requested benefits accruing from THE PURCHASE OF EQUIPMENT

WHEREAS, ARKANSAS WESTERN GAS COMPANY has agreed to furnish the local government all necessary information for compliance.

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

1. ARKANSAS WESTERN GAS COMPANY be endorsed by the State of Arkansas for benefits from the sales & use tax refunds as provided by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003.
2. **The Department of Finance and Administration is authorized to refund local sales and use taxes to ARKANSAS WESTERN GAS COMPANY.**
3. This resolution shall take effect immediately.

Lioneld Jordan, Mayor

Date Passed: _____

Attest: _____
City Clerk

City of Fayetteville Staff Review Form

A. 3
 Bid #10-49 Danny Robinson
 Construction, LLC
 Page 1 of 26

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

8/17/2010

City Council Meeting Date
 Agenda Items Only

Carole Jones

Submitted By

Park Planning

Division

Parks and Recreation

Department

Action Required:

A resolution awarding Bid #10-49 and approval of a contract with Danny Robinson Construction, LLC in the amount of \$394,450, with a 15% project contingency of \$59,168 for a total project cost of \$453,618 for the Construction of Wilson Park Trail Renovation and Lighting.

\$ 453,618.00

Cost of this request

\$ 422,508.00

Category / Project Budget

Wilson Park Improvements

Program Category / Project Name

2250.9255.5806.00

Account Number

\$ 7,753.75

Funds Used to Date

Wilson Park Improvements

Program / Project Category Name

08002.0801

Project Number

\$ 414,754.25

Remaining Balance

Parks Development/PLDO SW

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☒

Connie Emmons
 Department Director

7-30-10

Date

Previous Ordinance or Resolution #

Bob Kelly
 City Attorney

7-30-10

Date

Original Contract Date:

Patrice
 Finance and Internal Services Director

7-30-10

Date

Original Contract Number:

Don Man
 Chief of Staff

8/2/10

Date

Received in City
 Clerk's Office 07-30-10 A11:35 RCVD

Donnell Jordan
 Mayor

8/3/10

Date

Received in
 Mayor's Office



Comments:



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, Parks and Recreation Director *li.e.*
Alison Jumper, Park Planning Superintendent *aj*

From: Carole Jones *CJ*

Date: July 30, 2010

Subject: **Bid #10-49, Construction of Wilson Park Trail Renovation and Lighting
Agenda Request for August 17, 2010 Meeting**

PROPOSAL:

Wilson Park contains 22.75 acres and is located at 675 North Park Avenue. The park is situated in the southwest quadrant of town west of College Avenue (U.S. Highway 71B) and south of North Street. The park is one of the City's oldest and most popular parks located in the center of our City serving all residents.

The project includes the demolition of the existing asphalt park trail, construction of new 6-foot wide concrete trail, addition of a trail lighting system, and associated site work. Construction of the existing asphalt trail in Wilson Park was completed in 1996. The trail has been heavily used and has outlived its lifespan. Signs of erosion and buckling have been evident for several years and the trail is in need of replacement.

Numerous citizens have requested lights on this trail since the trail was completed in 1996. Lighting is needed along the trail due to heavy use in the evening and early morning hours. The addition of lighting will provide a safer place for people to exercise and expanded hours for the trail to be used comfortably. The project also includes the construction of raised, colored concrete crosswalks at four existing entry drives, providing an additional safety feature for trail users. The project was approved as part of the 2010 CIP.

The project was advertised on July 13 and July 20, and bids were opened on July 28, 2010. Five vendors including Danny Robinson Construction, LLC, Sweetser Construction, Inc., Fochtman Enterprises, Inc., Tomlinson Asphalt Company, Inc., and N.E.C., Inc. submitted bids. Danny Robinson Construction, LLC was the low bid in the amount of \$394,450. (See attached bid tabulation sheet.) If approved, the construction of the project is anticipated to begin in September 2010 and be completed in April 2011.

RECOMMENDATION:

A resolution awarding Bid #10-49 and approval of a contract with Danny Robinson Construction, LLC in the amount of \$394,450, with a 15% project contingency of \$59,168 for a total project cost of \$453,618 for the Construction of Wilson Park Trail Renovation and Lighting.

BUDGET IMPACT:

This project is funded with Parks Development funds (\$238,824) and Park Land Dedication funds (\$214,794). Total project cost including a 15% project contingency is \$453,618.

Attachments:

Bid Tabulation Sheet
Contract Agreement Signed by Contractor
Purchase Requisition
Budget Adjustment

RESOLUTION NO. _____

A RESOLUTION AWARING BID #10-49 AND AUTHORIZING A CONTRACT WITH DANNY ROBINSON CONSTRUCTION, LLC IN THE AMOUNT OF \$394,450.00 FOR RENOVATION AND LIGHTING OF THE WILSON PARK TRAIL, APPROVING A 15% PROJECT CONTINGENCY, 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 awards Bid #10-49 and authorizes a contract, a copy of which is attached as Exhibit "A," with Danny Robinson Construction, LLC in the amount of \$394,450.00, plus a fifteen percent (15%) project contingency, for renovation and lighting of the Wilson Park Trail.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "B."

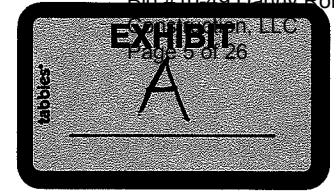
PASSED and APPROVED this 17th day of August, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Section 00 52 13

AGREEMENT

BETWEEN CITY OF FAYETTEVILLE AND CONTRACTOR

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2010 by and between the City of Fayetteville, Arkansas (hereinafter called CITY OF FAYETTEVILLE) and Danny Robinson Construction, LLC (herein after called CONTRACTOR).

CITY OF FAYETTEVILLE and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents.

The work generally consists of the park trail demolition and replacement, lighting and associated site work at **Wilson Park** and all items indicated in the Drawings and Specifications.

Article 2. ENGINEER.

The Project has been designed by

City of Fayetteville Parks and Recreation Department
1455 South Happy Hollow Road
Fayetteville, Arkansas 72701

will be hereinafter called PARKS AND RECREATION DEPARTMENT PROJECT MANAGER and who is to act as CITY OF FAYETTEVILLE's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1. The Work for Construction of Wilson Park Trail Renovation and Lighting shall be substantially completed within 150 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 180 consecutive calendar days after the date when the Contract Time commences to run.

3.2. *Liquidated Damages.* CITY OF FAYETTEVILLE and CONTRACTOR recognize that time is of the essence of the Agreement and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by

CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, City of Fayetteville and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

CITY OF FAYETTEVILLE shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1. For all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

PAYMENT ITEMS

Danny Robinson Construction, LLC					
ITEM#	DESCRIPTION	UNIT	EST. QTY.	UNIT PRICE	TOTAL
1	Mobilization (not to exceed 5% of project bid)	L.S.	1.00	\$5,000.00	\$5,000.00
2	Bonds and insurance	L.S.	1.00	\$14,000.00	\$14,000.00
3	Site preparation - including tree removal, tree protection fencing, tree protection planking, straw wattles and concrete waste management	L.S.	1.00	\$13,000.00	\$13,000.00
4	Removal, storage and replacement of existing park amenities along trail, including but not limited	L.S.	1.00	\$3,000.00	\$3,000.00
5	Demolition, removal & disposal of existing asphalt trail incl base (approx. 2,770 SY & approx. 416 CY, respectively); existing park entry drives (approx. 165 SY); approx. 32 LF of existing curb & gutter, & approx. 8.5 SY of existing concrete trail	L.S.	1.00	\$9,000.00	\$9,000.00
6	Demolition of existing electrical	L.S.	1.00	\$4,000.00	\$4,000.00
7	Tree root pruning	L.S.	1.00	\$1,000.00	\$1,000.00
8	Unclassified excavation	C.Y.	340.00	\$9.00	\$3,060.00
9	Placement and compaction of fill utilizing salvaged base material from existing trail	C.Y.	170.00	\$10.00	\$1,700.00
10	Select fill (hillside) - complete in place per details	C.Y.	210.00	\$20.00	\$4,200.00
11	No. 57 gradation crushed gravel (4" thickness) - complete in place per details	TON	200.00	\$20.00	\$4,000.00
12	Class 7 base for entry drives and curb and gutter (6" thickness) - complete in place per details	TON	40.00	\$25.00	\$1,000.00
13	Installation of 1-1/4-inch Sch. 40 PVC electrical conduit for trail lighting incl couplings and bends	L.F.	4,500.00	\$2.80	\$12,600.00
14	Six-foot wide fiber reinforced concrete trail (4" thickness)	S.Y.	2,545.00	\$30.00	\$76,350.00
15	Six-inch standard concrete curb and gutter - complete in place per details	L.F.	32.00	\$30.00	\$960.00
16	Thirty-two square foot concrete pad and 4-foot wide connection to trail for one bench (4" thickne	L.S.	1.00	\$1,000.00	\$1,000.00
17	9.5" thick colored concrete raised crosswalk (approx. 42 SY each) - complete in place per details	E.A.	4.00	\$3,875.00	\$15,500.00
18	Trail stop signs - complete in place per details	E.A.	8.00	\$150.00	\$1,200.00
19	Trail lights, poles and fixtures (P01) - equipment only	E.A.	53.00	\$2,300.00	\$121,900.00
20	Installation of trail lights, poles and fixtures (P01) - complete in place per details	E.A.	53.00	\$530.00	\$28,090.00
21	Roadway/parking lights, poles and fixtures (P02, P03, P04) - complete in place per details	E.A.	4.00	\$6,000.00	\$24,000.00
22	Electrical panel boards (SL1, SL2, SL3) - complete in place per details	L.S.	1.00	\$15,000.00	\$15,000.00
23	Gazebo lighting and power - complete in place per details	L.S.	1.00	\$2,500.00	\$2,500.00
24	Electrical wiring - complete in place per details	L.F.	10,000.00	\$2.30	\$23,000.00
25	Screened topsoil for site restoration of planting bed areas	C.Y.	20.00	\$30.00	\$600.00
26	100% organic mulch for site restoration of planting bed areas	C.Y.	15.00	\$50.00	\$750.00
27	Site restoration - including topsoil, fescue seed, straw	A.C.	0.18	\$16,000.00	\$2,880.00
28	Site restoration - including topsoil & fescue sod	A.C.	0.12	\$43,000.00	\$5,160.00
TOTAL CONTRACT AMOUNT					\$394,450.00

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in the General Conditions.

5.1. Progress Payments. CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, on or about the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02. All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions and based on the number of units completed in the case of Unit Price Work or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the

aggregate of payments previously made and less such amounts as PARKS AND RECREATION DEPARTMENT PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as determined by the PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, and if the character and progress of the Work have been satisfactory to CITY OF FAYETTEVILLE and PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, CITY OF FAYETTEVILLE, on recommendation of PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to CITY OF FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as PARKS AND RECREATION DEPARTMENT PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.2 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce CITY OF FAYETTEVILLE to enter into this Agreement CONTRACTOR makes the following representations:

6.1. CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work.

6.3. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4. CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. CONTRACTOR accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02 of the General Conditions.

CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that CITY OF FAYETTEVILLE and PARKS AND RECREATION DEPARTMENT PROJECT MANAGER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. CONTRACTOR is aware of the general nature of work to be performed by CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

6.7. CONTRACTOR has given PARKS AND RECREATION DEPARTMENT PROJECT MANAGER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER is acceptable to CONTRACTOR and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between CITY OF FAYETTEVILLE and CONTRACTOR concerning the Work consist of the following:

- 7.1. This Agreement (pages 1 to 8, inclusive).
- 7.2. Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3. Certificates of Insurance, (Exhibit C).
- 7.4. General Conditions (pages 1 to 42, inclusive).
- 7.5. Supplementary Conditions (pages 1 to 13 inclusive).
- 7.6. Specifications consisting of Divisions 1 through 32 as listed in table of contents thereof.
- 7.7. Addenda numbers 1-3, inclusive.
- 7.8. One set of drawings (not attached hereto) consisting of: a cover sheet and additional sheets numbered two through ten with each sheet bearing the following general title: **Construction of Wilson Park Trail Renovation and Lighting.**
- 7.9. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:
 - 7.9.1. Notice to Proceed
 - 7.9.2 All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 8. MISCELLANEOUS.

- 8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
- 8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and

unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3. CITY OF FAYETTEVILLE and CONTRACTOR each binds itself, it partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

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

8.6. Freedom of Information Act. City contract and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, CONTRACTOR will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE and PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, and one counterpart has been delivered to CONTRACTOR. All portions of the Contract Documents have been signed, initialed, or identified by CITY OF FAYETTEVILLE and CONTRACTOR or identified by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER on their behalf.

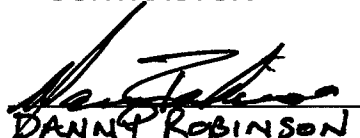
This Agreement will be effective on _____, 2010 (which is the Effective Date of The Agreement).

CITY OF FAYETTEVILLE:

By: _____
Mayor

[CORPORATE SEAL]

CONTRACTOR

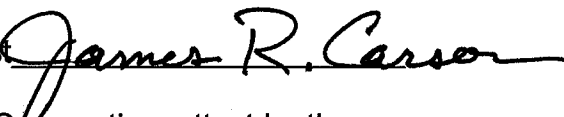
By: 
DANNY ROBINSON

[CORPORATE SEAL]

Attest _____

Secretary.

Address for giving notices

*Attest 

* If a Corporation, attest by the

Address for giving notices
DANNY ROBINSON CONSTRUCTION, LLC
14965 WILKERSON RD.
GARFIELD, AR. 72732

(If CITY OF FAYETTEVILLE is a public body, attach License No. _____ evidence of authority to sign and resolution or other documents Agent for service of process: authorizing execution of Agreement.)

(If CONTRACTOR is a corporation, attach evidence of authority to sign.)

Bid 10-49, Construction of Wilson Park Trail Renovation and Lighting
Detailed Bid Tab: 07/28/10 - 2:00 PM, Central Standard Time

				Danny Robinson Construction, LLC		Sweetser Construction, Inc.		Fochtman Enterprises, Inc.		Tomlinson Asphalt Company, Inc.		N.E.C., Inc.	
ITEM#	DESCRIPTION	UNIT	EST. QTY.	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	Mobilization (not to exceed 5% of project bid)	L.S.	1.00	\$5,000.00	\$5,000.00	\$13,500.00	\$13,500.00	\$17,000.00	\$17,000.00	\$11,700.00	\$11,700.00	\$14,310.00	\$14,310.00
2	Bonds and insurance	L.S.	1.00	\$14,000.00	\$14,000.00	\$5,580.00	\$5,580.00	\$7,600.00	\$7,600.00	\$3,000.00	\$3,000.00	\$1.00	\$1.00
3	Site preparation - including tree removal, tree protection fencing, tree protection planking, straw wattles and concrete waste management	L.S.	1.00	\$13,000.00	\$13,000.00	\$44,200.00	\$44,200.00	\$18,700.00	\$18,700.00	\$62,500.00	\$62,500.00	\$12,420.00	\$12,420.00
4	Removal, storage and replacement of existing park amenities along trail, including but not limited to signs, pet waste stations, trash receptacles, landscape fencing, irrigation and coordination of landscape stoness	L.S.	1.00	\$3,000.00	\$3,000.00	\$5,000.00	\$5,000.00	\$11,800.00	\$11,800.00	\$3,000.00	\$3,000.00	\$1,620.00	\$1,620.00
5	Demolition, removal & disposal of existing asphalt trail incl base (approx. 2,770 SY & approx. 416 CV, respectively); existing park entry drives (approx. 165 SY), approx. 32 LF of existing curb & gutter, & approx. 8.5 SY of existing concrete trail	L.S.	1.00	\$9,000.00	\$9,000.00	\$38,265.00	\$38,265.00	\$54,000.00	\$54,000.00	\$30,580.00	\$30,580.00	\$18,190.00	\$18,190.00
6	Demolition of existing electrical	L.S.	1.00	\$4,000.00	\$4,000.00	\$2,200.00	\$2,200.00	\$3,600.00	\$3,600.00	\$100.00	\$100.00	\$1.00	\$1.00
7	Tree root pruning	L.S.	1.00	\$1,000.00	\$1,000.00	\$3,600.00	\$3,600.00	\$1,700.00	\$1,700.00	\$800.00	\$800.00	\$492.00	\$492.00
8	Unclassified excavation	C.Y.	340.00	\$9.00	\$3,060.00	\$14.00	\$4,760.00	\$19.00	\$6,460.00	\$29.00	\$9,860.00	\$28.80	\$9,811.20
9	Placement and compaction of fill utilizing salvaged base material from existing trail	C.Y.	170.00	\$10.00	\$1,700.00	\$14.00	\$2,380.00	\$17.00	\$2,890.00	\$38.00	\$6,460.00	\$2.00	\$340.00
10	Select #8 (rubble) - complete in place per details	C.Y.	210.00	\$20.00	\$4,200.00	\$24.00	\$5,040.00	\$31.00	\$6,510.00	\$50.00	\$10,500.00	\$13.90	\$2,919.00
11	No. 57 gradation crushed gravel (4" thickness) - complete in place per details	TON	200.00	\$20.00	\$4,000.00	\$24.00	\$4,800.00	\$18.00	\$3,600.00	\$125.00	\$25,000.00	\$14.40	\$2,880.00
12	Class 7 base for entry drives and curb and gutter (6" thickness) - complete in place per details	TON	40.00	\$25.00	\$1,000.00	\$28.00	\$1,120.00	\$17.00	\$680.00	\$77.00	\$3,080.00	\$11.30	\$452.00
13	Installation of 1-1/4-inch Sch. 40 PVC electrical conduit for trail lighting incl couplings and bends	L.F.	4,500.00	\$2.60	\$11,700.00	\$2.75	\$12,375.00	\$3.80	\$17,100.00	\$3.45	\$15,525.00	\$2.20	\$9,900.00
14	Six-foot wide fiber reinforced concrete trail (4" thickness)	S.Y.	2,545.00	\$30.00	\$76,350.00	\$40.00	\$101,800.00	\$43.00	\$109,435.00	\$32.00	\$81,440.00	\$96.70	\$248,101.50
15	Six-inch standard concrete curb and gutter - complete in place per details	L.F.	32.00	\$30.00	\$960.00	\$24.00	\$768.00	\$16.00	\$512.00	\$22.00	\$704.00	\$5.90	\$188.80
16	Thirty-two square foot concrete pad and 4-foot wide connection to trail for one bench (4" thickness) - complete in place per details	L.S.	1.00	\$1,000.00	\$1,000.00	\$600.00	\$600.00	\$340.00	\$340.00	\$1,000.00	\$1,000.00	\$93.80	\$93.80
17	9.5" thick colored concrete raised crosswalk (approx. 42 SY each) - complete in place per details including costs for concrete truck washout	E.A.	4.00	\$3,875.00	\$15,500.00	\$4,350.00	\$17,400.00	\$4,100.00	\$16,400.00	\$8,380.00	\$33,520.00	\$1,349.00	\$5,396.00
18	Trail stop signs - complete in place per details	E.A.	8.00	\$150.00	\$1,200.00	\$137.50	\$1,100.00	\$280.00	\$2,240.00	\$150.00	\$1,200.00	\$114.00	\$912.00
19	Trail lights, poles and fixtures (PO1) - equipment only	E.A.	53.00	\$2,300.00	\$121,900.00	\$2,450.00	\$129,250.00	\$2,200.00	\$116,600.00	\$1,894.00	\$100,682.00	\$2,141.00	\$113,473.00
20	Installation of trail lights, poles and fixtures (PO1) - complete in place per details	E.A.	53.00	\$630.00	\$33,390.00	\$330.00	\$17,490.00	\$417.00	\$22,101.00	\$471.00	\$24,963.00	\$478.00	\$25,228.00
21	Roadway/parking lights, poles and fixtures (PO2, PO3, PO4) - complete in place per details	E.A.	4.00	\$6,000.00	\$24,000.00	\$5,500.00	\$22,000.00	\$4,050.00	\$16,200.00	\$8,113.00	\$24,452.00	\$5,542.00	\$22,168.00
22	Electrical panel boards (SL1, SL2, SL3) - complete in place per details	L.S.	1.00	\$15,000.00	\$15,000.00	\$8,800.00	\$8,800.00	\$9,100.00	\$9,100.00	\$13,250.00	\$13,250.00	\$14,210.00	\$14,210.00
23	Gazebo lighting and power - complete in place per details	L.S.	1.00	\$2,500.00	\$2,500.00	\$2,090.00	\$2,090.00	\$4,900.00	\$4,900.00	\$2,100.00	\$2,100.00	\$2,256.00	\$2,256.00
24	Electrical wiring - complete in place per details	L.F.	10,000.00	\$2.30	\$23,000.00	\$2.30	\$23,000.00	\$2.65	\$26,500.00	\$1.85	\$18,500.00	\$2.10	\$21,000.00
25	Screened topsoil for site restoration of planting bed areas	C.Y.	20.00	\$30.00	\$600.00	\$28.00	\$560.00	\$70.00	\$1,400.00	\$40.00	\$800.00	\$18.80	\$376.00
26	100% organic mulch for site restoration of planting bed areas	C.Y.	15.00	\$50.00	\$750.00	\$25.00	\$375.00	\$80.00	\$1,200.00	\$25.00	\$375.00	\$40.10	\$601.50
27	Site restoration - including topsoil, rescue seed, straw	A.C.	0.18	\$16,000.00	\$2,880.00	\$6,000.00	\$1,080.00	\$9,700.00	\$1,746.00	\$7,000.00	\$1,260.00	\$19,540.00	\$3,517.20
28	Site restoration - including topsoil & rescue sod	A.C.	0.12	\$43,000.00	\$5,160.00	\$20,000.00	\$2,400.00	\$11,000.00	\$1,320.00	\$53,000.00	\$6,360.00	\$17,670.00	\$2,120.40
TOTAL BID AMOUNT					\$394,450.00		\$470,643.00		\$481,964.00		\$495,651.00		\$530,279.20

CERTIFIED: *PVice*
 Peggy Vice, Purchasing Manager

Andrew Jara 7/30/10
 WITNESS

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

City of Fayetteville
Bid 10-49, Construction of Wilson Park Trail Renovation and Lighting
Statement of Disclosure (please submit with Bid)

ATTENTION: Please submit this form with your bid.

DISCLOSURE STATEMENT:

Bidder 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:

- 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.

DANNY ROBINSON
Printed Name

Danny Robinson
Signed

Section 00 41 13

BID FORM

Item No.	Estimated Quantity	Unit	Description of Item	Unit Price	Total Amount
1	1	Lump Sum	Mobilization - (not to exceed 5% of total bid)		
			<u>FIVE THOUSAND + $\frac{00}{100}$</u> dollars	<u>\$ (5000.⁰⁰) / L.S.</u>	<u>\$ 5000.⁰⁰</u>
			amount written in words	in figures	in figures
2	1	Lump Sum	Bonds and insurance		
			<u>FOURTEEN THOUSAND + $\frac{00}{100}$</u> dollars	<u>\$ (14,000.⁰⁰) / L.S.</u>	<u>\$ 14,000.⁰⁰</u>
			amount written in words	in figures	in figures
3	1	Lump Sum	Site preparation - including tree removal, tree protection fencing, tree protection planking, straw wattles and concrete waste management		
			<u>THIRTEEN THOUSAND + $\frac{00}{100}$</u> dollars	<u>\$ (13,000.⁰⁰) / L.S.</u>	<u>\$ 13,000.⁰⁰</u>
			amount written in words	in figures	in figures
4	1	Lump Sum	Removal, storage and replacement of existing park amenities along trail, including but not limited to - signs, pet waste stations, trash receptacles, landscape fencing, irrigation and coordination of landscape stones		
			<u>THREE THOUSAND + $\frac{00}{100}$</u> dollars	<u>\$ (3000.⁰⁰) / L.S.</u>	<u>\$ 3000.⁰⁰</u>
			amount written in words	in figures	in figures
5	1	Lump Sum	Demolition, removal & disposal of existing asphalt trail incl base (approx. 2,770 SY & approx. 416 CY, respectively); existing park entry drives (approx. 165 SY); approx. 32 LF of existing curb & gutter; & approx. 8.5 SY of existing concrete trail		
			<u>NINE THOUSAND + $\frac{00}{100}$</u> dollars	<u>\$ (9,000.⁰⁰) / L.S.</u>	<u>\$ 9,000.⁰⁰</u>
			amount written in words	in figures	in figures
6	1	Lump Sum	Demolition of existing electrical		
			<u>FOUR THOUSAND + $\frac{00}{100}$</u> dollars	<u>\$ (4000.⁰⁰) / L.S.</u>	<u>\$ 4000.⁰⁰</u>
			amount written in words	in figures	in figures
7	1	Lump Sum	Tree root pruning		
			<u>ONE THOUSAND + $\frac{00}{100}$</u> dollars	<u>\$ (1000.⁰⁰) / L.S.</u>	<u>\$ 1000.⁰⁰</u>
			amount written in words	in figures	in figures
8	340	Cubic Yards	Unclassified excavation		
			<u>NINE + $\frac{00}{100}$</u> dollars	<u>\$ (9.⁰⁰) / C.Y.</u>	<u>\$ 3060.⁰⁰</u>
			amount written in words	in figures	in figures
9	170	Cubic Yards	Placement and compaction of fill utilizing salvaged base material from existing trail		
			<u>TEN + $\frac{00}{100}$</u> dollars	<u>\$ (10.⁰⁰) / C.Y.</u>	<u>\$ 1700.⁰⁰</u>
			amount written in words	in figures	in figures
10	210	Cubic Yards	Select fill (hillside) - complete in place per details		
			<u>TWENTY + $\frac{00}{100}$</u> dollars	<u>\$ (20.⁰⁰) / C.Y.</u>	<u>\$ 4200.⁰⁰</u>
			amount written in words	in figures	in figures

This bid form continues on the next page...

BID FORM Continued

Item No.	Estimated Quantity	Unit	Description of Item	Unit Price	Total Amount
11	200	Tons	No. 57 gradation crushed gravel (4" thickness) - complete in place per details		
	<u>Twenty + 00</u> amount written in words			\$ (<u>20.00</u>)/TON in figures	\$ <u>4000.00</u> in figures
12	40	Tons	Class 7 base for entry drives and curb and gutter (6" thickness) - complete in place per details		
	<u>Twenty Five + 00</u> amount written in words			\$ (<u>25.00</u>)/TON in figures	\$ <u>1000.00</u> in figures
13	4,500	Linear Feet	Installation of 1-1/4-inch Sch. 40 PVC electrical conduit for trail lighting incl couplings and bends		
	<u>Two + 80</u> amount written in words			\$ (<u>2.80</u>)/L.F. in figures	\$ <u>12,600.00</u> in figures
14	2,545	Square Yards	Six-foot wide fiber reinforced concrete trail (4" thickness)		
	<u>THIRTY + 00</u> amount written in words			\$ (<u>30.00</u>)/S.Y. in figures	\$ <u>76,350.00</u> in figures
15	32	Linear Feet	Six-inch standard concrete curb and gutter - complete in place per details		
	<u>THIRTY + 00</u> amount written in words			\$ (<u>30.00</u>)/L.F. in figures	\$ <u>960.00</u> in figures
16	1	Lump Sum	Thirty-two square foot concrete pad and 4-foot wide connection to trail for one bench (4" thickness) - complete in place per details		
	<u>ONE THOUSAND + 00</u> amount written in words			\$ (<u>1000.00</u>)/L.S. in figures	\$ <u>1000.00</u> in figures
17	4	Each	9.5" thick colored concrete raised crosswalk (approx. 42 SY each) - complete in place per details including costs for concrete truck washout		
	<u>THREE THOUSAND EIGHT HUNDRED SEVENTY FIVE</u> amount written in words			\$ (<u>3875.00</u>)/EA. in figures	\$ <u>15,500.00</u> in figures
18	8	Each	Trail stop signs - complete in place per details		
	<u>ONE HUNDRED FIFTY + 00</u> amount written in words			\$ (<u>150.00</u>)/EA. in figures	\$ <u>1200.00</u> in figures
19	53	Each	Trail lights, poles and fixtures (P01) - equipment only		
	<u>TWO THOUSAND THREE HUNDRED + 00</u> amount written in words			\$ (<u>2300.00</u>)/EA. in figures	\$ <u>121,900.00</u> in figures
20	53	Each	Installation of trail lights, poles and fixtures (P01) - complete in place per details		
	<u>FIVE HUNDRED THIRTY + 00</u> amount written in words			\$ (<u>530.00</u>)/EA. in figures	\$ <u>28090.00</u> in figures
21	4	Each	Roadway/parking lights, poles and fixtures (P02, P03, P04) - complete in place per details		
	<u>SIX THOUSAND + 00</u> amount written in words			\$ (<u>6000.00</u>)/EA. in figures	\$ <u>24,000.00</u> in figures

This bid form continues on the next page...

BID FORM Continued

Item No.	Estimated Quantity	Unit	Description of Item	Unit Price	Total Amount
22	1	Lump Sum	Electrical panel boards (SL1, SL2, SL3) - complete in place per details		
			<u>FIFTEEN THOUSAND + $\frac{00}{100}$</u> dollars	\$ (<u>15,000.⁰⁰</u>)/L.S. in figures	\$ <u>15,000.⁰⁰</u> in figures
23	1	Lump Sum	Gazebo lighting and power - complete in place per details		
			<u>TWO THOUSAND FIVE HUNDRED + $\frac{00}{100}$</u> dollars	\$ (<u>2,500.⁰⁰</u>)/L.S. in figures	\$ <u>2,500.⁰⁰</u> in figures
24	10,000	Linear Feet	Electrical wiring - complete in place per details		
			<u>TWO + $\frac{30}{100}$</u> dollars	\$ (<u>2.30</u>)/L.F. in figures	\$ <u>23,000.⁰⁰</u> in figures
25	20	Cubic Yards	Screened topsoil for site restoration of planting bed areas		
			<u>THIRTY + $\frac{00}{100}$</u> dollars	\$ (<u>30.⁰⁰</u>)/C.Y. in figures	\$ <u>600.⁰⁰</u> in figures
26	15	Cubic Yards	100% organic mulch for site restoration of planting bed areas		
			<u>FIFTY + $\frac{00}{100}$</u> dollars	\$ (<u>50.⁰⁰</u>)/C.Y. in figures	\$ <u>750.⁰⁰</u> in figures
27	0.18	Acres	Site restoration - including topsoil, fescue seed, straw		
			<u>SIXTEEN THOUSAND + $\frac{00}{100}$</u> dollars	\$ (<u>16,000.⁰⁰</u>)/AC. in figures	\$ <u>2,880.⁰⁰</u> in figures
28	0.12	Acres	Site restoration - including topsoil & fescue sod		
			<u>FORTY THREE THOUSAND + $\frac{00}{100}$</u> dollars	\$ (<u>43,000.⁰⁰</u>)/AC. in figures	\$ <u>5,160.⁰⁰</u> in figures
TOTAL BID					
			<u>THREE HUNDRED NINETY FOUR THOUSAND</u> dollars amount written in words <u>FOUR HUNDRED FIFTY + $\frac{980}{100}$</u>	\$ <u>394,450.⁰⁰</u> in figures	

The Bidder shall state the price bid in words and figures (written in ink or typed) for each pay item, and the total bid. In case of conflict between words and figures, the words, unless obviously incorrect, shall govern.

Bidder understands that the Owner reserves the right to award the total project, or to reject any or all bids and to waive any informalities in the bidding.

Bidder agrees that this Bid shall be good and will not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

Respectfully submitted,

Firm Name DANNY ROBINSON CONSTRUCTION, LLC
 By Danny Robinson DANNY ROBINSON
 Address 14965 WILKERSON RD
 City GARFIELD State ARKANSAS

** Arkansas State Contractor's License Number

0152690311

** A Contractor's License is required to bid this project. This project requires a five (5) percent bid bond at time of bid opening. After contract award, a one hundred (100) percent performance and payment bond is required along with proof of insurance before construction begins.

End of Section 00 41 13

City of Fayetteville
 Bid 10-49, Construction of Wilson Park
 Trail Renovation and Lighting

Page 00 41 13-3

July 28, 2010



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

A. 3
Bid #10-49 Danny Robinson
Construction, LLC
Page 18 of 26

BID 10-49, Addendum 1

Bid 10-49, Construction of Wilson Park Trail Lighting & Renovation

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: Wednesday, July 21, 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.) Electrical enclosures (pull boxes) shall be Quazite™ 6" x 8" x 6" straight wall open bottom box with Quazite™ 6" x 8" no name lid or approved equal. One enclosure shall be placed in front of each trail light pole for a total of 53 enclosures. Cost for these items shall be included in Line Item 20 on the Bid Form, Installation of trail lights, poles and fixtures (P01) – complete in place per details.
- 2.) REFER TO SHEET 9 (SL1.1, SITE LIGHTING PLAN):
 - 2.1. The location of panel SL1 shall be moved to near the base of the adjacent utility pole to the southeast. SWEPCO will provide a utility pedestal at the base of this pole for the new service. The contractor shall extend secondary service from the pedestal to the new panel located on an angle iron rack adjacent to the pedestal. Refer to SWEPCO's Electric Service Handbook (Figure 1.10) for underground service requirements from a power pedestal.
 - 2.2. Remove the existing utility overhead service to the four pole lights along the driveway at the west side of the park. Provide a new underground circuit to serve these new poles from panel SL1. Provide #6 wiring and 1-inch conduit from panel SL1 to serve the new pole lights. Provide a new 20 amp, 1 pole breaker in panel SL1 to serve this new pole lighting circuit.
- 3.) REFER TO SHEET 10 (SL2.1, ELECTRICAL DETAILS):
 - 3.1. Delete detail C from this drawing. Use Figure 1.10 from the SWEPCO Electrical Service Handbook (copies can be obtained from SWEPCO) for the new electrical services at panel SL1, panel SL2, and the existing panel at the southwest corner of the park.
 - 3.2. Disregard detail B on this sheet. The trail lighting poles are "direct bury" and do not require a concrete base and anchor plate. The Composite Material Technology pole is 15 feet long, of which 3 feet will be direct buried in the ground.
 - 3.3. The pole base for the roadway light poles (P02, P03 and P04) shall be as specified in the attached "Pole Base Detail".
 - 3.4. Light Fixture Schedule Notes indicate quantities of 32 each for the trail luminaires and poles (P01). The quantities should be 53 each as indicated on the Bid Form.
- 4.) The raised, colored concrete crosswalks/entry drives on Sheet 8 shall be constructed with Class A, 3,500 psi, 5.5 bag mix with 4-7% air entrainment. All concrete requires the application of a concrete curing compound and shall be constructed with a medium broom finish. Concrete color shall be Apple Red by Solomon Colors, Inc. or approved equal and shall be used per manufacturer's instructions. The width of the crosswalk is shown as 18 feet, but will vary at each of the four locations to match existing pavement.
- 5.) Attached are the minutes and sign-in sheet from the pre-bid meeting that was held on July 19, 2010.

Acknowledge Addendum #1:

Printed Name: JIMMY CARSON

Signature: Jimmy Carson

Title: Proj. Mgr. Date: 07/22/10

Company: DANNY ROBINSON CONSTRUCTION



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THE CITY OF FAYETTEVILLE, ARKANSAS

BID 10-49, Addendum 2

Bid 10-49, Construction of Wilson Park Trail Renovation & Lighting

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: Friday, July 23, 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.) REFER TO SHEET 9 (SL1.1, SITE LIGHTING PLAN):

- 1.1. SWEPCO will provide a utility pedestal at the base of the existing utility pole for each of the new service panels SL1 and SL2. The contractor shall extend secondary service from the pedestals to the new panels located on an angle iron rack adjacent to the pedestal. Refer to SWEPCO's Electric Service Handbook (Figure 1.10) for underground service requirements from a power pedestal.
- 1.2. The feeder size from panel SL2 to sub-panel SL3 shall be 1-1/4" conduit, #2 wiring, #8 ground.
- 1.3. The note directly north of the west tennis court that reads, "Coordinate with SWEPCO to repair/replace existing utility provided pole light." shall be changed. This note should read, "Existing volleyball court lighting to remain as is."
- 1.4. The note adjacent to panel SL3 that reads, "Replace existing utility pole and light with new utility pole at location shown. Provide two utility lights at 180 apart, center in green space and aim lights east and west." shall be deleted. The new pole light at this location shall be equal to type P04. Locate this pole light towards the south side of this green space with the head facing north. Provide a 20 amp breaker in panel SL3 and conduit and wire to serve this new pole light. This fixture shall be turned on via photocell.

2.) REFER TO SHEET 10 (SL2.1, ELECTRICAL DETAILS):

- 2.1 Disregard detail B on this sheet. The trail lighting poles are "direct bury". The Composite Material Technology pole is 15 feet long, of which 3 feet will be direct buried in the ground. Contractor shall auger an approximately 1-foot diameter by 3-feet deep hole for each pole. Contractor shall provide one to two bags of Quikrete® or approved equal concrete slurry around the base of each buried pole.
- 2.2 There are no ground rods or receptacles for the pathway/trail lights.

Acknowledge Addendum #2:

Printed Name: JIMMY CARSON

Signature: Jimmy Carson

Title: Proj Mgr Date: 07/23/10

Company: DANNY ROBINSON CONST.



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

BID 10-49, Addendum 3

Bid 10-49, Construction of Wilson Park Trail Renovation & Lighting

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: Tuesday, July 27, 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.) All bids shall include all labor, materials, overhead, profit, insurance, sales taxes (as required by law), etc., to cover the furnishing of the items bid.

Acknowledge Addendum #3:

Printed Name: Jimmy Carson

Signature: Jimmy Carson

Title: Proj. Mgr. Date: 07/27/10

Company: DANNY ROBINSON CONST.

THE AMERICAN INSTITUTE OF ARCHITECTS



AIA Document A310

Bid Bond

BOND # GRBB100726

KNOW ALL MEN BY THESE PRESENTS, that we

DANNY ROBINSON CONSTRUCTION LLC

14965 WILKERSON RD GARFIELD, AR 72732

(Here insert full name, and address or legal title of Contractor)

as Principal, hereinafter called the Principal, and

GRANITE RE, INC.

14001 QUAIL BROOK DRIVE OKLAHOMA CITY, OK 73134

a corporation duly organized under the laws of the State of **OKLAHOMA** as Surety, hereinafter called the Surety, are held and firmly bound unto **CITY OF FAYETTEVILLE**

113 WEST MOUNTAIN, ROOM 372 FAYETTEVILLE, AR 72701

(Here insert full name, and address or legal title of Owner)

as Obligee, hereinafter called the Obligee, in the sum of **Five percent of amount bid----- (\$5%)**, for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for

Wilson Park Trail Renovations & Lighting - Bid # 10-49

(Here insert full name, address and description of project)

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this **28th** day of **July**, 2010

DANNY ROBINSON CONSTRUCTION LLC

Danny Robinson

(Principal)

(Seal)

President

(Title)

GRANITE RE, INC.

J. Alan Rogers

(Surety)

(Seal)

(Title) J. Alan Rogers - Lic# 61847, ATTORNEY-IN-FACT

Jama R. Carson

(Witness)

Brandon Kegan

(Witness)



GRANITE RE, INC. GENERAL POWER OF ATTORNEY

Know all Men by these Presents:

That GRANITE RE, INC., a corporation organized and existing under the laws of the State of OKLAHOMA and having its principal office at the City of OKLAHOMA CITY in the State of OKLAHOMA does hereby constitute and appoint:

KIMBERLY L. BABB, J. ALAN ROGERS, MIKI J. ROGERS its true and lawful Attorney-in-Fact(s) for the following purposes, to wit:

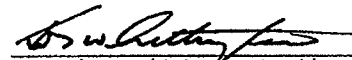
To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said GRANITE RE, INC. a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said GRANITE RE, INC. through us, its Board of Directors, hereby ratifies and confirms all and whatsoever the said:

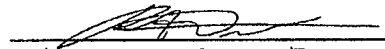
KIMBERLY L. BABB, J. ALAN ROGERS, MIKI J. ROGERS may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said GRANITE RE, INC. has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Secretary/Treasurer, this 29th day of June, 2007.

STATE OF OKLAHOMA)
) SS:
COUNTY OF OKLAHOMA)




Kenneth D. Whittington, President


Rodman A. Frates, Secretary/Treasurer

On this 29th day of June, 2007, before me personally came Kenneth D. Whittington, President of the GRANITE RE, INC. Company and Rodman A. Frates, Secretary/Treasurer of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said, that they, the said Kenneth D. Whittington and Rodman A. Frates were respectively the President and the Secretary/Treasurer of the GRANITE RE, INC., the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their name thereto by like order as President and Secretary/Treasurer, respectively, of the Company.

My Commission Expires:
May 9, 2012
Commission #: 00005708




Notary Public

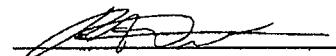
GRANITE RE, INC. Certificate

THE UNDERSIGNED, being the duly elected and acting Secretary/Treasurer of Granite Re, Inc., an Oklahoma Corporation, HEREBY CERTIFIES that the following resolution is a true and correct excerpt from the July 15, 1987, minutes of the meeting of the Board of Directors of Granite Re, Inc. and that said Power of Attorney has not been revoked and is now in full force and effect.

"RESOLVED, that the President, any Vice President, the Secretary, and any Assistant Vice President shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the Company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the Company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

IN WITNESS WHEREOF, the undersigned has subscribed this Certificate and affixed the corporate seal of the Corporation this
28th day of JULY, 2010.




Rodman A. Frates, Secretary/Treasurer

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)

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

Requisition No.:	Date:	A. 3
P.O Number:	7/28/2010	Bid #10-49 Danny Robinson Construction, LLC
	Expected Delivery Date:	Page 23 of 26

Vendor #:	19353	Vendor Name:	Danny Robinson Construction, LLC	Mail Yes: _____ No: _____
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Address:	14965 Wilkerson Road	Fob Point:	Taxable Yes: _____ No: _____	Quotes Attached Yes: _____ No: _____
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City:	Garfield	State:	AR	Zip Code:	72732	Ship to code:	Division Head Approval:
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Requester:	Carole Jones, Park Planner	Requester's Employee #:	3003	Extension:	472
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Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Construction of Wilson Park Trail Renovation and Lighting	1	1	LS	\$394,450.00	2250.9255.5806.00	08002.0801		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Tax is included in the bid price.

Subtotal:	\$394,450.00
Tax:	
Total:	\$394,450.00

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

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

A. 3
Bid #10-49 Danny Robinson
Construction, LLC
Page Number

Budget Year 2010	Department: Operations Division: Parks & Recreation Program: Parks Development Capital	Date Requested 7/28/2010	Adjustment Number
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Project or Item Added/Increased:

To increase funding for the Wilson Park Trail Renovation and Lighting Project by \$38,864 to allow for construction of a new concrete trail and completion of trail and lighting throughout Wilson Park.

Project or Item Deleted/Reduced:

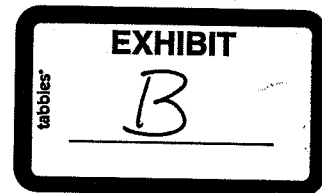
Reduce project funding within these various completed projects: David Lashley (\$15,728) Mt Sequoyah Woods Pavilion (\$3,730) Walker Park Basketball/Tennis Lights (\$2,071) Rodney Ryan (\$6,917). Additionally reduce funding in Lake Fayetteville (\$10,418) to allow for adequate funding for the Wilson Park Trail and Lighting Project.

Justification of this Increase:

Additional funding is needed to adequately light and replace the asphalt trail with a new concrete trail within Wilson Park.

Justification of this Decrease:

There are adequate funds in these accounts to fund this project.



Increase Budget			
Account Name	Account Number	Amount	Project Number
		See attached	

Decrease Budget			
Account Name	Account Number	Amount	Project Number
		See attached	

	7/28/2010
Division Head	Date
	7/28/2010
Budget Director	Date
	7/28/2010
Department Director	Date
Finance Director	Date
Chief of Staff	Date
Mayor	Date

V.090403

Budget & Research Use Only					
Type:	A	B	C	D	E
Requested By					
General Ledger Date					
Posted to General Ledger				Initial	Date
Posted to Project Accounting				Initial	Date

Clear Screen

Budget Adjustment Detail Backup

A. 3
Bid #10-49 Danny Robinson
Construction, LLC
Page 25 of 26

Account Name	Account Number	Increase Budget	Decrease Budget	Project#	Sub#		Project Description
Park Improvements	2250.9255.5806.00	38,364		08002	0801	R	Wilson Park Improvements
Public Notification	2250.9255.5301.00	500		08002	0801	R	Wilson Park Improvements
Park Improvements	2250.9255.5806.00		15,728	02013	0008	R	Neighborhood Park Development
Park Improvements	2250.9255.5806.00		3,730	02045	0009	R	Forestry, Safety, & ADA Compliance
Park Improvements	2250.9255.5806.00		2,071	02013	0006	R	Neighborhood Park Development
Park Improvements	2250.9255.5806.00		6,917	02013	0801	R	Neighborhood Park Development
Contract Services	2250.9255.5315.00		10,418	03022	0001	R	Lake Fayetteville Trails
		38,864	38,864				

City of Fayetteville Staff Review Form

A. 4
Arkansas Department of
Aeronautics Grant
Page 1 of 8

City Council Agenda Items
and
Contracts, Leases or Agreements

8/17/2010

City Council Meeting Date
Agenda Items Only

Ray M. Boudreaux

Submitted By

Aviation

Division

Transportation

Department

Action Required:

Action Required: Approve application and receipt of a Grant from the Arkansas State Department of Aeronautics.
Approve a Budget Adjustment.

REVENUE

\$ 18,984.00

Cost of this request

\$ -

Category / Project Budget

Airport Fuel Farm Repair

Program Category / Project Name

5550.0955.6805.00

Account Number

\$ -

Funds Used to Date

Airport Revenue

Program / Project Category Name

10028.1 NEW

Project Number

\$ -

Remaining Balance

Airport

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

[Signature]
Department Director

8-2-10

Date

Previous Ordinance or Resolution #

Original Contract Date:

[Signature]
City Attorney

7-30-10

Date

Original Contract Number:

[Signature]
Finance and Internal Services Director

8-3-2010

Date

Received in City
Clerk's Office

07-30-10 P03:00 RCVD

[Signature]
Chief of Staff

8-3-10

Date

Received in
Mayor's Office



[Signature]
Mayor

8/3/10

Date

Comments:



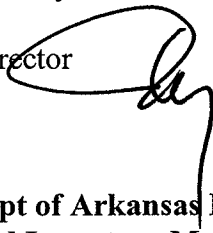
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CITY COUNCIL MEMO

To: Mayor Jordan and City Council

Thru: Chief of Staff, Don Marr

Thru: Transportation Director, Terry Gulley

From: Ray M. Boudreaux, Aviation Director 

Date: July 28, 2010

Subject: Approve application and receipt of Arkansas Department of Aeronautic grant for repair of the Airport Fuel Farm Overfill Protection and Inventory Management systems and approval of a budget adjustment

PROPOSAL: Million Air, Fayetteville contracts with the City to manage and maintain the Airport Fuel Farm. During an inspection conducted by the Military for approval of the company to enter the Military Contract Fuel program, it was determined that the Overfill Protection System was inoperative. Million Air manually checks the fuel level before filling the tanks so overfill protection has never been checked or used. The Military contract requires that the overfill protection system operate normally to alert the operator that the tank is 90% full and then turn off the pump at 95% full. We have had several companies look at the system in an effort to have it repaired but the system is no longer used and parts are not available. We have found a company that will install a new system. Not only will the new system activate the overfill protection system but it will also reactivate the inventory management system that has not worked for several years. Inventory has been recorded manually. Since it is the responsibility of the City to provide a fully operational system to the contractor, it is our responsibility to pay for the repair. We have contacted the State Aeronautics to see if funds would be available for this project. They have advised that they will fund the project at 90%. The City and Million Air will split the local match.

RECOMMENDATION: Approve Arkansas Department of Aeronautics grant application and receipt of grant proceeds for repair of the Airport Fuel Farm overfill protection system.

BUDGET IMPACT: Project cost is \$21,093.00. Grant proceeds \$18,984.00. Airport maintenance account to fund the 10% match at \$2,109.00 and bill Million Air Fayetteville for half of the match.

Attachments: Staff coordination sheet
Budget Adjustment (copy)
Grant Application
Contractor Repair Proposal ARK-O Petroleum Equipment, Inc.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING APPLICATION AND ACCEPTANCE OF AN ARKANSAS DEPARTMENT OF AERONAUTICS GRANT IN THE AMOUNT OF \$18,984.00 TO BE USED FOR THE REPAIR OF AIRPORT FUEL FARM OVERFILL PROTECTION AND INVENTORY MANAGEMENT SYSTEMS, 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 application and acceptance of an Arkansas Department of Aeronautics grant in the amount of \$18,984.00 to be used for the repair of airport fuel farm overfill protection and inventory management systems.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A," recognizing the revenue.

PASSED and APPROVED this 17th day of August, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

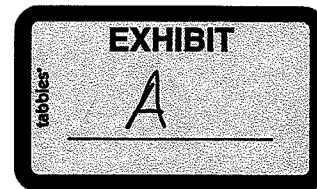
**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 4
Arkansas Department of
Aeronautics Grant
Page 4 of 8

Budget Year 2010 2009	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expense	Date Requested 8/17/2010	Adjustment Number
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Project or Item Added/Increased: \$21,093 in the Building & Grounds Maintenance account.	Project or Item Deleted/Reduced: Recognize AR Dept Aeronautics Grant: \$18,984 Recognize contribution by others: \$1054 \$1055 from the Maint Prog Building & Grounds Maint account
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Justification of this Increase: Will provide the repair of the bulk fuel storage facility tank monitoring, overfill alarm system, and pump control stations.	Justification of this Decrease: AR Dept of Aeronautics will provide a 90/10 grant. The Airport tenant, Million Air Fayetteville, will provide one half of the 10% local grant match. The remaining balance will use existing airport maintenance budget.
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Increase Budget							
Account Name	Account Number				Amount	Project Number	
Building & Grounds Maintenance	5550	3960	5400	00	21,093	10028	1
Decrease Budget							
Account Name	Account Number				Amount	Project Number	
State Grants	5550	0955	6805	00	18,984	10028	1
Miscellaneous Revenue	5550	0955	4999	00	1,054	10028	1
Building & Grounds Maintenance	5550	3950	5400	00	1,055	10028	1

V.090403

Division Head

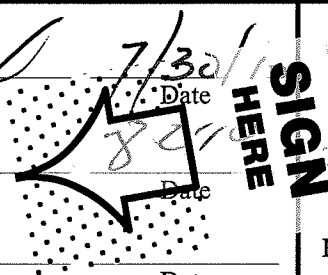
Budget Director

Department Director

Finance Director

Chief of Staff

Mayor



Budget & Research Use Only

Type: A B C D E

Requested By

General Ledger Date

Posted to General Ledger

Posted to Project Accounting

Initial Date

Initial Date

State Airport Aid Application – Page 1

The City/County of Fayetteville, herein called "Sponsor", hereby makes application to the Arkansas Department of Aeronautics for State funds pursuant to Act 733 of 1977, for the purpose of aiding in financing a project for the development of a municipal airport located in the city of Fayetteville Arkansas, Washington county.

Date of Request: July 28, 2010

Name of Airport: Fayetteville Executive Airport, Drake Field FYV

Name and address of City/County Commission sponsoring request:

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Phone Number: 479-575-8330

Fax Number: 479-575-8257

Name and address of Engineering Firm (if applicable):

Person to Contact about project:

Ray M. Boudreaux
4500 S School Ave., Suite F
Fayetteville, AR 72701

Phone Number: 479-718-7642

Cell Number: 479-601-3520

Fax Number: 479-718-7646

Contact Person: _____

Phone/Fax Number: _____

Describe the work to be accomplished:

Rehabilitate bulk fuel storage facility tank monitoring, overfill alarms, and pump controls.

State and Local Project Costs:

Please indicate:

☐ 50-50% Match

☐ 80-20% Match

☒ 90-10% Match

☐ 100%

Total Cost of Project 21,093.00

Local Share/Funds 2,109.00

Local Share/In-Kind _____

State Share 18,984.00

Federal AIP Projects:

AIP Number: _____

☐ 95-5% Match

Total Cost of Project: _____

Federal Share: _____

State Share: _____

Local Share: _____

State Airport Aid Application – Page 2

Provide the information listed below as it applies to your project:

Funding:

Source of Funds: State: AR Dept Aeronautics

Local: City of Fayetteville - Airport

Source of In-Kind Services: None

Estimated starting date of project: August 2010

Estimated completion date of project: September 2010

Project will be for: New Airport Existing Airport XX

Is land to be leased or purchased? No

Description of land and cost per acre: _____

Provide the Federal AIP Grant Number (if applicable): _____

State Legislators for your area:

State Senator: Sue Madison

State Representative: Lindsley Smith

State Airport Aid Application – Page 3

The sponsor agrees to furnish the Arkansas Department of Aeronautics a copy of the legal instrument affecting use of the property for an airport. In application for a new landing site or expansion of existing facility, the FAA Form 7480-1, *Notice of Landing Area Proposal*, must be approved by the FAA before review for grant can be made by the State. Applications for hangar construction or renovation funds must include a signed lease agreement. This agreement must be in compliance with all FAA grant assurances. The application must be based on bids and include a calculated return on investment.

No land, hangars, or buildings purchased with State Grant funds may be sold or disposed of without State Aeronautics Commission prior approval. All requests for sale or disposal of property will be considered on an individual case basis. No hangar (funded by a grant from the Department of Aeronautics) shall be used for non-aviation purposes without State Aeronautics Commission prior approval. All requests for non-aviation use will be considered on a case-by-case basis. Failure to receive prior approval from A.D.A. concerning land and/or building use could result in the commission requesting grant refund from the Sponsor.

No airport accepting State Grant funding may issue an Exclusive Rights lease.

All applications for navigational aids (such as NDB or ILS) must have FAA site approval before a state grant can be approved.

All Grant applications involving Federal Airport Improvement Program (AIP) funding must be accompanied by the approved FAA grant agreement with grant number assigned.

If this project is approved by the Arkansas Department of Aeronautics, and is accepted by the sponsor, it is agreed that all developments and construction shall meet standard FAA construction practices as outlined in the specifications of this agreement. Runways, Taxiways, Parking Ramps, etc. shall have a base and a thickness that will accommodate the weight of aircraft expected to operate at this airport.

All grant applicants (City and/or County) are totally responsible for compliance with all Federal, State, County, and City laws, Statutes, Ordinances, Rules, Regulations, and Executive Orders concerning contracts and purchases for which this grant is approved and issued.

It is understood and agreed that the sponsor shall start this project immediately upon award of grant. It is also agreed that this project shall be completed within one year from the date of acceptance of this grant by the Arkansas Department of Aeronautics. Applications for extension will be entertained if circumstances beyond the sponsor's control occur.

Funds will be disbursed according to Department procedures and final inspection of completed project (See payment instruction page). Payment of grant funds are contingent upon the Department's annual appropriation.

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this _____ day of _____, 2010.

Lioneld Jordan

Name of Sponsor

Authorized Signature

Mayor

Title

City of Fayetteville Staff Review Form

A. 5
Arkansas Historic
Preservation Program
Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

8/17/2010

City Council Meeting Date
Agenda Items Only

Dara Sanders

Submitted By

City Planning

Division

Development Services

Department

Action Required:

City Council approval of a budget adjustment and contract with the Arkansas Historic Preservation Program to receive a Certified Local Government grant in the amount of \$4,500 to provide travel and training funds for the Historic District Commission and staff *approval of a budget adjustment.*

Cost of this request

1010.6300.5304.00

Account Number

06024.1001

Project Number

n/a

Category / Project Budget

n/a

Funds Used to Date

n/a

Remaining Balance

Historic Preservation

Program Category / Project Name

Travel, Training, Public Education

Program / Project Category Name

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Young C. Price
Department Director

07-30-2010

Date

Previous Ordinance or Resolution #

John B. Kelly
City Attorney

8-2-10

Date

Original Contract Date:

Original Contract Number:

Paul A. Becker
Finance and Internal Services Director

8-3-2010

Date

Received in City

Clerk's Office 07-30-10 P03:33 RCVD

Kim G.

Jim Mann
Chief of Staff

8-3-10

Date

Received in
Mayor's Office

ENTERED
8/7/10
PA

Frederick Jordan
Mayor

8/3/10

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Jeremy Pate, Director of Development Services

From: Dara Sanders, Current Planner

Date: July 29, 2010

Subject: Budget adjustment and contract with the Arkansas Historic Preservation Program to receive a Certified Local Government grant in the amount of \$4,500.

PROPOSAL:

City Planning staff recommends approval of a budget adjustment and contract with the Arkansas Historic Preservation Program to receive a Certified Local Government grant in the amount of \$4,500 to provide travel and training funds for the Historic District Commission and staff.

RECOMMENDATION:

The City Council reinstated the Historic District Commission (HDC) on May 6, 2006 by Res. No. 78-06. Planning staff has applied for and received a Certified Local Government (CLG) grant for the past four years to pay for HDC and staff travel and training related to historic preservation. The 2009-2010 grant was \$5,500. This grant awarded \$5,000 to enable a staff member or Historic District Commissioner to attend a quarterly CLG meeting in North Little Rock, one Commissioner to attend the National Historic Preservation Conference in Nashville, one staff member to attend the National American Planning Association Conference in New Orleans, and one staff member to attend the State Conference in Helena-West Helena. Additionally, the City was awarded \$500 to assist the Historic District Commission to produce brochures intended to educate the public on the City's historic sites and architecture in order to create a greater awareness of the City's historic assets.

With limited funding to distribute among an increased number of Certified Local Governments this year, the Arkansas Historic Preservation Program designated the City of Fayetteville with \$4,500 for travel and training. This will enable the City of Fayetteville to send one or more representatives of the HDC to the 2010 National Commission Forum, the 2010 National Preservation Conference, and the 2011 Arkansas Preservation Conference, and to quarterly training meetings to be announced by AHPP.

BUDGET IMPACT:

The City will provide in-kind services for approximately \$5,862 in the form of staff time. Dara Sanders, Current Planner, will spend 15% of her time administering the grant.

RESOLUTION NO. _____

A RESOLUTION APPROVING A GRANT AGREEMENT WITH THE ARKANSAS HISTORIC PRESERVATION PROGRAM IN THE AMOUNT OF \$4,500.00 FOR TRAVEL AND TRAINING EXPENSES IN SUPPORT OF THE FAYETTEVILLE HISTORIC DISTRICT COMMISSION; 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 approves a grant agreement with the Arkansas Historic Preservation Program in the amount of \$4,500.00 for travel and training expenses in support of the Fayetteville Historic District Commission.

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

PASSED and APPROVED this 17th day of August, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



CERTIFIED LOCAL GOVERNMENT (CLG) GRANT PROGRAM

Grant Agreement 10-CLG-04

This agreement is entered into between the **City of Fayetteville**, Arkansas, herein referred to as the City, and the Arkansas Historic Preservation Program, hereinafter referred to as AHPP. AHPP agrees to provide a grant in the amount of **\$4,500** to the for the purpose of:

Providing training for the Fayetteville Historic District Commission and staff.

THIS GRANT IS FOR THE ACCOMPLISHMENT OF THE PURPOSE, OBJECTIVE AND SCOPE OF WORK HEREIN DEFINED.

I. SCOPE OF WORK

The City will send one or more representatives of its Historic District Commission to the 2010 National Commission Forum, the 2010 National Preservation Conference, the 2011 Arkansas Preservation Conference, and to quarterly training meetings to be announced by AHPP.

II. TIME FRAME of AGREEMENT

This agreement will begin on July 1, 2010, and shall extend until June 30, 2011.

III. SCHEDULE OF PAYMENTS

Payment of the full grant amount shall be paid to the City upon a request for payment to AHPP.

IV. AHPP RESPONSIBILITIES

AHPP staff agrees to make periodic reviews of the project to review practices and products. AHPP reserves the right to enforce the procedures as outlined in this contract. AHPP agrees to make available advice and counsel necessary to accomplish the objectives and to render compensation upon invoice within a reasonable time frame.

V. REPORTING REQUIREMENTS

- A. The City will submit quarterly reports detailing progress of work.
- B. The City will submit a final project report detailing all completed projects and including 10 copies each of all publications.
- C. If grant crosses Federal fiscal years, the City is required to submit progress reports (both programmatic and fiscal) including a grantee expenditure and progress report by September 30 of the year the grant is allocated.
- D. If changes in agreement - e.g.: scope of work, products, budgets, etc. - are required, then the City must submit a written request detailing proposed changes and wait for written approval from the State.

VI. COMPLIANCE

- A. All policies and procedures of the Department of the Interior, the National Park Service as well as Federal regulations concerning expenditures of all Federal funds must be followed by the AHPP and all subgrant recipients. All grant projects will be administered by the AHPP in accordance with the Historic Preservation Fund Grants Manual, particularly "Chapter 9: Certified Local Governments". Separate financial records for each project will be maintained by the AHPP following Office of Management and Budget Guidelines. The City must maintain efficient and effective accountability and control of all funds received and expended under a subgrant from the AHPP.
- B. The City agrees to the right of the AHPP director to review and comment on art set-up, written narrative of any printed material, and audio visual material produced by the grant prior to final printing or production and distribution.
- C. The City must supply the State with evidence of compliance with Federal competitive procurement requirements for professional services and subcontractors prior to reimbursement.
- D. All products and projects must comply with the applicable Secretary of the Interior's Standards for Rehabilitation. The standards are:
 - 1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
 - 2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
 - 3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 - 4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- E. All surveys (either new or those in progress) of historic structures, sites, etc. will meet the following criteria:
1. Person(s) hired to conduct survey will train with the AHPP Survey Coordinator before starting project.
 2. All survey information will be recorded on survey forms supplied by AHPP and meeting all AHPP requirements.
 3. A minimum of four (4) black and white photos and four (4) color slides (one of each elevation of a structure or one from each direction-- N, S, E, or W--of a site) will be taken using 35mm film for inclusion with the survey form.
 4. Monthly reviews of work in progress by AHPP Survey Coordinator.
- F. The City will donate to AHPP a conservation easement on the property of any historic structure(s) being restored, rehabilitated, or repaired as a part of any project(s) utilizing ten thousand dollars (\$10,000) or more of AHPP funds. On such projects involving private properties, it will be the City's responsibility to secure this easement for donation to AHPP before any grant funds are released.

VII. MANAGEMENT AND BUDGET GUIDELINES

The City must assure and certify that he will comply with the regulations, policies, guidelines and requirements as they relate to the application, acceptance and use of Federal funds for this federally-assisted project, as contained in attachment G of OMB circular A-102. Also the City assures and certifies that:

- A. The City will comply with and administer the project in conformance with the Civil Rights Act of 1964 (Public Law 88-352), as amended; as well as 43 CFR 17 and Part 506 of the Department Manual issued by the Department of the Interior; and Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against the handicapped. Title VI of the Civil Rights Act of 1964 stated that no person will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this agreement;
- B. In all hiring or employment made possible by or resulting from grant awards, the City (1) will not discriminate against any employee or applicant from employment because of race, color, religion, sex, age, or national origin, and (2) will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. This requirement applies to, but is not limited to, the following: employment promotion, demotion, or transfer; recruitment or other recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The City its subgrantees will comply with all applicable statutes and Executive orders on equal employment opportunity and grant awards will be governed by the provisions, as implemented by, but not limited to, Department of the Interior policies, published in 43 CFR 17;
- C. The City will give AHPP and the National Park Service or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant;
- D. The City must comply with Federal competitive procurement requirements for professional services and subcontractors and will provide documentation of such compliance upon request.
- E. The City will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of state and local governments.
- F. Upon completion of the project, the Secretary of the Interior, the Comptroller General of the United States, the AHPP, and/or any of their duly authorized representatives shall have access for the purpose of financial or programmatic audit and examination any books, documents, papers and records of the City that are pertinent to the grant at all reasonable times during the period of retention provided in OMB Circular A102, attachment C, for at least three (3) years or until all claims or audit findings have been resolved.
- G. Lobbying with appropriated funds. Historic Preservation Fund grants must conform to provisions of 18 USC 1913: "No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress be used directly or indirectly to pay for any personal services, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member or Congress, through the proper official channels, requests for legislation OPR appropriation which they deem necessary for the efficient conduct of the public business." Thus, costs associated with activities to influence legislation pending before the Congress, commonly referred to as "lobbying," are unallowable as charges to NPS assisted grants.

- H. The City must submit acceptable Federal and non-Federal share supporting documentation for reimbursement.
- I. In addition to the terms detailed in this grant agreement, all Federal requirements governing grants (Office of Management and Budget Circulars A-87 or A-122, A-102 or A-110, and A-128) are applicable.

VIII. PUBLICATIONS AND PUBLIC INFORMATION

An acknowledgment of National Park Service and Arkansas Historic Preservation Program support must be made in connection with the publication of any material based on, or developed under, any activity supported by Historic Preservation Fund grant funds. This acknowledgment shall be in the form of a statement as follows: *The activity which is the subject of this (type of publication) has been financed (in part/entirely) with Federal funds from the National Park Service, Department of the Interior, administered through the Arkansas Historic Preservation Program, an agency of the Department of Arkansas Heritage. However, the contents and opinions do not necessarily reflect the views or policies of the Department of the Interior, nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior or the Arkansas Historic Preservation Program.*

Press releases, publications, and other public dissemination of information by the City made possible by a grant shall acknowledge National Park Service, Department of the Interior and Arkansas Historic Preservation Program, Department of Arkansas Heritage grant support. A minimum of eight copies of any publication will be furnished by the Preservation Program will transmit three copies to the Department of the Interior Library, one copy to the National Park Service, Divisions of Personnel and Management, and one copy to the Office of Communications. The remainder will be placed in the Arkansas Historic Preservation Program files.

All printed material (publications, brochures, etc.) will be printed on recycled paper using soybean ink in accordance with Executive Proclamation Order #90-1.

IX. LIMITATION OF LIABILITY

The AHPP assumes no responsibility with respect to accidents, illness or claims arising out of any work performed under a subgrant supported project. The City is expected to take necessary steps to insure itself and its personnel and students and to comply with the applicable local, State, or Federal safety standards, including those issued pursuant to the National Occupational Safety and Health Act of 1970 (see 20 SFR 1910).

X. PROJECT CANCELLATION

Approved projects may be canceled for one or more of the following reasons:

- A. The City requests project cancellation.
- B. The City fails to initiate project work.
- C. The City initiates work prior to receipt of written notification of project approval.
- D. Project work is found not to be in conformance with conditions as stated in the grant agreement.

XI. AMENDMENTS

This agreement may be amended upon written request and approval by both parties

XII. APPROVAL OF AHPP

The City of **Fayetteville** is aware that this grant is contingent upon approval of the AHPP and the availability of funds; and agrees that no work will begin on the project until written approval from the AHPP is received.

SIGNATURES

Frances McSwain
Director, Arkansas Historic Preservation Program
Deputy State Historic Preservation Officer

Date

City of **Fayetteville** Signature

Name (printed)

Title

Date

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

A. 5
Arkansas Historic
Preservation Program
Page 10 of 10

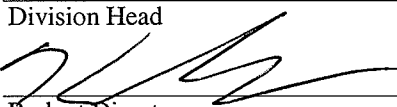
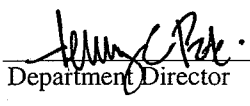
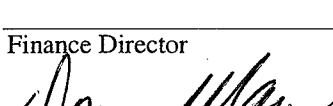
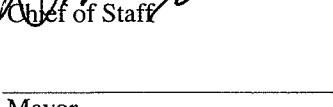
Budget Year 2009	Department: Operations Division: Current Planning Program: Current Planning	Date Requested 8/17/2010	Adjustment Number
----------------------------	---	------------------------------------	-------------------

Project or Item Added/Increased: \$4,500 is being requested in the travel & training account	Project or Item Deleted/Reduced: \$4,500 is requested in the State Grants - Operational account.
---	---

Justification of this Increase: The City if accepting a grant from the Arkansas Historic Preservation program for the Historic District Commission and for staff to attend conferences for training in historic preservation.	Justification of this Decrease: To recognize the revenue being received from the Arkansas Historic Preservation program
--	--

Increase Budget							
Account Name	Account Number				Amount	Project Number	
Travel & Training	1010	6300	5304	00	4,500	06024	1001

Decrease Budget							
Account Name	Account Number				Amount	Project Number	
State Grants - Operational	1010	001	4302	01	4,500	06024	1001

Division Head  Date 8-2-10		Budget & Research Use Only Type: A B C <u>D</u> E Requested By _____ General Ledger Date _____ Posted to General Ledger _____ Initial Date Posted to Project Accounting _____ Initial Date	
Budget Director  Date 08-03-2010			
Department Director  Date			
Finance Director  Date			
Chief of Staff  Date 8-3-10			
Mayor Date			

City Council Agenda Items
and
Contracts, Leases or Agreements

8/17/2010

City Council Meeting Date
Agenda Items Only

Jesse Fulcher

Submitted By

Planning

Division

Development Services

Department

Action Required:

ADM 09-3466 (UDC Chapters 151 and 164 Vehicle Related Businesses): An ordinance amending Chapter 151 and 164 of the Unified Development Code to clarify vehicle related businesses, including vehicle repair, towing and salvage.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

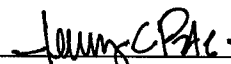
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Fund Name

Budgeted Item

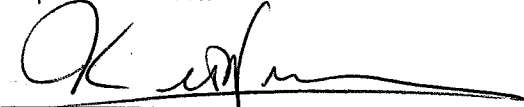
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Budget Adjustment Attached

☐

 Department Director

Date

Previous Ordinance or Resolution #


 City Attorney

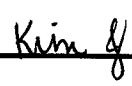
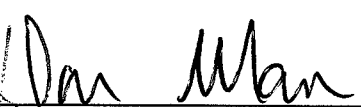
Date

Original Contract Date:

Original Contract Number:


 Finance and Internal Services Director

Date

 Received in City Clerk's Office 07-29-10 P04:34 RCVD


 Chief of Staff

Date

 Received in
 Mayor's Office


 Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jesse Fulcher, Current Planner

Date: July 23, 2010

Subject: ADM 09-3466 UDC Chapter 151 and 164 vehicle related businesses

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance amending Chapter 151 and 164 of the Unified Development Code (ADM 09-3466).

BACKGROUND

In addition to the zoning regulations in Chapter 161 of the Unified Development Code (UDC), which apply to all the various zoning districts and associated uses, there are supplementary regulations for certain types of uses and businesses. Specifically, Chapter 164 of the UDC provides restrictions for vehicle-related businesses, including gasoline service stations and car washes, as well as requirements for the storage of disabled and unlicensed vehicles.

However, there are several other types of vehicle related businesses that aren't currently regulated by Chapter 164, including towing and impound facilities, auto salvage and automotive repair shops. Unlike the uses currently regulated by Chapter 164, though, these businesses may have areas for the storage of wrecked, disabled or inoperable vehicles. Eventually, this type of storage can create a public nuisance and adversely impact surrounding properties and even neighborhoods.

It is staff's recommendation that Chapter 151 and 164 of the Unified Development Code be modified to include additional definitions and requirements for several types of vehicle related businesses that are most likely to create nuisances if not properly regulated.

DISCUSSION

On December 14, 2009 the Planning Commission unanimously forwarded this request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE, CHAPTERS 151: DEFINITIONS AND 164: SUPPLEMENTARY ZONING REGULATIONS, IN ORDER TO INCLUDE ADDITIONAL DEFINITIONS AND REQUIREMENTS FOR VEHICLE RELATED BUSINESSES.

WHEREAS, the City of Fayetteville Unified Development Code was adopted to further the health, safety and general welfare of the community, and to promote an orderly and appropriate mix of land uses; and

WHEREAS, land uses that include the storage of disabled, wrecked, or inoperable vehicles can create a public nuisance and adversely impact surrounding properties and neighborhoods ; and

WHEREAS, the City of Fayetteville Unified Development Code should provide regulations that protect neighborhoods, commercial and industrial districts, and makes a livable community.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends §151.01: Definitions by inserting in alphabetical order the following definitions:

“Auto Salvage. (Zoning) The dismantling or wrecking of motor vehicles or trailers, or the storage, keeping, selling, buying, or dumping of any wrecked, scrapped, ruined, dismantled, disabled, or inoperable motor vehicle or motor vehicle part.”

“Junkyard. (Zoning) Any worn out or discarded materials including but not limited to scrap metal, inoperable motor vehicles and parts, construction material, discarded appliances, or other material in a condition such that it cannot be used for its original purposes.”

“Motor vehicle. (Zoning) A self-propelled vehicle that would have to be licensed to be operated on the public streets and highways. (See Chapter 14 of Title 27 of the Arkansas Code.)”

“Motor vehicle accessory store. (Zoning) Stores that sell new automobile parts, tires, and/or accessories.”

“Motor vehicle repair and body shop. (Zoning) Any property, building or portion thereof used for the service and repair of motor vehicles including major mechanical repair and body work, straightening of body parts, painting, welding, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations.”

“Towing impound yard. (Zoning) A facility operated for the temporary storage of towed motor vehicles that are to be claimed by their title holders or agents, or transported to a repair shop.”

"Towing service. (Zoning) An establishment that provides for the removal of a motor vehicle by towing, carrying, hauling or pushing from public or private property when such vehicle has been ordered to be impounded to a public or private impound yard. This shall not include a "motor vehicle repair and body shop" use that has a tow truck and services vehicles on-site."

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends §151.01: Definitions by renaming "Filling station (Zoning)" to "Gasoline service station. (Zoning)" and placing it in alphabetical order.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby repeals §164.05 Automobile Garages and enacts a replacement §164.05, as follows:

§164.05 Motor Vehicle Repair

In any district where permitted, gasoline service stations and motor vehicle repair and body shops shall be subject to the following regulations:

- (A) All appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line of agricultural or residential district.
- (B) Although temporarily inoperable, motor vehicles shall have substantially all of its main component parts attached, and where subject to a license, shall be currently and validly licensed for operation upon public streets and highways.
- (C) No motor vehicle to be repaired shall be stored on the premises longer than 45 days.
- (D) No abandoned vehicles shall be stored on the premises.
- (E) Vehicles shall be parked in such a way so they do not encroach upon City right-of-way, or block pedestrian or vehicular use and visibility.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby amends §164.06 Automobile Wash Service by repealing the section and renaming the section "Reserved."

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby repeals §164.14 Parking And Storage Of Certain Vehicles and enacts a replacement §164.14, as follows:

§164.14 Parking And Storage of Certain Vehicles

- (A) Motor vehicles or trailers of any kind, which are required to be licensed, must have current license plates properly attached (unless completely enclosed within a building) except within the lot of the following legally operating businesses: vehicle sales, trailer sales, junkyards, auto salvage yards, towing impound yards and auto body shops.
- (B) Disabled motor vehicles or trailers must be stored inside buildings unless stored within auto salvage yards, junk yards, auto body shop lots, or towing impound yards.
- (C) Parking or storing wrecked or abandoned vehicles within residential districts is prohibited.

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby repeals §164.18 (A) Automobile garages, §164.18 (B) Automobile wash service, and §164.18 (D) Industrial Parks, and rennumbers the remaining subsections sequentially.

Section 7. That the City Council of the City of Fayetteville, Arkansas hereby amends §164.18 to insert the following subsection:

- (D) Towing impound yards. An impound yard shall be subject to the following:
 - (1) Motor vehicles shall not be stored on the premises longer than 45 days.

- (2) Impound yards shall be surrounding on all sides by a minimum 6 foot tall wood board privacy fence.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



PC Meeting of December 14, 2009

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~December 8, 2009~~ Updated December 15, 2009

ADM 09-3466; (UDC AMENDMENTS, CHAPTER 151 AND 164): Submitted by City Planning Staff. The request is to amend several chapters of the Unified Development Code (UDC) to clarify vehicle related businesses, including vehicle repair, towing, and salvage.

Planner: Jesse Fulcher

BACKGROUND

November 23, 2009 Planning Commission. This item was discussed at the November 23, 2009 Planning Commission meeting where staff gave a presentation of the proposed amendments to the Unified Development Code (UDC). The Planning Commission and City Attorney provided feedback to staff concerning the proposed amendments. Staff has attempted to incorporate all of the changes recommended into the proposed code. The primary revisions requested are as follows:

- 1) Clarify the definition of a motor vehicle, remove reference to implements of animal husbandry.
- 2) Remove "household waste and garbage" from the definition of a junkyard
- 3) Clarify 164.14 Parking and storing of certain vehicles. Don't want to prohibit owner of antique vehicle or hobbyist.

DESCRIPTION AND PROPOSAL

In addition to the zoning regulations in Chapter 161 of the Unified Development Code (UDC), which apply to all the various zoning districts and associated uses, there are supplementary regulations for certain types of uses and businesses. Specifically, Chapter 164 of the UDC provides restrictions for vehicle-related businesses, including gasoline service stations, car washes and drive-in facilities, as well as requirements for the storage of disabled and unlicensed vehicles.

However, there are several other types of vehicle related businesses that aren't currently regulated by Chapter 164, including towing and impound facilities, auto salvage and automotive repair shops. Unlike the uses currently regulated by Chapter 164, though, these businesses may have areas for the storage of wrecked, disabled or inoperable vehicles. Eventually, this type of storage can create a public nuisance and adversely impact surrounding properties and even neighborhoods.

It is staff's recommendation that Chapter 151 and 164 of the Unified Development Code be modified to include additional definitions and requirements for several types of vehicle related businesses that are most likely to create nuisances if not properly regulated.

The proposal is to amend two (2) chapters of the UDC as summarized below and attached in full to this staff report:

Chapter	Section	Description
Chapter 151.01	Definitions	- Include definitions for auto salvage, junkyard, motor vehicle, motor vehicle accessory store, motor vehicle repair and body shop, towing impound yard and towing service. Additionally, the definition for "filling station" will be changed to "gasoline service station."
Chapter 164.05	Automobile Garages	- Change title to Motor vehicle repair and provide restrictions on the storage and parking of wrecked or abandoned vehicles.
Chapter 164.06	Automobile Wash Service	- Removed regulations and reserved section number.
Chapter 164.14	Parking and storage of certain vehicles	- Clarify regulation and insert new section prohibiting the parking or storage of wrecked vehicles in residential districts.
Chapter 164.18	Supplementary use regulations	- Remove section (A) and section (B), as these regulations are already stated in section 164.05 and 164.06. - Renumber remaining sections. - Add new requirements for towing impound yards. - Remove section (E), since there are landscaping, grading and drainage requirements for all lots regardless of the site location.

The ordinance amendments are shown in highlight and ~~strikeout~~ and are attached to the staff report.

RECOMMENDATION

Staff recommends forwarding ADM 09-3466 to the City Council with a recommendation for approval.

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Motion: Zant

Second: Myres

Vote: 7-0-0

Meeting Date: December 14, 2009

Comments: _____

Revisions requested by Planning Commission and City Attorney

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: Jesse Fulcher, City Planner
Andrew Garner, Senior Planner

FROM: Kit Williams, City Attorney

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

DATE: November 24, 2009

RE: Junkyards, Motor vehicles and §164.14

I have redrafted proposed definitions of "Junkyard" and "Motor vehicle". By referring to the state licensing law (Chapter 14 of Title 27 of the Arkansas Code) the definition of "Motor vehicle" can be short, include what we are trying to regulate, and not include things we do not want to regulate in §164.14: riding lawn mowers, tractors, electric wheelchairs, electric bicycles, four wheelers, etc.

We should define "Junkyard" as it should be operated and not include improper materials (garbage and trash) in its definition which could be used against us if we tried to get improper materials removed from a junkyard.

Much of §164.14's problems go away with the new definition of "motor vehicle". However, I believe we should restrict unlicensed or disabled motor vehicles and trailers to the actual businesses that deal with them rather than various zoning districts in which these and **many other unrelated businesses** may operate: I-1, I-2, C-2, Downtown Core, Mainstreet Center. Unlicensed cars are okay at auto dealerships in C-2 or Downtown Core, but not at other businesses or residences in those zones. We don't want disabled or wrecked cars stored in a manufacturing plant's parking lot even if it is I-2. These should be business sensitive rather than zoning district exceptions.

Junkyard (Zoning) A parcel used to store and resell parts from wrecked or inoperable motor vehicles.

Motor Vehicle (Zoning) A self-propelled vehicle that would have to be licensed to be operated on the public streets and highways. (See Chapter 14 of Title 27 of the Arkansas Code.)

164.14 Parking and Storage of Motor Vehicles and Trailers

Motor vehicles and trailers required to be licensed must have current license plates properly attached if parked or stored (unless completely enclosed in a building) except within the business lot of the following legally operating businesses: auto sales, truck sales, motorcycle sales, trailer sales, junkyards, auto salvage yards, towing impound yards and auto body shop lots. Disabled motor vehicles or trailers must be stored inside buildings unless stored within auto salvage yards, junk yards, auto body shop lots, or towing impound yards.

Chapter 151 and 164 Updated

**TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 151: DEFINITIONS**

151.01 Definitions3

Airport elevation. (Airport Zone) 1,251 feet above mean sea level.

Alley. (Development) A minor public way dedicated to public use for utility easements and vehicle access to the back or the side of properties abutting a street.

Alternative tower structure. (Wireless Telecommunications Facilities) Man-made trees, clock towers, bell steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers and are built for the express purpose of serving as a tower or for locating antennas.

Analysis report. (Tree Preservation and Protection) A report, which among other things, sets forth any alternative designs the applicant considered in arriving at the proposed design.

Animal daycare. (Zoning) A facility that provides day or nighttime supervision for three or more animals. Animals are kept inside the facility, except animals are permitted to be walked on a leash outside. Facilities that contain outdoor dog runs, play areas, or kennels are not considered an animal daycare.

Antenna. (Wireless Telecommunications Facilities) Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes and omni-directional antennas, such as whips but not including satellite earth stations.

Applicant. (Tree Preservation and Protection) Any person, party, partnership, corporation or other business entity seeking the city's approval of a proposed tree preservation plan.

Approach surface. (Airport Zone) A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope. In a plane the perimeter of the approach surface coincides with the perimeter of the approach.

Approach, transitional, horizontal and conical zones. (Airport Zone) Those zones as set forth in § 165.01.

Approval. (Physical Alteration of Land) A written authorization by the city engineer.

Appurtenances. (DDOD) Architectural features consisting of awnings, marquees, porches, stoops, balconies, turrets, cupolas, balconies, colonnades, and arcades.

Arcade. (DDOD) A colonnade composed of counterthrusting arches.

Area sign. (Signs) A sign to identify a common area containing a group of structures, or a single structure on a minimum site of five acres, such as a residential subdivision, residential office, commercial or industrial subdivision, apartment complex, manufactured home park, or shopping center located at the entrance or entrances of the area, and consisting of fence or wall or archway with letters or symbols affixed thereto or other supporting structure as approved by the zoning and development administrator.

Artist Studio. (Zoning) Any building or place of business where Artists use the premises for the creation, sale and/or display of art or craft work.

As graded. (Physical Alteration of Land) The surface condition on completion of grading.

Aspect. (Landscape Regulations) The angle of exposure from sunlight as it relates to the slope of the earth, primarily south and west in this region.

Auto salvage. (Zoning) The dismantling or wrecking of motor vehicles or trailers, or the storage, keeping, selling, buying, or dumping of any wrecked, scrapped, ruined, dismantled, disabled, or inoperable motor vehicle or motor vehicle part.

Awning. (DDOD) A flexible roof-like cover that extends out from an exterior wall and shields a window, doorway, sidewalk, or other space below from the elements.

B

Balcony. (DDOD) An open habitable portion of an upper floor extending beyond a building's exterior wall that is not supported from below by vertical columns or piers but is instead supported by either a cantilever or brackets.

Baluster. (DDOD) A short vertical member used to support a railing or coping.

Balustrade. (DDOD) A railing together with its supporting balusters or posts, often used at the front of a parapet.

Banner. (Signs) Any sign printed or displayed upon cloth or other flexible material, with or without frames.

Barrel roof. (DDOD) Like a covered wagon, or inverted ship; barrel vault is an arch of uniform cross-section.

relationship. The definition of family does not include fraternities, sororities, clubs or institutional groups.

FCC. (Wireless Telecommunications Facilities) The Federal Communications Commission.

FEMA. (Physical Alteration of Land) Federal Emergency Management Agency.

Fill. (Physical Alteration of Land) A deposit of earth material placed by artificial means.

Filling station. (Zoning)

~~(A) Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made, no other:~~

- ~~(1) Sale and servicing of spark plugs, batteries, and distributor parts;~~
- ~~(2) Tire servicing and repair, but no recapping or regrooving;~~
- ~~(3) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;~~
- ~~(4) Radiator cleaning and flushing;~~
- ~~(5) Washing and polishing, and sales of automotive washing and polishing materials;~~
- ~~(6) Greasing and lubrications;~~
- ~~(7) Providing and repairing fuel pumps, oil pumps, and lines;~~
- ~~(8) Minor servicing and repair of carburetors;~~
- ~~(9) Emergency wiring repairs;~~
- ~~(10) Adjusting and repairing brakes;~~
- ~~(11) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;~~
- ~~(12) Sales of cold drinks, package foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operations;~~

~~(13) Provision of road maps and other information material to customer; provision of restroom facilities.~~

~~(B) Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage or a body shop.~~

First or ground floor. (DDOD). The finished floor facing a street right of way.

Flashing sign. (Signs) An illuminated sign on which artificial or reflected lights is not maintained stationary and constant in intensity and color at all times when in use.

Flood or flooding. (Flood Damage Prevention) A general and temporary condition or partial or complete inundation of normally dry land areas from the overflow of flood waters, or the unusual and rapid accumulation or run-off of surface water from any source.

Flood boundary and floodway map. (Flood Damage Prevention) The official map on which the Federal Insurance Administration has delineated both the areas of flood hazards and the floodway.

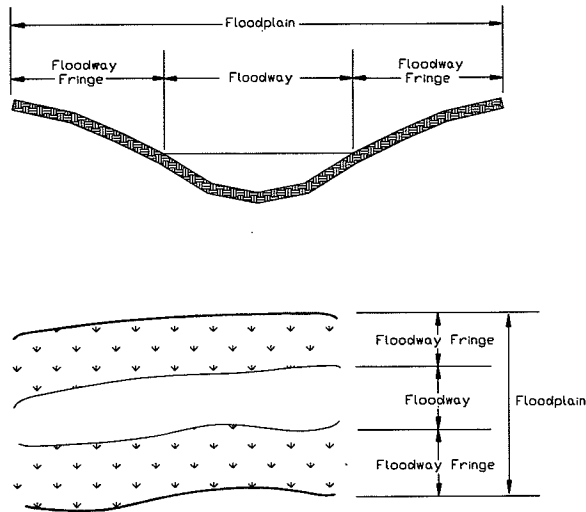
Flood Insurance Rate Map (FIRM). (Flood Damage Prevention) The official map on which the Federal Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the Floodway.

Flood Insurance Study. (Flood Damage Prevention) The official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

Floodplain. (Stormwater Management, Drainage and Erosion Control) For a given flood event, that area of land that is temporarily covered by water and that adjoins a watercourse. In FEMA regulated, or established floodplains, the floodplains shall mean the area subject to inundation from any source during the regulatory event.

Floodplain or flood-prone area. (Flood Damage Prevention) Areas that are subject to, or are exposed to, flooding and flood damage.

TITLE XV UNIFIED DEVELOPMENT CODE



Floodplain management. (Flood Damage Prevention) The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations. (Flood Damage Prevention) Development code, building codes, health regulations, special purpose ordinances (i.e., grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood-proofing. (Flood Damage Prevention) Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. (Flood Damage Prevention) The channel of a river, or other watercourse, and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory floodway."

Floodway. (Stormwater Management, Drainage and Erosion Control) The channel of a stream, plus any adjacent floodplain areas that must be kept free to encroachment so that the 100-year flood discharge can be conveyed without increases of more than specified amount in base elevations, either zero or one foot depending on specific location. This is an area of significant depths and velocities and therefore due consideration should be given to the effects of fill and loss of cross-sectional flow area is increased water surface elevations.

Floor. (DDOD) A story within a building.

Forestation. (Tree Preservation and Protection) The act of planting trees.

Fraternity or sorority house. (Zoning) A building owned or leased by a general or local chapter of some regularly organized college fraternity or sorority, or by or on its behalf by a building corporation or association composed of members or alumni thereof, and occupied by the local chapter of such fraternity or sorority as a place of residence.

Freestanding sign. (Signs) A sign which is attached to or a part of a completely self-supporting structure. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure whether portable or stationary.

Frontage Line. The property line or lines of a lot which coincide with a right-of-way or other public open space.

Functionally dependent use. (Flood Damage Prevention) A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

G

Gable. (DDOD) The vertical triangular end of a building from cornice or eaves to ridge.

Gabled roof. (DDOD) A double sloping roof that forms a gable at each end.

Gambrel roof. (DDOD) A roof where each side has two slopes; a steeper lower slope and a flatter upper one; a 'barn roof'.

Garage sales. (Zoning) An occasional sales activity, not to include activities described elsewhere as home occupations, but including activities generally referred to as garage sales, yard sales, rummage sales, white elephant sales, cleaning sales, or moving sales, where used goods are displayed or offered for sale to the general public in a residential area on the resident's premises.

Gas outlet. (Building Regulations) For the purpose of establishing gas permit fees for additions, alterations, repair, and new installations, a gas outlet shall be defined as any service line and/or pipe replacement or extension and a connection to any device and equipment that receives, stores, consumes, transfers, and/or discharges gas.

Gasoline service station. (Zoning) Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the

following services may be rendered and sales made, no other:

- (A) Sale and servicing of spark plugs, batteries, and distributor parts;
- (B) Tire servicing and repair, but no recapping or regrooving;
- (C) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
- (D) Radiator cleaning and flushing;
- (E) Washing and polishing, and sales of automotive washing and polishing materials;
- (F) Greasing and lubrications;
- (G) Providing and repairing fuel pumps, oil pumps, and lines;
- (H) Minor servicing and repair of carburetors;
- (I) Emergency wiring repairs;
- (J) Adjusting and repairing brakes;
- (K) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- (L) Sales of drinks, package foods, tobacco, and similar convenience goods for gasoline service station customers, as accessory and incidental to principal operations;
- (M) Provision of road maps and other information material to customer; provision of restroom facilities.
- (N) Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations. A gasoline service station is not a repair garage or a body shop.

Glare (Outdoor Lighting) means the brightness of a light source that causes eye discomfort.

Grade. (Physical Alteration of Land) The percentage of rise or fall per 100 feet. Existing grade is the grade prior to grading. Rough grade is the stage at which the grade approximately conforms to

the approved plan. Finish grade is the final grade of the site which conforms to the approved plan.

Grading. (Physical Alteration of Land) Any stripping, cutting, filling, or stockpiling of earth or land.

Green Roof. (Stormwater) Elevated roof surfaces that are entirely covered with a thin soil and vegetation layer.

Ground cover. (Physical Alteration of Land) Plants with low, spreading habit that form a dense mat in time, preventing erosion.

Guyed towers. (Wireless Telecommunications Facilities) A communications tower that is supported, in whole or in part, by guy wires and ground anchors.

H

Habitable Space. Building space whose use involves human presence. Habitable space excludes parking garages, self-service storage facilities, warehouses, and display windows separated from retail activity.

Hazard to air navigation. (Airport Zone) An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Hazardous tree. (Tree Preservation and Protection) A tree or tree parts with high probability of falling or causing injury or property loss; also, a tree harboring insects or a disease that could be detrimental to surrounding trees.

Health officer. ((Manufactured Homes and Parks) (Manufactured Homes and Parks opened or expanded, 4-20-72) The legally designated health authority of the city or his authorized representative.

Height. (Airport Zone) Sea level elevation, unless otherwise specified.

Height. (Hillside/Hilltop Overlay District) Building height shall be measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure. If the structure is located on a graded pad then the height of the building is measured from the historic grade.

Height. (Wireless Telecommunications Facilities) The vertical distance measured from the mean elevation of the finished grade to the highest point on the tower or other structure, even if said highest point is an antenna or antenna array.

Highest adjacent grade. (Flood Damage Prevention) The highest natural elevation of the

Independent manufactured home. ((Manufactured Homes and Parks) (Manufactured Homes and Parks opened or expanded, 4-20-72) A manufactured home which has a flush toilet and a bath or shower.

Intermittent stream. (Stormwater Management Drainage and Erosion Control) A stream that carries water part of the year is dry another part but receives flow from the groundwater table when it is high enough.

Invasive species. (Tree Preservation and Protection) Any species not indigenous to a region, which becomes established and displaces native species.

J

Joint identification sign. (Signs) A sign which serves as common or collective identification for a group of persons or businesses operating on the same subdivision or lot in a residential office, commercial or industrial district (e.g., shopping center, office complex, etc.) Such sign may name the person(s) or business included but carry no other advertising matter.

Junkyard. (Zoning) Any worn out or discarded materials including but not limited to scrap metal, inoperable motor vehicles and parts, construction material, discarded appliances, or other material in a condition such that it cannot be used for its original purposes.

K

Kennel. (Zoning) A structure or facility used for the purpose of breeding two or more litters of puppies or kittens within any twelve month period. A facility that keeps animals commercially and has open dog runs, outside play areas, or any areas where animals are kept or left outside.

L

Lamp or Bulb (Outdoor Lighting) means the light producing source installed in the socket portion of a luminaire.

Land disturbance. (Tree Preservation and Protection) Clearing, scraping, grubbing, or otherwise removing or destroying the vegetation of a site, or adding, removing, exposing, excavating, leveling grading, digging, tunneling, trenching, burrowing, dumping, piling, dredging or application of toxic substance, storage of materials, and operation of equipment, or otherwise significantly disturbing the soil, mud, sand, or rock of a site.

Landscape administrator. (Tree Preservation and Protection) The person who is responsible for the administration of Tree Preservation and Protection, Chapter 167 and Landscape Regulations, Chapter 177. Also known as Urban Forester.

Landscape establishment guarantee. (Tree Preservation and Protection) A bond, irrevocable letter of credit, or other surety held by the city until the satisfactory conclusion of the three year landscape establishment period.

Landscape fabric. (Physical Alteration of Land) A barrier against soil erosion, allowing water to pass through while keeping soil in place.

Landscaping. (Zoning) The area within the boundaries of a given lot which consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

Large-scale development. (Development) The development of a lot or parcel larger than one acre. The term development shall include, but shall not be limited to, the construction of a new improvement, the construction of an addition to an existing improvement, or a parceling which results in the need for access and utilities.

Larger than utility runway. (Airport Zone) A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12, 500 pounds maximum gross weight and jet powered aircraft.

Lattice tower. (Wireless Telecommunications Facilities) A guyed or self-supporting three or four sided, open, steel frame structure used to support telecommunications equipment.

Lease. (Signs) An agreement by which a property owner conveys, usually for a specified rent, to other persons, permission to erect and maintain an advertising sign upon his property.

Less desirable species. (Tree Preservation and Protection) Low-priority trees or other woody shrubs listed in the City of Fayetteville *Tree Preservation, Protection, and Landscape Manual*.

Levee. (Flood Damage Prevention) A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

on a community's Flood Insurance Rate Map are referenced.

Meter. (Building Regulations) For the purpose of establishing electrical permit fees for additions, alterations, repair, and new installments and to include farm buildings and owner/occupied dwellings a meter shall be defined as an apparatus to measure electrical power and an outlet shall be defined as a point on the wiring system at which current/voltage is switched, connected to a lighting fixture or receptacle, connected to utilization equipment, and connected to any equipment that receives, controls, stores, consumes, and/or transfers electricity.

Ministorage units. (Zoning) A structure or structures containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Mitigation. (Tree and Preservation and Protection) The planting of trees on-site in an effort to lessen the environmental damage caused by the injury or removal of trees during development.

Mobile home. (Zoning) A manufactured home built prior to June 15, 1976.

Monopole tower. (Wireless Telecommunications Facilities) A communications tower constructed without the use of guy wires and ground anchors and consisting of only a single pole.

Monument sign. (Sign) A freestanding sign with a maximum height of six feet above the surrounding finish grade and whose entire base is in contact with and supported by the ground.

Motor vehicle. (Zoning) A self-propelled vehicle that would have to be licensed to be operated on the public streets and highways. (See Chapter 14 of Title 27 of the Arkansas Code.)

Motor vehicle accessory store. (Zoning) Stores that sell new automobile parts, tires, and/or accessories.

Motor vehicle repair and body shop. (Zoning) Any property, building or portion thereof used for the service and repair of motor vehicles including major mechanical repair and body work, straightening of body parts, painting, welding, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations.

Mulch. (Physical Alteration of Land) A layer of leaves, straw, bark, or other organic material spread around plants to retain moisture, and to control weeds or erosion.

Mullions. (DDOD) Strips of wood or metal that separate and hold in place the panes of a window.

Muntin. (DDOD) A short vertical or horizontal bar used to separate panes of glass in a window or panels in a door. The muntin extends from a stile, rail, or bar to another bar. This term is often confused with mullion.

N

Native woodlands. (Tree Preservation and Protection) A biological community of trees and woody shrubs native to the Ozark Plateau, covering an area of 10,000 square feet or greater. A list of species to the Ozark Plateau may be found in the City of Fayetteville *Tree Preservation, Protection, and Landscape Manual*.

Natural drainage ways. (Physical Alteration of Land) Ephemeral, intermittent and perennial streams. Chapter 169 is not concerned with ephemeral streams.

New construction. (Flood Damage Prevention) For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of this development code.

New Development. (Water and Wastewater Impact Fees) Construction of a new single family home and the construction or expansion of any other building or structure. The change in use of a building or structure that results in increased demand from water and wastewater facilities shall also be considered new development.

Nonconforming sign. (Signs) A sign existing on 12-19-72 which could not be built under the terms of the UDC.

Nonconforming use. (Airport Zone) Any pre-existing structure, object of natural growth, or use of land which does not conform to the provisions of Chapter 165 or an amendment thereto.

Nonconforming use. (Zoning) A use that lawfully occupied a building or structure or land on the effective date of the zoning ordinance, adopted June 29, 1970, and that does not conform to the use regulations of the district in which it is located.

Non-native woodlands. (Tree Preservation and Protection) A biological community of trees and woody shrubs, covering the area of 10,000 square feet or greater, descended from non-native species brought to the area during urban settlement. A list of typical non-native species may be found in the City of Fayetteville *Tree Preservation, Protection, and Landscape Manual*.

Nudity or state of nudity. (Zoning)

Topping. (Tree Preservation and Protection) Also referred to as stubbing, dehorning, pollarding and heading; it is the severe removal of the tree canopy back to large stubs.

Tower or communications tower. (Wireless Telecommunications Facilities) Any structure that is designed and constructed for the primary purpose of supporting one or more antennas, including lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This term is not intended to describe buildings or other structures that have been constructed primarily for a purpose other than supporting one or more antennas, despite the fact that such structure may currently, or in the future, actually support one or more antennas.

Towing impound yard. (Zoning) A facility operated for the temporary storage of towed motor vehicles that are to be claimed by their title holders or agents, or transported to a repair shop.

Towing service. (Zoning) An establishment that provides for the removal of a motor vehicle by towing, carrying, hauling or pushing from public or private property when such vehicle has been ordered to be impounded to a public or private impound yard. This shall not include a "motor vehicle repair and body shop" use that has a tow truck and services vehicles on-site.

Townhouse. (Zoning) Two or more single-family dwelling units constructed in a series of attached units with property lines separating each unit.

Transitional surfaces. (Airport Zone) A surface extending outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

Travel trailer. (Zoning) A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

Tree. (Airport Zone) Any object of natural growth.

Tree. (Tree Preservation and Protection) Any self-supporting woody perennial plant, usually having a main stem or trunk and many branches, and at maturity normally attaining a trunk diameter greater than three inches at DBH and a height of over 10 feet.

Tree and Landscape Advisory Committee. (Tree Preservation and Protection) An advisory committee appointed by the City Council to assist the landscape administrator with city beautification and the management of its trees.

Tree preservation area. (Tree Preservation and Protection) Those areas designated for the protection of both preserved and planted trees depicted on a tree preservation plan, abbreviated tree preservation plan, preliminary plat, large scale development, or site plan.

Tree preservation plan. (Tree Preservation and Protection) A site plan that delineates tree preservation areas and details measures to be taken to ensure protection and survivability of trees to be saved, prior to and during construction.

Tree registry. (Tree Preservation and Protection) A list of trees registered with the city due to documented historic association, rare tree species or extraordinary value because of their age, size or type.

Tree surgery. (Tree Preservation and Protection) Includes cavity filling/repair, bracing, cabling, and wound treatment.

Turret. (DDOD) A small tower or tower-shaped projection on a building.

U

Unified Soil Classification System. (Physical Alteration of Land) A system adopted jointly by the Corps of Engineers and Bureau of Reclamation in 1952 to classify soils according to texture, plasticity, and performance as engineering construction material.

Unit. (Building Regulations) A product or equipment used in heating and air conditioning, refrigeration, ventilation, or process cooling and heating system.

Universal soil loss equation. (Physical Alteration of Land) An equation that was developed by USDA to determine erosion based rainfall, soil irritability, slope, length of slope, plant cover, and mulching.

Urban. (Development) Located within the corporate city limits.

Urban Forester. (Tree Preservation and Protection, Landscape Regulations) The person who is responsible for the administration of Tree Preservation and Protection, Chapter 167 and Landscape Regulations, Chapter 177. Also known as Landscape Administrator.

Urban street. (Development) A street located, or to be located, within the city limits.

TITLE XV UNIFIED DEVELOPMENT CODE CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS
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(Code 1965, App. A., Art. 7 (3); Ord. No. 1747, 6-29-70;
Code 1991, §160.078; Ord. No. 4100, §2 (Ex. A.), 6-16-98;
Ord. 5198, 12-2-08)

164.05 Automobile Garages Motor Vehicle Repair

In any district where permitted, automobile garages filling gasoline service stations and motor vehicle repair and body shops shall be subject to the following regulations. ~~set forth for drive-in facilities and all appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line in an A or R district.~~

- (A) All appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line in an A or R district.
- (B) Although temporarily inoperable, motor vehicles shall have substantially all of its main component parts attached, and where subject to a license, is currently and validly licensed for operation upon public streets and highways.
- (C) No motor vehicle to be repaired shall be stored on the premises longer than 45 days.
- (D) No abandoned vehicles shall be stored on the premises.
- (E) Vehicles shall be parked in such a way so they do not encroach upon City right-of-way, or block pedestrian or vehicular visibility.

(Code 1991, §160.079; Code 1965, App. A, Art. 7(4); Ord. No. 1747, 6-29-70)

164.06 Reserved Automobile Wash Service

~~Automobile wash service shall be subject to the provisions set forth in § 164.18(C) drive-in facilities. The following provisions shall also be required: Paved parking space on the lot for not less than five cars per washing lane shall be provided.~~

~~(Code 1991, §160.080; Code 1965, App. A, Art. 7(5); Ord. No. 1747, 6-29-70; Ord. No. 2380, 9-20-77)~~

164.07 Erection Of More Than One Principal Structure On A Lot Of Record

In any district, more than one structure housing a permitted principal use may be erected on a single lot, provided that setback and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

(Code 1965, App. A., Art. 8(4); Ord. No. 1747, 6-29-70;
Code 1991, §160.112; Ord. No. 4100, §2 (Ex. A.), 6-16-98)

164.08 Extraction

- (A) *Rezoning.* Extractive uses are generally incompatible with other land uses and cannot be permitted as a use by right in any district. Such uses are to be considered by rezoning request. In an extraction district no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:
 - (1) Extractive uses as described in Use Unit 30;
 - (2) City-wide uses by right as described in Use Unit 1;
 - (3) Park, playground, or preserve operated on a noncommercial basis;
 - (4) Accessory uses and buildings.
- (B) *Exception.* Extractions which occur in association with development activities and not for the primary purpose of exporting earth products (any material of commercial value found in the earth) shall be subject to Chapter 169, Physical Alteration of Land without requirement for extraction district rezoning.
- (C) *Operational requirements.* Operations at the site shall not create unusual traffic hazards or the need for special public improvements, nor the need for special protection, repair, or maintenance of adjacent property. Blasting operations shall be limited to Mondays through Fridays, between 8:00 a.m. and 5:00 p.m. Creation of undrained pockets and stagnant pools shall be avoided to the maximum extent. The operation of machinery (other than extraction equipment) such as sorters, crushers, or other processing devices shall not be permitted within 500 feet of any lot lines. While excavation is in progress, effective steps shall be taken to control erosion of disturbed areas. Such measures may include seeding, mulching, screening, stabilizing, or other cover as appropriate.
- (D) *Fencing and screening.* Where deemed necessary by the Planning Commission, approved safety fences shall be provided. In addition, where deemed necessary to protect abutting property from diminution of land value or use, the Planning Commission may require approved fencing and/or screening of at least 75% opaqueness.
- (E) *Rezoning application.* The application shall include the following:
 - (1) *Arkansas Open Cut Land Reclamation Act.* A letter from the State Department of Pollution Control and Ecology stating

facilities	
Tool or equipment storage	200 ft.
Indoor Facilities:	
Air conditioning tower or dispenser unit	50 ft.
Auditorium, ballroom, dining room, or meeting room having a floor area of more than 1, 200 square feet, game court, game room, gymnasium, locker or shower room, place where alcoholic beverages are served, spectator facilities, swimming pool, theater, or similar indoor facility:	
If fully air-conditioned	100 ft.
If not fully air-conditioned	200 ft.
Building of a general hospital or convalescent home	50 ft.
Building of a hospital, sanitarium or convalescent home for alcoholic, mental, nervous, narcotic or contagious patients	200 ft.
All Other Facilities:	
If fully air-conditioned	50 ft.
If not fully air-conditioned	100 ft.

(Code 1965, App. A., Art. 7 (14); Ord. No. 1747, 6-29-70;
Code 1991, §160.088; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.14 Parking And Storage Of Certain Vehicles

- (A) ~~Automotive Motor vehicles or trailers of any kind or type without current license plates shall not be parked or stored in any zones, except those allowing auto sales or salvage unless completely enclosed in buildings or carports connected to the principal structure,~~ which are required to be licensed, must have current license plates properly attached (unless completely enclosed within a building) except within the lot of the following legally operating businesses: vehicle sales, trailer sales, junkyards, auto salvage yards, towing impound yards and auto body shops.
- (B) Disabled motor vehicles or trailers must be stored inside buildings ~~except in zones allowing auto salvage~~ unless stored within auto salvage yards, junk yards, auto body shop lots, or towing impound yards.
- (C) Parking or storing wrecked or abandoned vehicles within residential districts is prohibited.

(Code 1965, App. A., Art. 8(7); Ord. No. 1747, 6-29-70;
Code 1991, §160.115; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)—General Provisions, Ch. 150; Administration, Ch. 152; Enforcement, Ch. 153; Appeals, Ch. 155; Notification and Public Hearings, Ch. 157; Streets and Sidewalks, Ch. 171.

164.15 Prefabricated Construction

- (A) *Residential unit.* Prefabricated residential units shall be considered as a single-family or multi-family residential unit, whichever is appropriate, and shall meet the requirements of the governing district.
- (B) *Additional requirements.* In addition it shall be necessary for all units to meet the following requirements:
- (1) The building codes of the city;
 - (2) Be secured to a permanent masonry or concrete foundation;
 - (3) Have permanent water and sewer connections;
 - (4) Have a minimum roof pitch of four to twelve (4:12);
 - (5) Nongable roof ends shall have a minimum overhang of twelve (12) inches; and
 - (6) Have a minimum building width of twenty feet (20').

(Code 1965, App. A., Art. 7 (13); Ord. No. 1747, 6-29-70;
Code 1991, §160.087; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.16 Structures To Have Access

Every building hereafter erected or moved shall be located on a lot which has frontage on a public street; provided, the Planning Commission shall have the authority to waive this requirement where the property owner provides safe and convenient access for fire protection and sanitation vehicles. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

(Code 1965, App. A., Art. 8(6); Ord. No. 1747, 6-29-70; Ord. No. 2555, 8-21-79; Code 1991, §160.114; Ord. No. 4100, §2 (Ex. A), 6-16-98)

164.17 Visibility At Intersections In Residential/Nonresidential Districts

- (A) *Residential.* On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2 and ½ feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line adjoining points along said street lines 25 feet from the point of the intersection.
- (B) *Nonresidential.* On a corner lot in any nonresidential district, nothing shall be erected, placed, planted, or allowed to grow, and no motor vehicle or mobile home shall be parked in a

manner as to materially impede vision between a height of 2 and ½ feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line adjoining points along said street lines 10 feet from the point of the intersection; provided, this restriction shall not be applicable to a corner lot located in a DC, MSC or DG zoning district.

(Code 1965, App. A., Art. 8(1, 1.1); Ord. No. 1747, 6-29-70; Ord. No. 2193, 2-3-76; Code 1991, §160.110; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5028, 6-19-07)

164.18 Supplementary Use Regulations

~~(A) Automobile garages.~~ In any district where permitted, automobile garages shall be subject to the regulations set forth in §164.16(C) for drive-in facilities and all appurtenances used for repair or servicing of vehicles which are not enclosed shall be located at least 12 feet from a street lot line and 25 feet from any lot line in an A or R District.

(Code 1965, App. A., Art. 7 (4); Ord. No. 1747, 6-29-70; Code 1991, §160.079; Ord. No. 4100, §2 (Ex. A), 6-16-98)

~~(B) Automobile wash service.~~ Automobile wash service shall be subject to the provision set forth in §164.18(C), for drive-in facilities. The following provision shall also be required: Paved parking space on the lot for not less than five cars per washing lane shall be provided.

(Code 1965, App. A., Art. 7 (5); Ord. No. 1747, 6-29-70; Ord. No. 2380, 9-20-77; Code 1991, §160.080; Ord. No. 4100, §2 (Ex. A), 6-16-98)

~~(C) Gasoline service stations.~~ A gasoline service station shall be subject to the following requirements:

- (1) *Bulk and area.* Gasoline service stations shall be regulated by the bulk and area requirements of the district in which it is located and the following:

Minimum setback of pump island, compressed air connection and similar equipment from all right-of-way lines	25 ft.
Minimum setback of canopy covering pump island, compressed air connection and similar equipment from all right-of-way lines. (**Canopies shall not be considered a part of the building for determining building setbacks even if said canopies are attached to the principal structure.)	20 ft.

- (2) *Signs.* Any permitted sign shall be stationary and shall conform in all respects to the applicable regulations pertaining to signs.
- (3) *Auto washing.* Washing of autos shall be entirely within an enclosed structure.

(Code 1965, App. A., Art. 7 (9); Ord. No. 1747, 6-29-70; Ord. No. 1870, 6-19-72; Ord. No. 2126, 7-15-75; Code 1991, §160.084; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5271, 9-1-09)

~~(D) Industrial parks.~~ Sites for industrial parks shall be developed according to the following requirements:

- (1) *Landscaping.* The first 10 feet of depth of required front setbacks and of required rear setbacks facing a street and the first 20 feet of width of a required exterior setback shall be permanently maintained in suitable landscaping, a plat of the design of which shall be filed with the Zoning and Development Administrator prior to the issuance of building permit.

- (2) *Grading and drainage.* All open portions of any lot shall have adequate grading and drainage, and shall be continuously maintained in a dust-free condition by suitable landscaping with trees, shrubs, or planted ground cover, or by paving with asphaltic concrete, rock, Portland cement concrete, or other resilient materials.

(Code 1965, App. A., Art. 7(15); Ord. No. 1747, 6-29-70; Ord. No. 380, 9-1-20-77; Code 1991, §160.089, Ord. No. 4100, §2 (Ex. A), 6-16-98)

~~(E) Retail liquor stores.~~ Retail liquor stores may be located in those zoning districts where such use is permitted, subject to the following conditions:

- (1) *Church/school/hospital.* No retail liquor store shall be located within 600 feet (200 yards) of any church, hospital, or school house. For the purpose of this section, "schoolhouse" shall include classroom and dormitory buildings of the University of Arkansas.
- (2) *Residential zone.* No retail liquor store shall be located on any property two or more sides of which abut or are across the street from and perpendicular to property zoned residential. For the purpose of this section the term "street" shall not include any federal highway.

(Code 1965, App. A., Art. 7 (22); Ord. No. 1747, 6-29-70; Ord. No. 2122, 7-15-75; Ord. No. 2380, 9-21-77; Code 1991, §160.092; Ord. No. 4100, §2 (Ex. A), 6-16-98)

(F C) *Riding stables.* In any district where permitted, riding stables shall be subject to the following conditions.

- (1) *Minimum area.* Riding stables shall not be located on any property which does not contain a minimum of 40 acres of undeveloped land.
- (2) *Setback from residential property lines.* No riding stable shall be located within 250 feet of the property line of any abutting property zoned residential and no riding path shall be located within 100 feet of the property line of any abutting property zoned residential.
- (3) *Extent of operations.* The operation of a riding stable shall be limited to the boarding of horses, the providing of riding lessons, and the renting of riding horses, saddles, bridles, and other accessories for use on the premises. No horse racing or horse shows shall be permitted on the premises; provided, horse shows displaying only those horses used in the daily operation of a riding stable may be permitted. The operation of a riding stable shall be limited to the hours of 6:00 a.m. to 10:00 p.m.
- (4) *Number of horses permitted.* The number of horses permitted on premises used for a riding stable shall be limited to one horse for every three-fourths (3/4) acre of undeveloped land.

(Code 1965, App. A., Art. 7 (23); Ord. No. 1747, 6-29-70; Ord. No. 2123, 7-25-75; Code 1991, §160.092; Ord. No. 4100, §2 (Ex. A), 6-16-98)

(D) *Towing impound yards.* An impound yard shall be subject to the following:

- (1) Motor vehicles shall not be stored on the premises longer than 45 days.
- (2) Impound yards shall be surrounding on all sides by a minimum 6 foot tall wood board privacy fence.

164.19 Accessory Dwelling Units (ADU)

(A) *Purpose.* The purpose of the accessory dwelling unit ordinance is to authorize accessory dwelling units in certain zoning districts on lots already developed or that will be developed concurrently with single-family dwellings.

(B) *Intent.* Planning Staff shall evaluate the following criteria for the review and approval of an accessory dwelling unit application:

- (1) Exterior design of the accessory dwelling unit should be compatible with the principal dwelling unit through architectural use of building forms, height, construction materials, and colors.
- (2) The property shall have infrastructure (water, sewer, gas, electric, etc.) that meets City standards to serve the accessory dwelling unit.
- (3) The location and design of the accessory dwelling unit shall meet the required setbacks of the zoning district.
- (4) A two-story accessory dwelling unit should generally limit the major access stairs, decks, entry doors, and major windows to the walls facing the principal dwelling, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard should be minimized. The design of the accessory unit should relate to the design of the principal residence and not visually dominate it or the surrounding properties.
- (5) The orientation and location of buildings, structures, open spaces and other features of the site should protect and maintain natural resources including significant trees and shrubs to the extent feasible and minimize alteration of natural land forms. Building profiles, location and orientation should relate to natural land forms.
- (6) The site plan should incorporate low impact storm water mitigation techniques, such as cisterns, rain barrels, permeable pavers, rain gardens, indigenous plants and landscape berms.

(C) *Permitted Zoning Districts:* Accessory dwelling units shall be exempt from the density requirements of the underlying zoning district and shall be permitted by-right on lots containing 5,000 square feet or more in the following Zoning districts:

- (1) R-A Residential Agricultural
- (2) RSF – 0.5 Residential Single Family – One Half Unit per Acre
- (3) RSF – 1 Residential Single Family – One Unit per Acre
- (4) RSF – 2 Residential Single Family – Two Units per Acre
- (5) RSF – 4 Residential Single Family – Four Units per Acre

City of Fayetteville Staff Review Form

C. 2
RZN 10-3614 (WRMC)
Page 1 of 20

City Council Agenda Items
and
Contracts, Leases or Agreements

8/17/2010

City Council Meeting Date
Agenda Items Only

Dara Sanders
Submitted By

Planning
Division

Development Services
Department

Action Required:

RZN 10-3614: (WRMC, 212): Submitted by USI-Arkansas, Inc. for property located at lot 5 Brookstone Subdivision, the southeast corner of Wimberly Drive and Longview Street. The property is zoned R-O, Residential Office, and contains approximately 4.37 acres. The request is to rezone the subject property to P-1, Institutional.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

8-21-2010
Date

Previous Ordinance or Resolution #

City Attorney

August 2, 2010
Date

Original Contract Date:

Original Contract Number:

Finance and Internal Services Director

8-2-2010
Date

Received in City Clerk's Office 07-30-10 P03:33 RCVD

Chief of Staff

8-2-10
Date

Received in Mayor's Office

Mayor

8/2/10
Date



Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Dara Sanders, Current Planner

Date: July 29, 2010

Subject: RZN 10-3614 Washington Regional Medical Center

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance to rezone the subject property from R-O, Residential Office to P-1, Institutional (RZN 10-3617).

BACKGROUND

The subject property is located at the intersection of Wimberly Drive and Longview Street, south of Millsap Road, and is undeveloped. The surrounding area has transitioned from primarily professional offices to one of the City's highest concentration of medical uses with the relocation of the Washington Regional Medical Center. This area now consists of pediatric, general, surgical, and specialty medical offices, including the Washington County Health Department.

The Washington Regional Medical Center currently owns and intends to develop the subject property for a Hospice facility, which provides care for terminally ill patients, and the applicant requests to rezone the property from R-O, Residential Office to P-1, Institutional so that the underlying zoning district will accurately reflect the use and development of the property.

DISCUSSION

On July 26, 2010 the Planning Commission forwarded this request to the City Council with a recommendation for approval with a vote of 8-0-0.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 10-3614, FOR APPROXIMATELY 4.37 ACRES, LOCATED AT LOT 5 BROOKSTONE SUBDIVISION, THE SOUTHEAST CORNER OF WIMBERLY DRIVE AND LONGVIEW STREET FROM R-O, RESIDENTIAL OFFICE, TO P-1, INSTITUTIONAL.

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-O, Residential Office to P-1, Institutional, 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"

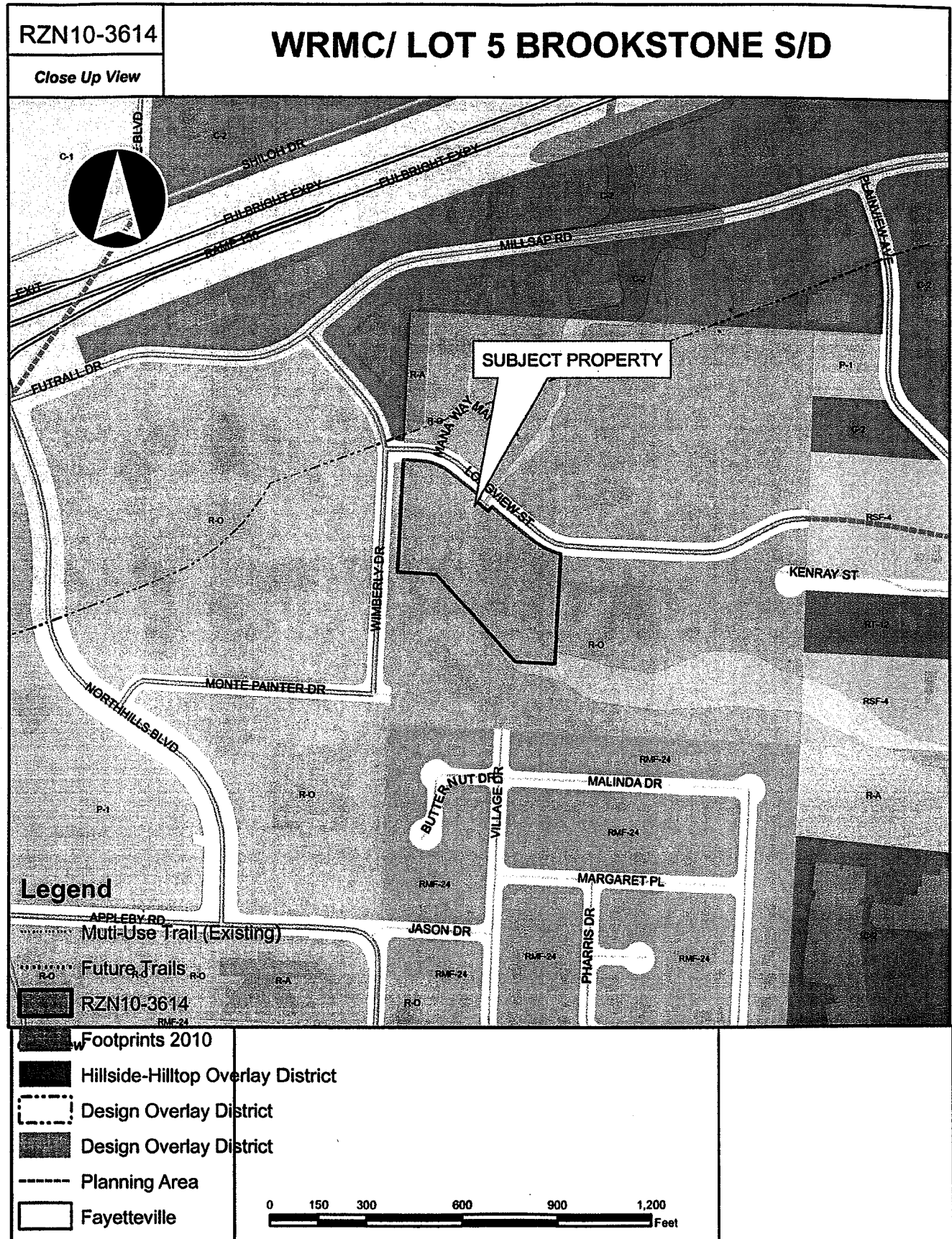


EXHIBIT "B"
RZN 10-3614

METES AND BOUNDS DESCRIPTION FOR LOT 5 (BASED ON BROOKSTONE PLAT):

A PART OF THE SE 1/4 OF THE SW 1/4 OF SECTION 26, TOWNSHIP 17 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN ALUMINUM MONUMENT AT THE SE CORNER OF SAID SE 1/4 OF THE SW 1/4 AND RUNNING THENCE S 89° 06' 36" W A DISTANCE OF 1315.46 FEET ALONG THE SOUTH LINE OF SAID 40 ACRE TRACT TO A STONE MONUMENT AT THE SW CORNER OF SAID 40 ACRE TRACT; THENCE N 0° 31' 44" W A DISTANCE OF 484.61 FEET TO THE POINT OF BEGINNING; THENCE N 89°37'13" E A DISTANCE OF 122.09 FEET; THENCE S 45°24'17" E A DISTANCE OF 374.63 FEET; THENCE N 89°06'15" E A DISTANCE OF 124.79 FEET; THENCE N 00°31'44" W A DISTANCE OF 349.42 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF LONGVIEW STREET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 235.00 FEET, A LENGTH OF 105.75 FEET, A DELTA ANGLE OF 25°46'55", A CHORD BEARING OF N 66°23'18" W, AND A CORD LENGTH OF 104.86 FEET; THENCE N 53°29'50" W A DISTANCE OF 161.10 FEET; THENCE S 36°32'24" E A DISTANCE OF 20.00 FEET; THENCE N 53°29'50" W A DISTANCE OF 50.00 FEET; THENCE N 36°32'24" E A DISTANCE OF 20.00 FEET; THENCE N 53°37'57" W A DISTANCE OF 118.11 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 165.00 FEET, A DELTA ANGLE OF 37°06'22", AND A LENGTH OF 106.65 FEET; THENCE S 89°28'06" E A DISTANCE OF 53.33 FEET; THENCE S 00°31'44" E A DISTANCE OF 358.85 FEET BACK TO THE POINT OF BEGINNING, CONTAINING 4.37 ACRE MORE OR LESS.



PC Meeting of July 26, 2010

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Subdivision Committee
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: July 19, 2010 *Updated July 29, 2010*

RZN 10-3614: Rezoning (WRMC/LOT 5 BROOKSTONE S/D, 212): Submitted by USI-ARKANSAS, INC. for property located at LOT 5 BROOKSTONE SUBDIVISION, THE SOUTHEAST CORNER OF WIMBERLY DRIVE AND LONGVIEW STREET. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 4.37 acres. The request is to rezone the property to P-1, Institutional. Planner: Dara Sanders

BACKGROUND:

Property Description: The subject property is located at the intersection of Wimberly Drive and Longview Street, south of Millsap Road, and is undeveloped. The surrounding area has transitioned from primarily professional offices to one of the City's highest concentration of medical uses with the relocation of the Washington Regional Medical Center. This area now consists of pediatric, general, surgical, and specialty medical offices, including the Washington County Health Department.

SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Professional and medical offices	R-O, C-2
South	Washington County Health Department	R-O
East	Medical offices	R-O
West	Medical offices	R-O

Proposal: The Washington Regional Medical Center currently owns and intends to develop the subject property for a Hospice facility, which provides care for terminally ill patients. This use would be permitted under the R-O, Residential Office, zoning district subject to Planning Commission approval of a conditional use permit.

Request: The applicant requests to rezone the property from R-O, Residential Office to P-1, Institutional so that the underlying zoning district will accurately reflect the use and development of the property.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends forwarding the rezoning request (RZN 10-3614) to the City Council with a recommendation of approval based on findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>July 26, 2010</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Chesser	Second: Bunch	Vote: 8-0-0	
CITY COUNCIL ACTION: Required <u>YES</u>			
		Approved	☐ Denied
Date:			

INFRASTRUCTURE:

- Streets:** The site has access to Longview Street and Wimberly Road. Both streets are fully improved two lane city streets in this location. Street improvements will be evaluated with development submittal
- Water:** Public water is available to the property. There is an 8" public main located along the south side of this property. Public mains may need to be extended through the property to serve any proposed development.
- Sewer:** Sanitary sewer is available to the site. There is a 12" public main located along the south side of this property. Public mains may need to be extended through the property to serve any proposed development
- Drainage:** Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as Urban Center Area, which encourages complete, compact and connected neighborhoods including building types that accommodate retail, offices, rowhouses and apartments. These areas contain taller buildings and have the most intense and dense development patterns within the City, as well as the greatest variety of buildings. These areas recognize conventional strip development, but encourage the redevelopment of these existing properties for more efficient use of the land.*

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed P-1 zoning is consistent with the City's Urban Center Area land use designation to encourage a range of uses and regional destinations. Based on the City's adopted land use planning objectives and principles, staff finds that the subject property, in close proximity to a regional hospital and other supporting medical uses, would be appropriately regulated under the P-1 zoning district and would contribute to the development of this area as a regional medical complex providing essential medical care to the needs of Northwest Arkansas.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The increase of the Northwest Arkansas population has resulted in an increased need and demand for essential services, including medical care. The subject property is located within the immediate vicinity of the Washington Regional Medical Center, which provides a medical service not only to the citizens of Fayetteville but to the entire region. Staff finds that the subject property could be developed under the current R-O zoning district, which permits professional and medical offices by-right and institutional uses (hospitals, schools, churches) by conditional use.

However, the subject property, currently owned by the Washington Regional Medical Center, will likely be developed for a hospital use, as it is the stated intent of the property owner to be developed for a hospice facility. Should the intended use no longer operate on the subject property, future uses would likely be associated with the medical uses in the surrounding area; therefore, staff finds that the proposed zoning is justified at this time, as the R-O zoning district would impose unnecessary regulation and delay on the future development and uses of the subject property.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: It is expected that a rezoning from R-O to P-1 could result in the potential for a slight increase in traffic compared with that allowed under the existing zoning. However, the infrastructure in the surrounding area has been improved with several of the surrounding developments and will continue to be improved as the vacant properties continue to be developed. This site is accessed off two improved Collector streets (Longview Street and Wimberly Drive) connecting directly to another improved Collector street, Millsap Road, which are capable of supporting the volumes of traffic that could be generated under the P-1 zoning.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property. The change in zoning to P-1 would not permit uses that would adversely impact public services.

Increased load on public services were taken into consideration and recommendations from the Engineering and Fire Departments are included in this report.

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: Not applicable. Staff recommends in favor of the requested zoning.

Fayetteville Unified Development Code

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.

Fayetteville Unified Development Code

161.29 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	20 ft.
Side, when contiguous to a residential district	25 ft.
Rear	25 ft.
Rear, from center line of public alley	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a 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.

RZN 10-3613: Rezoning (WATSON/5989 E. HUNTSVILLE, 611). submitted by MARIE WATSON for property located at 5989 E. HUNTSVILLE ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.50 acres. The request is to rezone the subject property to R-O, Residential Office.
Planner:
Andrew Garner

Public water is available to the property. There is an 8" public main located along the north side of Huntsville Road.. 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 a 6" public main located along the south side of Huntsville Road directly in front 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 Huntsville Road. Huntsville Road is a two lane state highway 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.



RZN 10-3614: Rezoning (WRMC/LOT 5 BROOKSTONE S/D, 212): Submitted by USI-ARKANSAS, INC. for property located at LOT 5 BROOKSTONE SUBDIVISION, THE SOUTHEAST CORNER OF WIMBERLY DRIVE AND LONGVIEW STREET. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 4.37 acres. The request is to rezone the property to P-1, Institutional.
Planner:
Dara Sanders

Public water is available to the property. There is an 8" public main located through the center of this site. 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 a 12" public main located along the south side of this property. Public mains may need to be extended through the property to serve any proposed development.

The site has access to Longview Street and Wimberly Road. Both streets are fully improved two lane city streets 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 affected by the 100-year floodplain.



Engineering the Future

June 16, 2010

Mr. Jeremy Pate, APA, ASLA
Development Services Director
City of Fayetteville
125 West Mountain Street
Fayetteville, AR 72701

Wade W. Phillips, P.E., LEED AP
Vice President
4847 Kaylee Avenue
Springdale, Arkansas 72762
479.872.7115 Telephone
479.872.7118 Facsimile
www.usi-ce.com
wwphillips@usi-ce.com

RE: Rezoning Application
Washington Regional Medical Center
Parcel No. 765-22647-000
Lot 5 of the Brookstone Subdivision
USI Project No. 1009023

Mr. Pate:

On behalf of the Washington Regional Medical Center (WRMC), we are applying to rezone an approximate 4.37 acre lot (Lot 5 of the Brookstone S/D) from its current R-O zoning to P-1. The primary purpose for this request stems directly from WRMC's current plans to develop a hospice facility on the parcel in question. The following items are included with this letter as part of the rezoning request application:

- Completed Rezoning Form
- Authorized Agent Letter from WRMC
- A \$325 Check (application fee)
- Legal Description of the Property (Paper Copy)
- Legal Description of the Property (MS Word Format on CD-ROM)
- Copy of the Brookstone S/D Final Plat (Plat Page 212)
- Copy of Warranty Deed on File for Parcel
- Map (Washington County GIS) and Table showing Parcel Number and Name for Every Adjacent Property Owner
- PDF of Full Request Package on CD-ROM

In addition to the above listed items, additional information is provided below to help the City evaluate the request:

- The parcel is currently owned by WRMC. Contact information for the property owner is as follows:
Mr. Jeff Barker, Director of Facilities
3215 N. North Hills Boulevard
Fayetteville, Arkansas 72701
(479) 463-7916
- There are currently no proposed or pending property sales for the parcel.
- As previously stated, WRMC plans to construct a new hospice facility on the property which currently zoned R-O (Residential Office). P-1 (Institutional) would be the

Mr. Jeremy Pate, APA, ASLA
Rezoning Application for WRMC Hospice LSD
June 16, 2010
Page 2 of 2

appropriate zoning for a hospice facility; however, it is our understanding that the hospice would be allowed under the current R-O zoning with a Conditional Use approval. We believe that it would be in WRMC's best interest to request rezoning in lieu of pursuing a Condition Use approval at this time. This would give WRMC "use by right" of the property for the proposed hospice and would streamline any potential future expansions or modifications to the hospice facility.

- The proposed use and requested zoning will not contradict the existing uses of surrounding properties. The area surrounding the parcel is primarily occupied by medical and health industry related facilities including an assisted care facility, the Washington County Health Building, and several medical offices.
- The proposed change to P-1 is consistent with land use planning objectives, principles, and policies. The R-O and P-1 zones are similar in requirements and are not incompatible.
- The rezoning and proposed use will not appreciably increase traffic danger or congestion.
- We anticipate that the following water and sewer facilities will be utilized to provide service to the rezoned parcel (the water & sewer facilities are also shown on the enclosed final subdivision plat):
 - Water: There is currently an 8" water line along the west side of the property and an 8" water line that bisects to the property from west to east.
 - Sewer: The nearest location for sewer service to the rezoned property is a manhole located to the east of the property behind the WRMC Assisted Care Facility. The manhole is on an 8" gravity sewer line that conveys flows to a 12" gravity sewer line. The 12" gravity sewer line conveys wastewater flows west out of the area.
- The proposed rezoning and use will not alter the population density in the area nor create any increased, undesirable loads on public services including water, sewer, and school facilities.

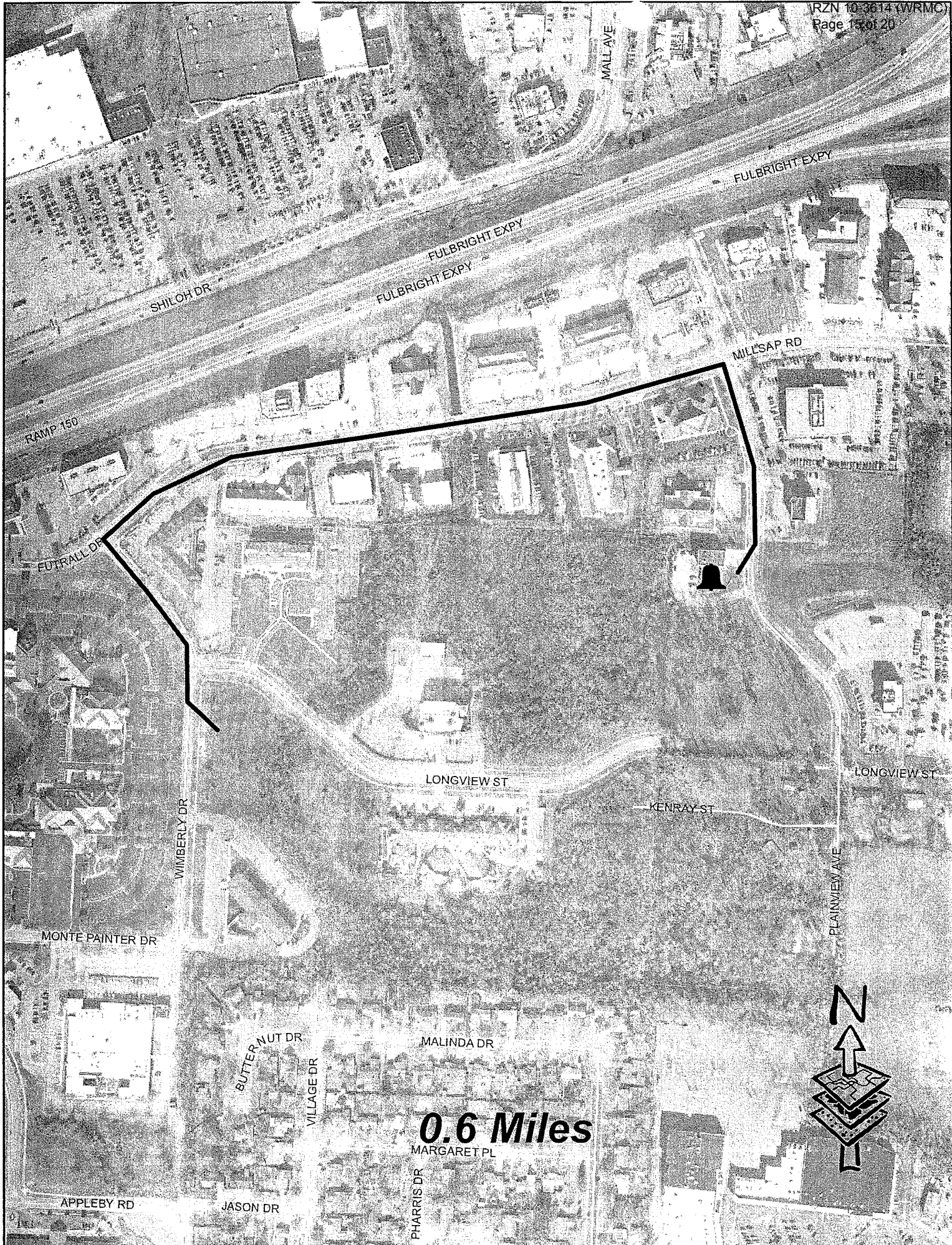
We appreciate the City's consideration of this request and please do not hesitate to contact us at any time should have any questions or require additional information.

Sincerely,
USI Consulting Engineers, Inc.

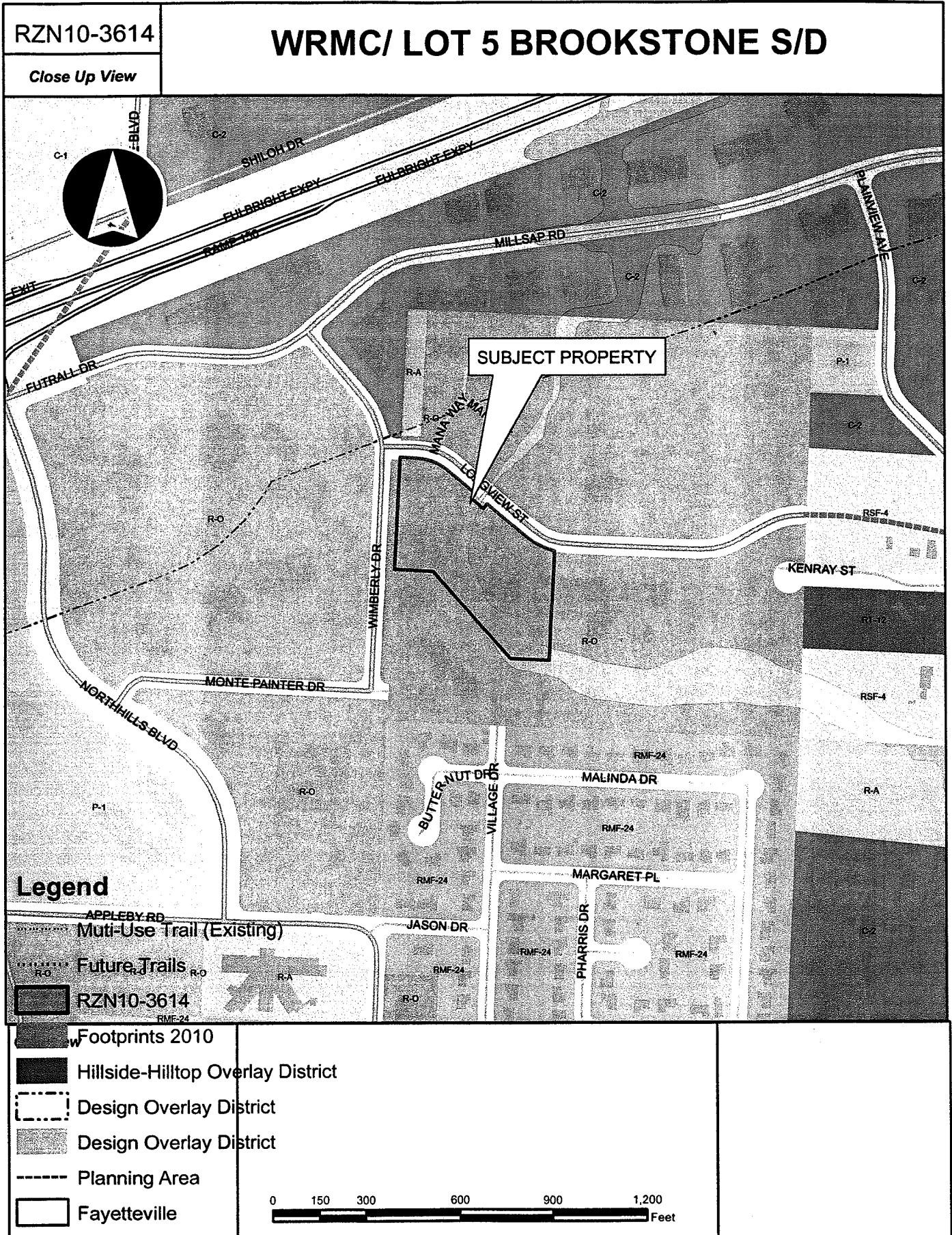


Wade W. Phillips, P.E., LEED AP
Vice President

cc: Mr. Jeff Barker, Director of Facilities, WRMC

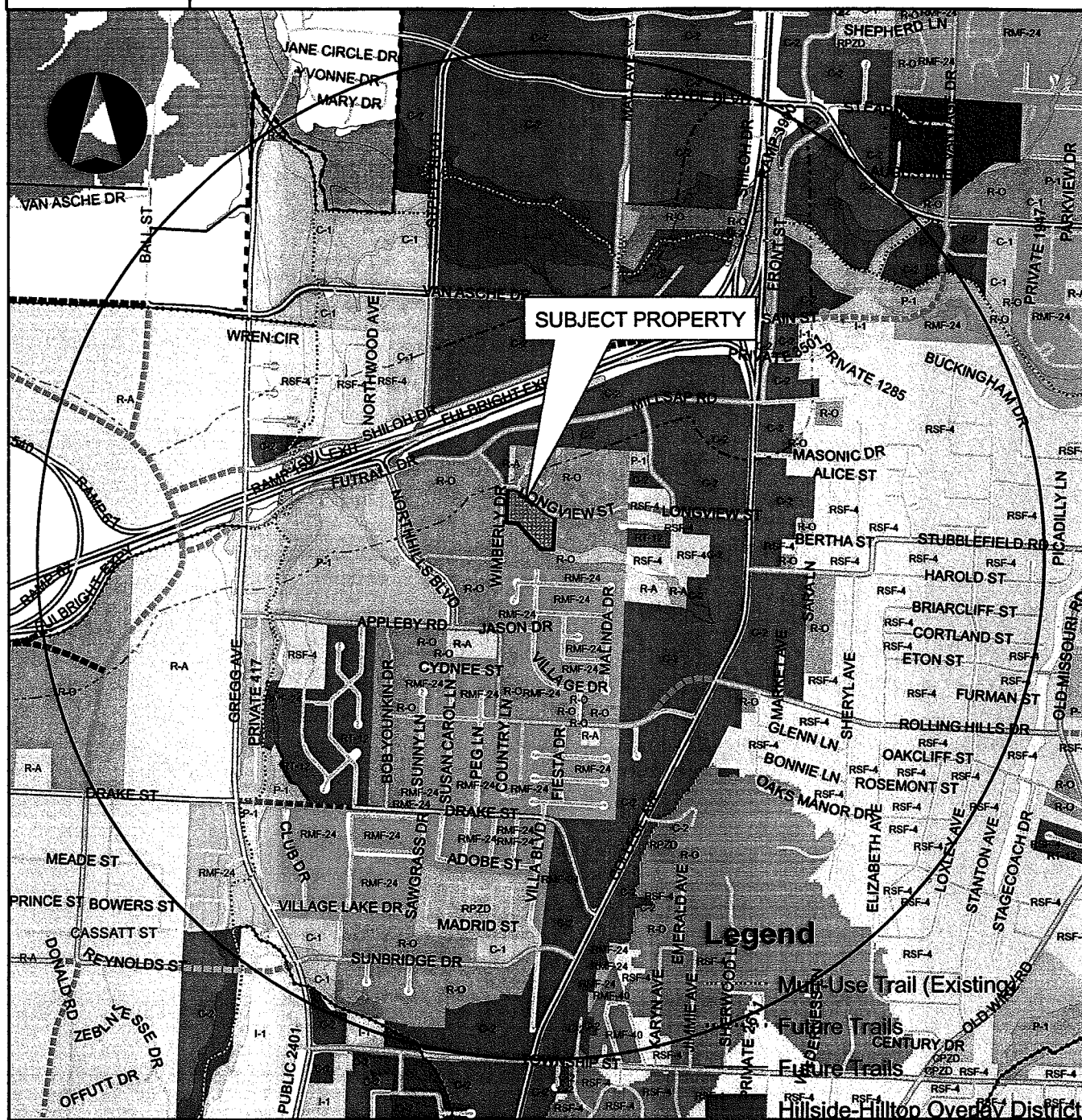


0.6 Miles
MARGARET PL

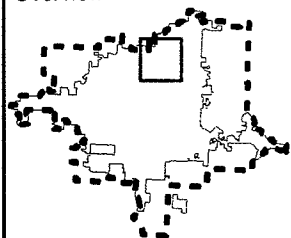


One Mile View

WRMC/LOT 5 BROOKSTONE



Overview



Legend

Subject Property



Boundary

0 0.25 0.5



RZN10-3614



Design Overlay District



Planning Area



Fayetteville

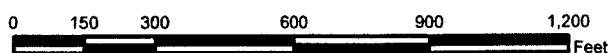
1
■ Miles

Current Land Use

WRMC/ LOT 5 BROOKSTONE S/D

Logen

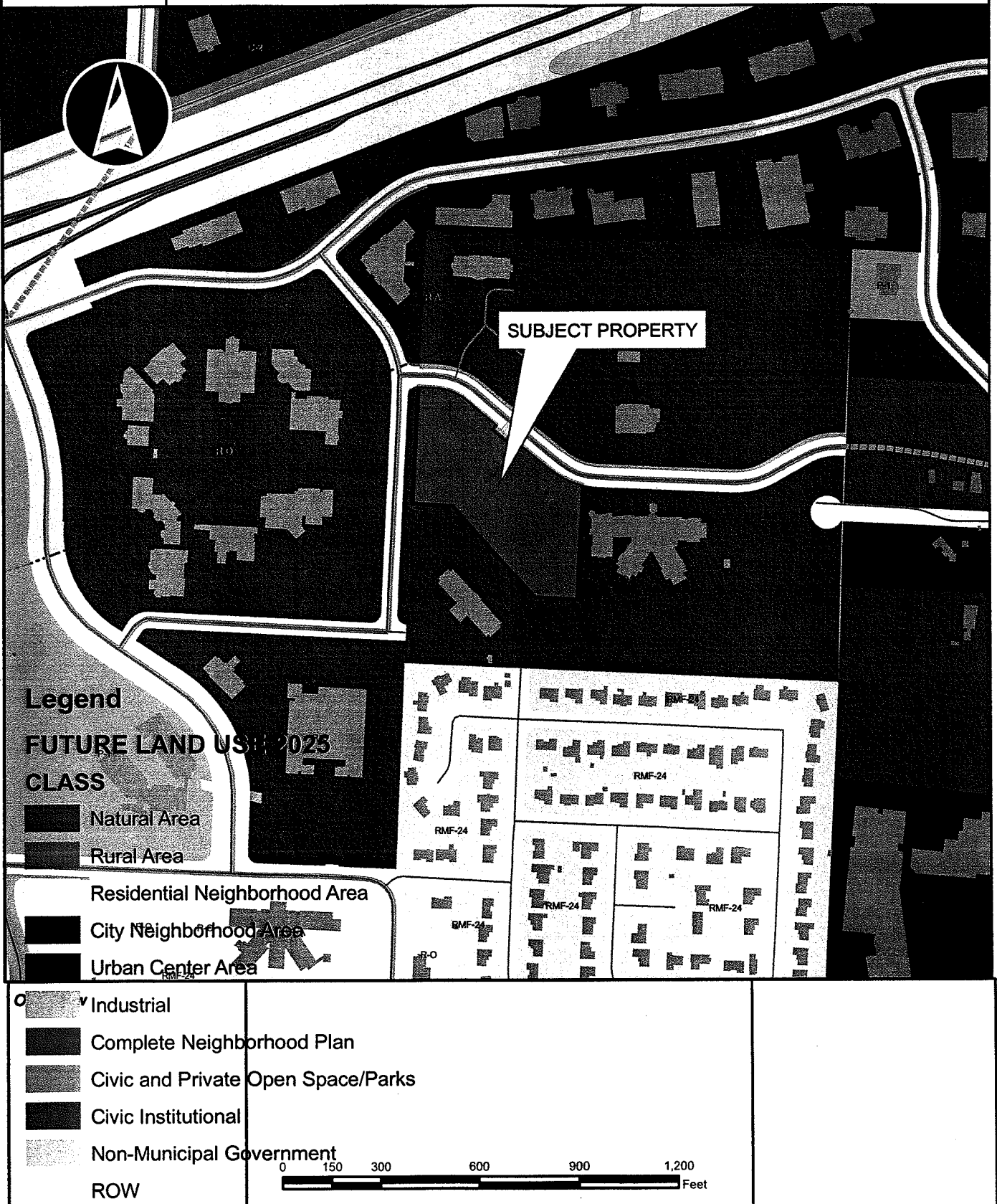
-
- WZN10-3614
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Planning Area
- Fayetteville
- 0 150



RZN10-3614

WRMC/LOT 5 BROOKSTONE

Future Land Use



City Council Agenda Items
and
Contracts, Leases or Agreements

8/17/2010

City Council Meeting Date
Agenda Items OnlyDara Sanders
Submitted ByPlanning
DivisionDevelopment Services
Department

Action Required:

VAC 10-3617: (Timmermans, 283): Submitted by Blew and Associates, Inc. for property located at 3968 Edgewater. The property is zoned RSF-4, Residential Single Family, 4 units per acre. The request is to vacate a portion of a utility easement.

_____	\$ _____	_____
Cost of this request	Category / Project Budget	Program Category / Project Name
_____	\$ _____	_____
Account Number	Funds Used to Date	Program / Project Category Name
_____	\$ _____	_____
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

James C. Blew
Department Director

07-30-2010
Date

Previous Ordinance or Resolution # _____

K. W. ...
City Attorney

8-2-2010
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Besh
Finance and Internal Services Director

8-2-2010
Date

Received in City
Clerk's Office 07-30-10 P03:33

Kim G.

Don Man
Chief of Staff

8-2-10
Date

Received in
Mayor's Office



David Jordan
Mayor

8/2/10
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Dara Sanders, Current Planner

Date: July 29, 2010

Subject: VAC 10-3617 Timmermans

RECOMMENDATION

Staff and Planning Commission recommend approval of an ordinance vacating a portion of a utility easement on the subject property (VAC 10-3617).

BACKGROUND

The subject property is located at 3968 Edgewater Drive. There is an existing home on the property, constructed in 2005. The surrounding land use and zoning consists of single family and rural residential uses within the RSF-4 zoning district to the north, south, and west, and unincorporated Washington County to the east.

The applicant's request is to vacate a portion (1,008 square feet) of a utility easement to allow for a pool and deck to be constructed on the property.

DISCUSSION

On July 26, 2010 the Planning Commission forwarded this request to the City Council with a recommendation for approval with a vote of 7-0-1 (Commissioner Hoskins recused).

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 10-3617 SUBMITTED BY BLEW AND ASSOCIATES, INC. FOR PROPERTY LOCATED AT 3968 EDGEWATER TO VACATE A UTILITY EASEMENT, A TOTAL OF 1,008 SQUARE FEET.

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

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

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

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

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

Section 3: That this vacation approval is subject to the Condition of Approval as follows, and shall not be in effect until such condition is met:

1. Any necessary relocation of existing utilities shall be at the owner/developer's expense prior to recordation of the easement vacation.

PASSED and APPROVED this 17th day of August, 2010.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

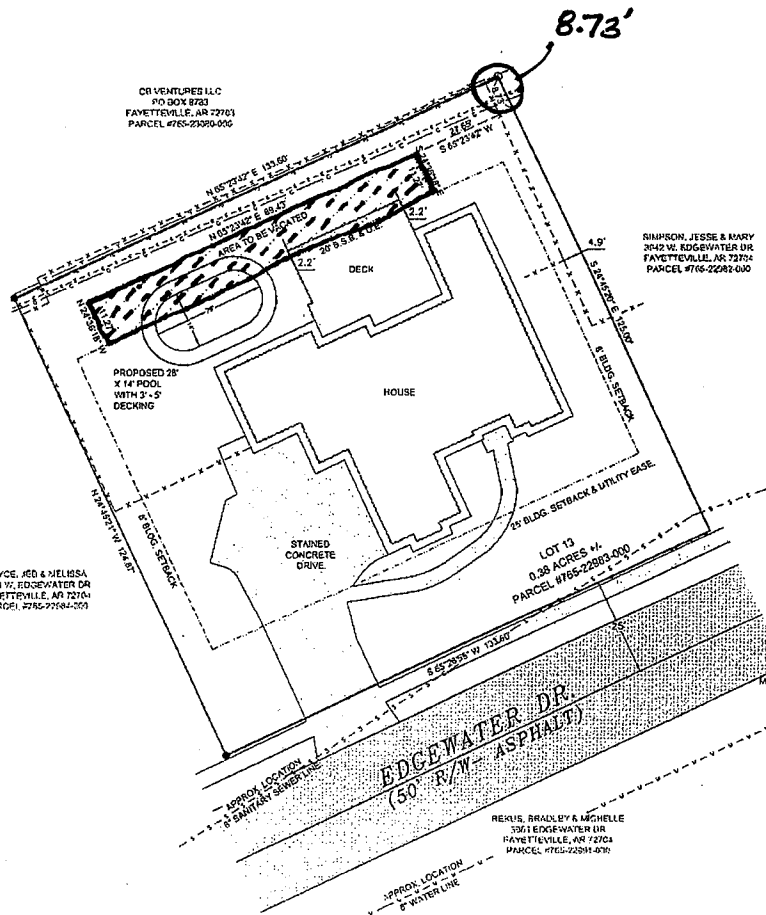


OR VENTURES LLC
PO BOX 8703
FAYETTEVILLE, AR 72701
PARCEL #765-22983-000

SURVEY DESCRIPTION: (PARCEL #765-22983-000)
LOT 13, CLABBER CREEK SUBDIVISION, PHASE I, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD 733 AT PAGE 89.

UTILITY EASEMENT VACATION DESCRIPTION:
A PART OF LOT 13, CLABBER CREEK SUBDIVISION, PHASE I, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD 733 AT PAGE 89, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT, BEGINNING AT A POINT WHICH IS S24°45'50"E 8.73' AND S55°22'42"W 27.65' FROM THE NORTHWEST CORNER OF SAID LOT 13, AND RUNNING THENCE S24°36'15"E 11.27', S05°23'42"W 89.43', N24°36'18"W 11.27' AND N05°23'42"E 89.42' TO THE POINT OF BEGINNING.

JOYCE, JED & MELISSA
3901 W. EDGEWATER DR
FAYETTEVILLE, AR 72704
PARCEL #765-22984-001



RAMPSON, JESSE & KARY
3902 W. EDGEWATER DR
FAYETTEVILLE, AR 72704
PARCEL #765-22981-000

MACHADO, GABRIEL & MARIA
3843 W. EDGEWATER DR
FAYETTEVILLE, AR 72704
PARCEL #765-22992-000

REKUS, BRADLEY & MICHELLE
3301 EDGEWATER DR
FAYETTEVILLE, AR 72704
PARCEL #765-22991-000

EATES, JOSHUA RYAN & SUCKREUS BECKY
3905 W. EDGEWATER DR
FAYETTEVILLE, AR 72704
PARCEL #765-22982-000

SURVEYING NOTES
COMPLETED FIELD WORK:
MAY 4, 2010
BASE OF BEARING:
CLABBER CREEK PHASE 1, PLAT 23-000089

CERTIFICATE OF APPROVAL OF UTILITY EASEMENTS:
WE HEREBY CERTIFY THAT ALL UTILITY EASEMENTS, INCLUDING CABLE TELEVISION EASEMENTS, PLATTED IN THIS SUBDIVISION ARE AS REQUESTED AND WERE APPROVED BY THE UNDERSIGNED UTILITIES OF THE CITY OF FAYETTEVILLE, ARKANSAS.

DATE _____ ELECTRIC REPRESENTATIVE _____
DATE _____ GAS SERVICE REPRESENTATIVE _____
DATE _____ TELEPHONE REPRESENTATIVE _____
DATE _____ CABLE TELEVISION REP _____
DATE _____ CITY OF FAYETTEVILLE _____

FAYETTEVILLE CERTIFICATE OF OWNERSHIP & DEDICATION:
WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAT FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DEDICATE TO THE CITY OF FAYETTEVILLE AND TO THE PUBLIC UTILITY COMPANIES INCLUDING ANY CABLE TELEVISION COMPANY HOLDING A FRANCHISE GRANTED BY THE CITY OF FAYETTEVILLE THE EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREBY IS THE RIGHT OF ingress AND egress TO SAID EASEMENTS, THE RIGHT TO PROMPT THE ERECTION OF BULKHEADS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

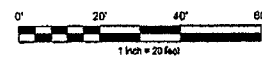
DATE _____ OWNER _____
DATE _____ OWNER _____

NOTE:
ACCEPTANCE OF THIS PLAT DOES NOT GUARANTEE SEPTIC SYSTEM APPROVAL.

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 5TH DAY OF MAY, 2010.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT IN BLUE INK OR IN PRINT SHOW IN ASSUMPTION THAT THIS PLAT MAY HAVE BEEN ATTACHED TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.



	BLEW & ASSOCIATES PROFESSIONAL LAND SURVEYORS 824 W. SYCAMORE ST. SUITE 4 FAYETTEVILLE, AR 72703 PH: (479) 443-4506 FAX (479) 682-1885 http://www.blsurvey.com	FOR THE USE AND BENEFIT OF STEVEN & MICHELLE TIMMERMANS JOB # 15-087 DRAWN BY BDB SURVEYED BY BDB DATE: 05/05/2010
	LOCATION: LOT 13 CLABBER CREEK PHASE 1 WASHINGTON COUNTY, ARKANSAS	

STANDARD LEGEND

SURVEY FEATURES	SURVEYING SYMBOLS
BOUNDARY LINE	SET FOUND SETBACK
FOOTING LINE	SET FOUND ALUM. MONUMENT
CENTERLINE OF ROAD	SET FOUND COTTON SPUNKLE
RIGHT OF WAY	SET FOUND THE NAIL
FENCE	FOUND STONE
TIME LINE	SET FOUND MONUMENT
FIELD MEASUREMENT	FOUND SPIKE
RECORDED MEASUREMENT	FOUND POINT
	UTILITY SYMBOLS
EASEMENTS	SANITARY SEWER
POUR-TO-BE EASEMENT	WATER FIFER
RECORDED EASEMENT	WATER POLE
UTILITY EASEMENT	WATER VALVE
	GAS METER
UTILITY LINES	ELECTRIC CABLE
WATER LINE	TELEPHONE RESEAL
ELECTRIC	WATER FIFER
SEWER LINE	SANITARY
FLOWLINE	FIRE HYDRANT
WATER VALVE	STORMWATER
WATER METER	LIGHT
TELEPHONE LINE	
	SURVEY FEATURE HATCHES
ADJACENT	CONCRETE
ADJACENT	WOMG
ADJACENT	FLOOD ZONE

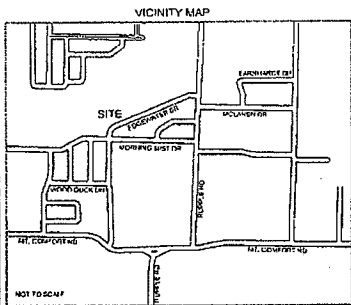


EXHIBIT "B"
VAC 10-3617

SURVEY DESCRIPTION: (PARCEL #765-22983-000)

LOT 13, CLABBER CREEK SUBDIVISION, PHASE I, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD "23" AT PAGE 69.

UTILITY EASEMENT VACATION DESCRIPTION:

A PART OF LOT 13, CLABBER CREEK SUBDIVISION, PHASE I, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD "23" AT PAGE 69, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S24°45'20"E 8.73' AND S65°23'42"W 27.65' FROM THE NORTHWEST CORNER OF SAID LOT 13, AND RUNNING THENCE S24°36'18"E 11.27', S65°23'42"W 89.43', N24°36'18"W 11.27' AND N65°23'42"E 89.43' TO THE POINT OF BEGINNING.



PC Meeting of July 26, 2010

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: July 19, 2010 *Updated July 29, 2010*

VAC 10-3617: Vacation (TIMMERMANS/3968 W. EDGEWATER, 283): Submitted by BLEW & ASSOCIATES, INC. for property located at 3968 EDGEWATER. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.23 acres. The request is to vacate a portion of a utility easement. Planner: Dara Sanders

Findings:

Property Description: The subject property is located at 3968 Edgewater Drive. There is an existing home on the property, constructed in 2005. The surrounding land use and zoning consists of single family and rural residential uses within the RSF-4 zoning district to the north, south, and west, and unincorporated Washington County to the east.

Request: The applicant's request is to vacate a portion (1,008 square feet) of a utility easement to allow for a pool and deck to be constructed on the property.

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

UTILITIES

RESPONSE

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

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer	No Objections
Transportation	No Objections

Solid Waste

No Objections

Engineering

No Objections

Public Comment: No public comment has been received.

Recommendation: Finding that adequate easement for service will exist to serve existing utilities and provide for new utilities, staff recommends forwarding VAC 10-3617 to the City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. Any relocation of existing utilities shall be at the owner/developer's expense prior to recordation of the easement vacation.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: July 26, 2010

Motion: Cabe

Second: Earnest

Vote: 7-0-1 (Commissioner Hoskins recused)

Note:



Blew & Associates, P.A.

Professional Land Surveyors

524 W. Sycamore Street Suite 4, Fayetteville, AR 72703

PH: 479-443-4506 * FAX: 479-582-1883

<http://www.blewinc.com>

RE: Timmerman Easement Vacation

June 3, 2010

To Whom It May Concern:

Our client's Steve & Michelle Timmermans are requesting to vacate a portion of the utility easement that crosses their backyard for the purpose of building a pool. If you have any question or concerns regarding this request please feel free to contact me.

Sincerely,

Buckley Blew

PETITION

PETITION TO VACATE AN EASEMENT LOCATED IN LOT 13, CLABBER CREEK SUBDIVISION, PHASE 1, CITY OF FAYETTEVILLE, ARKANSAS

**TO: THE FAYETTEVILLE CITY PLANNING COMMISSION AND
THE FAYETTEVILLE CITY COUNCIL**

WE, THE UNDERSIGNED, BEING ALL THE OWNERS OF THE REAL ESTATE ABUTTING THE EASEMENT HEREINAFTER SOUGHT TO BE ABANDONED AND VACATED, LYING IN LOT 13, CLABBER CREEK SUBDIVISION, PHASE 1, CITY OF FAYETTEVILLE, ARKANSAS, A MUNICIPAL CORPORATION, PETITION TO VACATE AN EASEMENT WHICH IS DESCRIBED AS FOLLOWS:

A PART OF LOT 13, CLABBER CREEK SUBDIVISION, PHASE I, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD "23" AT PAGE 69, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S24°45'20"E 8.73' AND S65°23'42"W 27.85' FROM THE NORTHWEST CORNER OF SAID LOT 13, AND RUNNING THENCE S24°36'18"E 11.27', S65°23'42"W 89.43', N24°36'18"W 11.27' AND N65°23'42"E 89.43' TO THE POINT OF BEGINNING.

THAT THE ABUTTING REAL ESTATE AFFECTED BY SAID ABANDONMENT OF THE ALLEY ARE LOT 13, CLABBER CREEK SUBDIVISION, PHASE 1, CITY OF FAYETTEVILLE USED BY THE PUBLIC FOR A PERIOD OF MANY YEARS, AND THAT THE PUBLIC INTEREST AND WELFARE WOULD NOT BE ADVERSELY AFFECTED BY THE ABANDONMENT OF THE PORTION OF THE ABOVE DESCRIBED EASEMENT.

THE PETITIONERS PRAY THAT THE CITY OF FAYETTEVILLE, ARKANSAS, ABANDON AND VACATE THE ABOVE DESCRIBED REAL ESTATE, SUBJECT, HOWEVER, TO THE EXISTING UTILITY EASEMENTS AND SEWER EASEMENTS AS REQUIRED, AND THAT THE ABOVE DESCRIBED REAL ESTATE BE USED FOR THEIR RESPECTIVE BENEFIT AND PURPOSE AS NOW APPROVED BY LAW.

THE PETITIONERS FURTHER PRAY THAT THE ABOVE DESCRIBED REAL ESTATE BE VESTED IN THE ABUTTING PROPERTY OWNERS AS PROVIDED BY LAW.

WHEREFORE, THE UNDERSIGNED PETITIONERS RESPECTFULLY PRAY THAT THE GOVERNING BODY OF THE CITY OF FAYETTEVILLE, ARKANSAS, ABANDON AND VACATE THE ABOVE DESCRIBED REAL ESTATE, SUBJECT TO SAID UTILITY AND SEWER EASEMENTS, AND THAT TITLE OF SAID REAL ESTATE SOUGHT TO BE ABANDONED BE VESTED IN THE ABUTTING PROPERTY OWNERS AS PROVIDED BY LAW, AND AS TO THAT PARTICULAR LAND THE OWNERS BE FREE FROM THE EASEMENTS OF THE PUBLIC FOR THE USE OF SAID EASEMENT.

DATED THIS 16 DAY OF JUNE, 2010.

STEVEN TIMMERMAN
PRINTED NAME

[Signature]
SIGNATURE

2010-06-16 14:30

RECEIVED 06/16/2010 14:40 4795821883

>>

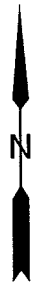
BLEW & ASSOCIATES
C-3
VAC 10-3617 (Timmermans)
4795821883 Page 10 of 22

Michelle Timmermans

PRINTED NAME

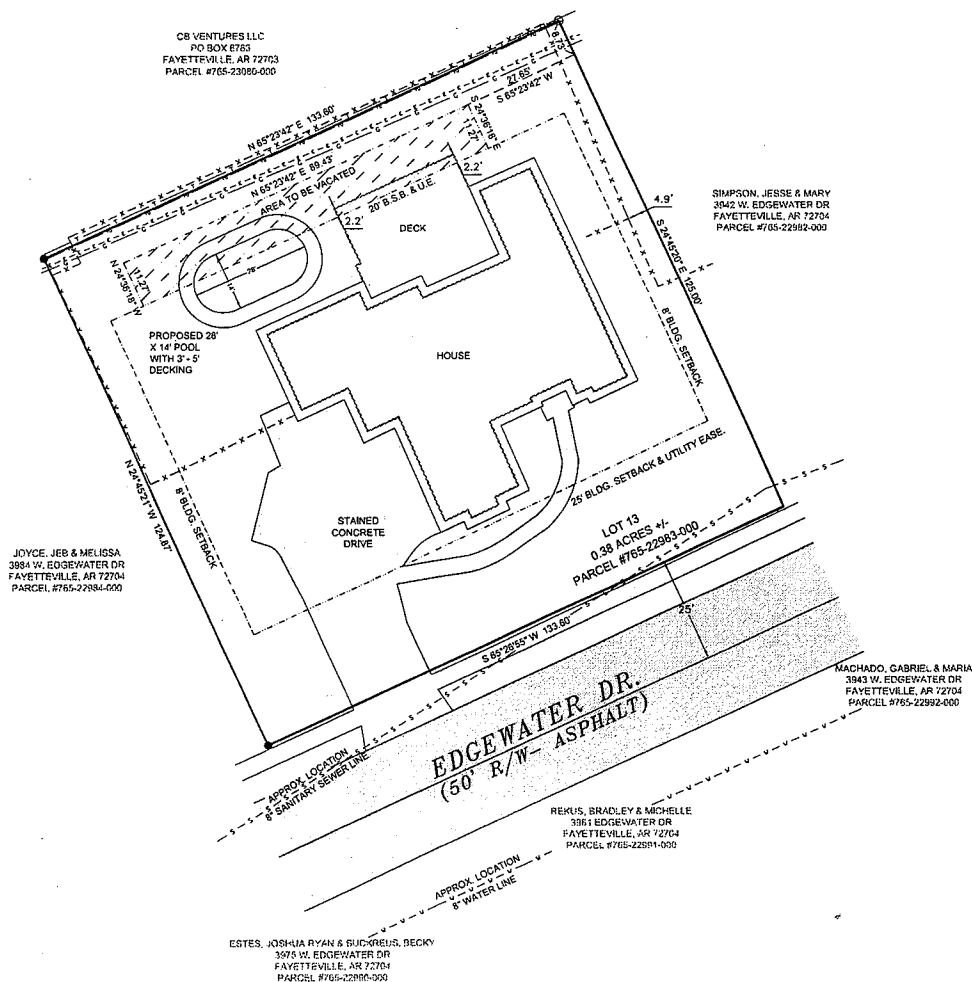
Michelle Timmermans

SIGNATURE



SURVEY DESCRIPTION: (PARCEL #765-22983-000)
LOT 13, CLABBER CREEK SUBDIVISION, PHASE I, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD "23" AT PAGE 69.

UTILITY EASEMENT VACATION DESCRIPTION:
A PART OF LOT 13, CLABBER CREEK SUBDIVISION, PHASE I, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD "23" AT PAGE 69, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S24°45'00"E 8'73" AND S65°23'42"W 27.65' FROM THE NORTHWEST CORNER OF SAID LOT 13, AND RUNNING THENCE S24°36'18"E 11.27', S65°23'42"W 89.43', N24°36'18"W 11.27' AND N65°23'42"E 89.43' TO THE POINT OF BEGINNING.



SURVEYING NOTES
COMPLETED FIELD WORK:
MAY 4, 2010
BASIS OF BEARING:
CLABBER CREEK PHASE 1, PLAT 23-000089

CERTIFICATE OF APPROVAL OF UTILITY EASEMENTS:
WE HEREBY CERTIFY THAT ALL UTILITY EASEMENTS, INCLUDING CABLE TELEVISION EASEMENTS, PLATTED IN THIS SUBDIVISION ARE AS REQUESTED AND WERE APPROVED BY THE UNDERSIGNED UTILITIES OF THE CITY OF FAYETTEVILLE, ARKANSAS.

DATE _____ ELECTRIC REPRESENTATIVE _____
DATE _____ GAS SERVICE REPRESENTATIVE _____
DATE _____ TELEPHONE REPRESENTATIVE _____
DATE _____ CABLE TELEVISION REP _____
DATE _____ CITY OF FAYETTEVILLE _____

FAYETTEVILLE CERTIFICATE OF OWNERSHIP & DEDICATION:
WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAT FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DEDICATE TO THE CITY OF FAYETTEVILLE AND TO THE PUBLIC UTILITY COMPANIES (INCLUDING ANY CABLE TELEVISION COMPANY HOLDING A FRANCHISE GRANTED BY THE CITY OF FAYETTEVILLE) THE EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREBY IS THE RIGHT OF INGRESS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

DATE _____ OWNER _____

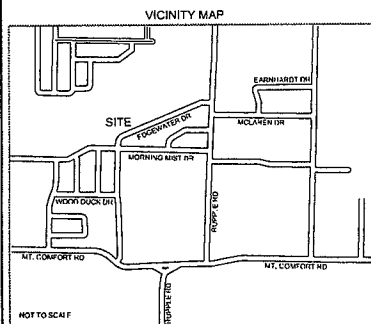
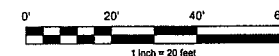
DATE _____ OWNER _____

NOTE:
ACCEPTANCE OF THIS PLAT DOES NOT GUARANTEE SEPTIC SYSTEM APPROVAL.

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 8TH DAY OF MAY, 2010.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT IN USE IN CO. ON TURN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.



STANDARD LEGEND

SURVEY FEATURES		SURVEYING SYMBOLS	
BOUNDARY LINE	— — — — —	SET FOUND MET. REPAIR	⊙
PROPERTY	— — — — —	SET FOUND MET. HUB	⊙
CENTERLINE OF ROAD	— — — — —	SET FOUND ALUM. MONUMENT	⊙
RIGHT-OF-WAY	— — — — —	SET FOUND COTTON SPINDLE	⊙
FENCE	— — — — —	SET FOUND P.M. NAIL	⊙
TREE LINE	— — — — —	FOUND STONE	⊙
(IN) FIELD MEASUREMENT	— — — — —	WALKROAD SPINE	⊙
(RI) RECORDED MEASUREMENT	— — — — —	STATE MONUMENT	⊙
		FOUND PPT	⊙
		COMPUTED POINT	⊙
		STATE ON LINE	⊙
		TREE	⊙
EASEMENTS		UTILITY SYMBOLS	
WORKS & CROSS EASEMENT	— — — — —	SEWAGE SEWER	⊙
UTILITY EASEMENT	— — — — —	WATER METER	⊙
		SEPTIC LID	⊙
		WATER VALVE	⊙
		ONE METER	⊙
		GAS METER	⊙
		ELECTRICAL BOX	⊙
		STORM WATER	⊙
		LIGHT	⊙
UTILITY LINES		SURVEY FEATURE HATCHES	
WATER LINE	— — — — —	ASPHALT	▨
ELECTRIC	— — — — —	CONCRETE	▨
SEWER LINE	— — — — —	POUD	▨
FLOW LINE	— — — — —	GRAVEL	▨
RAIN LINE	— — — — —	FLOOD ZONE	▨
FIBER OPTIC/COX	— — — — —		
TELEPHONE LINE	— — — — —		

	BLEW & ASSOCIATES PROFESSIONAL LAND SURVEYORS 324 W. SYCAMORE ST. SUITE 4 FAYETTEVILLE, AR 72703 PH. (479) 443-4508 FAX (479) 582-1883 http://www.blewinc.com	FOR THE USE AND BENEFIT OF STEVEN & MICHELLE TIMMERMANS
	LOCATION: LOT 13 CLABBER CREEK PHASE 1 COUNTY/STATE: WASHINGTON COUNTY, ARKANSAS	DATE: 05/03/2010

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

DATE: 6-14-10

UTILITY COMPANY: Solid Waste

APPLICANT NAME: STEVEN & MICHELLE TIMMERMANS APPLICANT PHONE: 479-466-8844

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

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

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

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

****** 3968 W. EDGEWATER DRIVE, FAYETTEVILLE, AR

Swimming Pool installation

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

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:

Brian Papp
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

UTILITY APPROVAL FORM

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

DATE: 6/15/10

UTILITY COMPANY: CITY OF FAYETTEVILLE TRANSPORTATION DIV.

APPLICANT NAME: STEVEN & MICHELLE TIMMERMAN APPLICANT PHONE: 479-466-8844

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

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

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

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

****** 3968 W. EDGEWATER DRIVE, FAYETTEVILLE, AR

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

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

ASST. TRANSPORTATION MANAGER
Title

UTILITY APPROVAL FORM

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

DATE: JUNE 17, 2010

UTILITY COMPANY: CITY OF FAYETTEVILLE WATER & SEWER

APPLICANT NAME: STEVEN & MICHELLE TIMMERMAN APPLICANT PHONE: 479-466-8844

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

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

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

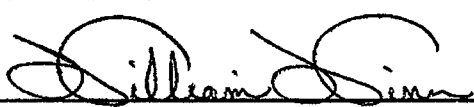
**3968 W. EDGEWATER DRIVE, FAYETTEVILLE, AR

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

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:


Signature of Utility Company Representative

OPERATIONS MANAGER
Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 6/11/2010UTILITY COMPANY: Arkansas Western Gas Co.APPLICANT NAME: Michael Seba - Blew & Assoc. APPLICANT PHONE: 479-443-4506
REQUESTED VACATION (applicant must check all that apply):~ Utility Easement

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

~ Alley

~ Street right-of-way

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

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

** Lot # 13 Clabber Creek Sub. Div.

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

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

Any relocation or damage to our facilities will
be at the owners expense.Randy [Signature]
Signature of Utility Company RepresentativeConstruction Coordinator
Title

UTILITY APPROVAL FORM

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

DATE: 6/11/10

UTILITY COMPANY: COX COMMUNICATIONS

APPLICANT NAME: STEVEN & MICHELLE TIMMERMANS APPLICANT PHONE: _____
REQUESTED VACATION (*applicant must check all that apply*):

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

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

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

**

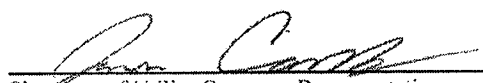
(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

ANY DAMAGE OR RELOCATION OF EXISTING FACILITIES WILL BE AT THE PROPERTY OWNERS EXPENSE.

- No objections provided the following conditions are met:



Signature of Utility Company Representative

FIELD ENGINEER
Title

Michael Sebo

From: jhsargent@aep.com
Sent: Monday, June 07, 2010 11:37 AM
To: Michael Sebo
Subject: Re: Utility Easement Vacation Request
Follow Up Flag: Follow up
Flag Status: Red

Michael, this is in Ozarks Electric service territory and SWEPCO does not have any comments on the vacation.

Thanks,

Jim Sargent, P. E.
jhsargent@aep.com
(479) 973 - 2334
8 - 709 - 2334

"Michael Sebo" <sebo@blewinc.com>

06/04/2010 11:53 AM

To <sc9783@att.com>, <jason.combs@cox.com>, <jhsargent@aep.com>,
<james_boyd@swm.com>, <gmcgee@ozarksecc.com>

cc <buckley@blewinc.com>

Subject: Utility Easement Vacation Request

Good Friday to everyone,
I am sending this email with an attached survey, our client wishes to vacate the utility easement at the rear of their lot, we have provided all dimensions and current locations of underground facilities. If you see any problem with the requested area please let me know so that we can find a resolution.

Many thanks in advance for your help with this and I hope you have a great weekend!

Michael Sebo
Project Manager
Blew & Associates, P.A.
Civil Engineering & Land Surveying
479.443.4506 (office)
479.582.1883 (fax)

[attachment "10-087 TIMMERMANS EASEMENT VAC.pdf" deleted by James H Sargent/AEPIN]

6/17/2010

FROM

REC ED 06/16/2010 12:25 4795821883

BLEW & ASSOCIATES
VAC 10-3617 (Timmermans)
Page 18 of 22

(WED) 6.16.10 11:32/S... 11:31/NO. 4864252659 P.2

UTILITY APPROVAL FORM

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

DATE: 6-16-2010

UTILITY COMPANY: AT&T/SWBT

APPLICANT NAME: STEVEN & MICHELLE TIMMERMANS APPLICANT PHONE: 479-466-8844

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

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

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

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

**3968 W. EDGEWATER DRIVE, FAYETTEVILLE, AR

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

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

customer aware that if any facilities exist within the area
requesting vacation, the facilities to be relocated by AT&T/SWBT
at property owner's expense before vacation is filed with county.

[Signature]
Signature of Utility Company Representative

ENGINEER - OSP Planning / Design
Title

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

DATE: 6-11-10

UTILITY COMPANY: OZARKS ELECTRIC COOP

APPLICANT NAME: TIMMERMANNS APPLICANT PHONE: 478-466-8844
REQUESTED VACATION (*applicant must check all that apply*):

☒ Utility Easement

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

☐ Alley

☐ Street right-of-way

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

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

**

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

UTILITY COMPANY COMMENTS:

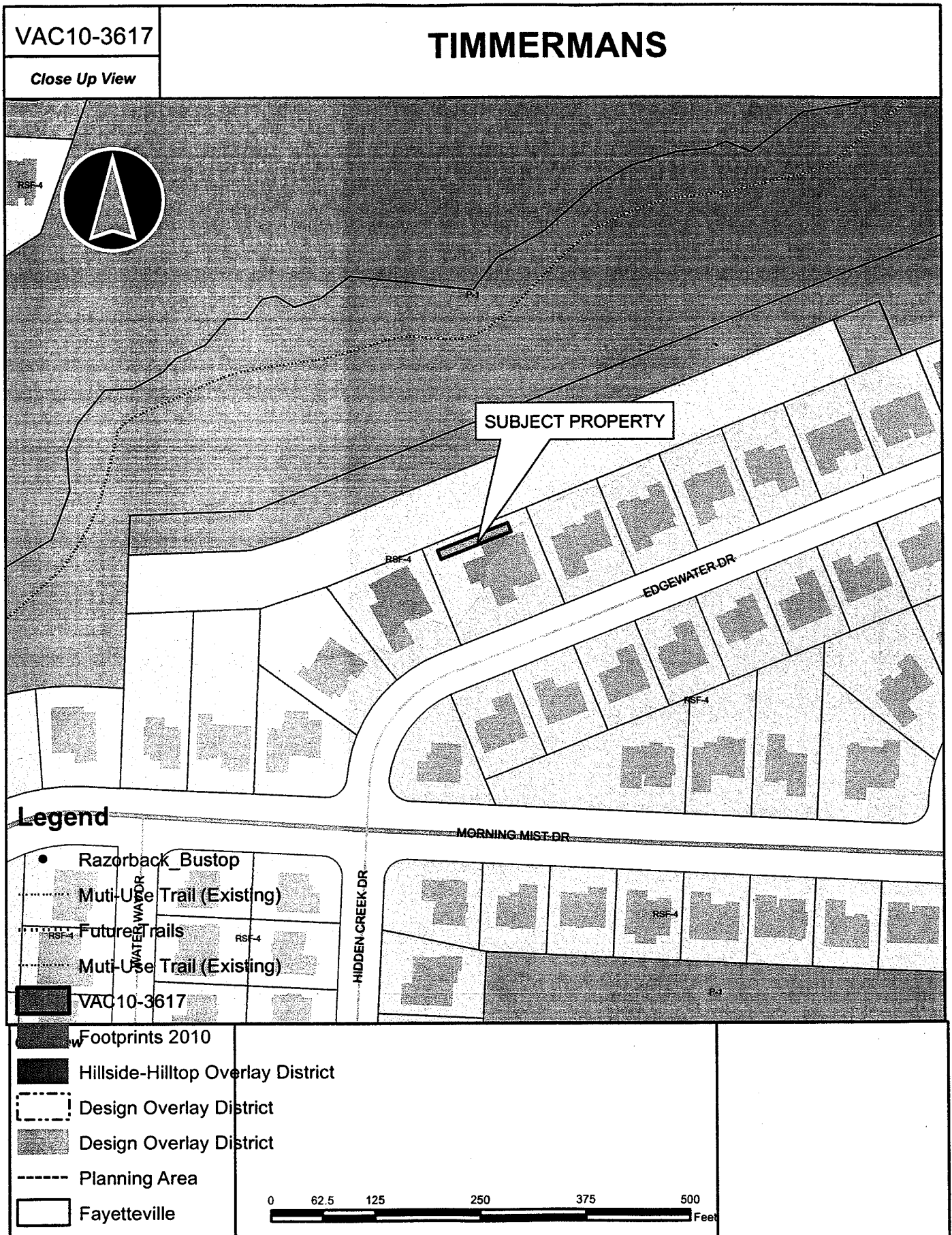
☒ No objections to the vacation(s) described above.

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

- ☐ No objections provided the following conditions are met:

Mr. J. Rhapp
Signature of Utility Company Representative

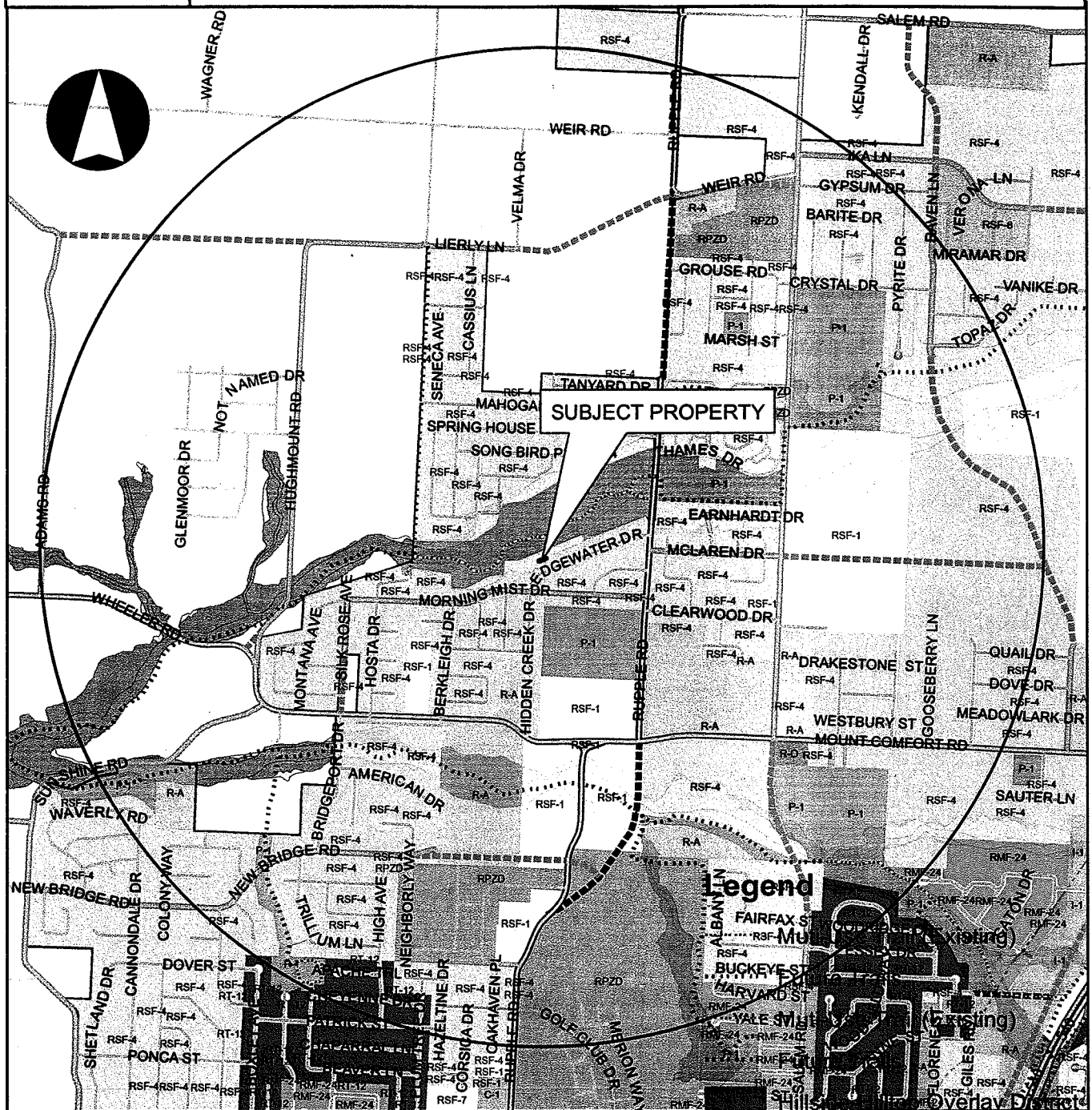
System Staking Tech
Title



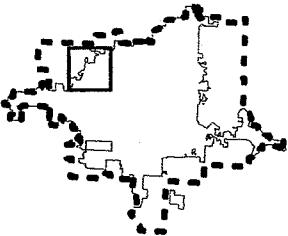
VAC10-3617

TIMMERMANS

One Mile View



Overview



Legend

Subject Property



AC10-3617

Boundary

0 0.25 0.5



VAC10-3617



Design Overlay District



Planning Area



Fayetteville



1

1 Miles

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

**Revised
Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
August 17, 2010**

A meeting of the Fayetteville City Council will be held on August 17, 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

City Council Agenda Session Presentations:

1. 2009 Comprehensive Annual Financial Report (CAFR) – Audit Committee Chairman Tony Uth
2. Fayetteville Chamber of Commerce - Economic Development Contract Quarterly Report

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

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

Agenda Additions:

A. Consent:

1. Approval of the July 20, 2010 and August 3, 2010 City Council meeting minutes.
2. **Amend Resolution No. 98-09:** A resolution to amend Resolution No. 98-09 to change all references from "Arkansas Western Gas Company" to "SourceGas, LLC."
3. **Bid #10-49 Danny Robinson Construction, LLC:** A resolution awarding Bid #10-49 and authorizing a contract with Danny Robinson Construction, LLC in the amount of \$394,450.00 for renovation and lighting of the Wilson Park Trail, approving a 15% project contingency, and approving a budget adjustment.
4. **Arkansas Department of Aeronautics Grant:** A resolution authorizing application and acceptance of an Arkansas Department of Aeronautics Grant in the amount of \$18,984.00 to be used for the repair of airport fuel farm overfill protection and inventory management systems and approving a budget adjustment.
5. **Arkansas Historic Preservation Program:** A resolution approving a grant agreement with the Arkansas Historic Preservation Program in the amount of \$4,500.00 for travel and training expenses in support of the Fayetteville Historic District Commission; and approving a budget adjustment recognizing the grant revenue.

B. Unfinished Business: None

C. New Business:

1. **ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions and 164: Supplementary Zoning Regulations, in order to include additional definitions and requirements for vehicle related businesses.
2. **RZN 10-3614 (WRMC):** An ordinance rezoning that property described in rezoning petition RZN 10-3614, for approximately 4.37 acres, located at Lot 5 Brookstone Subdivision, the southeast corner of Wimberly Drive and Longview Street from R-O, Residential Office, to P-1, Institutional.
3. **VAC 10-3617 (Timmermans):** An ordinance approving VAC 10-3617 submitted by Blew and Associates, Inc. for property located at 3968 Edgewater to vacate a utility easement, a total of 1,008 square feet.

Announcements:

NB #4 Pedicab Ordinance

Adjournment:

*Public Hearing: 1- Cert. of Public Convenience
& Necessity (Razorback Pedal Cab)
2- Cert. of Public Convenience
& Necessity (Fayetteville Pedicab Co.)*

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.

Pre-Agenda Meeting
8/4/10

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
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August 17, 2010**

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1. **ADM 09-3466 (UDC Chapters 151 & 164 Vehicle Related Businesses):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions and 164: Supplementary Zoning Regulations, in order to include additional definitions and requirements for vehicle related businesses.
2. **RZN 10-3614 (WRMC):** An ordinance rezoning that property described in rezoning petition RZN 10-3614, for approximately 4.37 acres, located at Lot 5 Brookstone Subdivision, the southeast corner of Wimberly Drive and Longview Street from R-O, Residential Office, to P-1, Institutional.
3. **VAC 10-3617 (Timmermans):** An ordinance approving VAC 10-3617 submitted by Blew and Associates, Inc. for property located at 3968 Edgewater to vacate a utility easement, a total of 1,008 square feet.
- * **Ark-O Petroleum:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Ark-O Petroleum Equipment, Inc. in the amount of \$21,093.00 for repair of the Drake Field fuel farm overfill protection and inventory management systems, contingent upon receipt of grant funding.

Remove
Per Mayor
Dead file

Announcements:

Adjournment:

From: Vicki Deaton
To: City Clerk
Date: 6/30/2010 11:31 AM
Subject: CAFR Presentation to Council

Sondra,

I would like to have audit committee chairman Tony Uth present the 2009 Comprehensive Annual Financial Report (CAFR) to the City Council at the beginning of the agenda session on August 10, 2010. Let me know if this is ok or if you need further information. Thanks.

Vicki D. Deaton, CFE, CISA
City of Fayetteville Internal Auditor
113 W. Mountain
Fayetteville, AR 72701
479-575-8261
TDD (Telecommunications Device for the Deaf) 479-521-1316