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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

Final Agenda
City of Fayetteville Arkansas
City Council Meeting
March 1, 2011

A meeting of the Fayetteville City Council will be held on March 1, 2011 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 Financial Report** – Paul Becker, Finance Director

Agenda Additions:

A. Consent:

1. Approval of the February 8, 2011 Special City Council meeting and the February 15, 2011 City Council meeting minutes. **APPROVED**

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

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 35-11

3. **Bid #10-56 Upchurch Electrical Supply Company:** A resolution awarding Bid #10-56 and authorizing the purchase of twenty-five (25) LED light fixtures and poles from Upchurch Electrical Supply Company in the total amount of $49,981.88 for installation on Frisco Trail between Maple Street and Spring Street.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 36-11

4. **Bid #11-21 Phelps Construction Co., Inc.:** A resolution awarding Bid #11-21 and authorizing a contract with Phelps Construction Co., Inc. in the amount of $26,220.00 for the purchase of rock for the Niokaska Stream Restoration.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 37-11

5. **Arkansas Department of Parks and Tourism Wildlife Observation Trail Grant:** A resolution authorizing application for an Arkansas Department of Parks and Tourism Wildlife Observation Trail Grant in an amount of up to $100,000.00 for nature trail improvements at Lake Fayetteville.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 38-11

6. **Bale Chevrolet of Little Rock:** A resolution authorizing the purchase of six (6) 2011 police package Chevrolet Tahoes from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of $200,250.00, for use by the Police Department.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 39-11

B. Unfinished Business:

1. **Amend Title XV: ADM 09-3480 (Streamside Protection):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 155: Appeals, Chapter 156: Variances, and Chapter 168: Flood Damage Prevention Code in order to establish Streamside Protection Zones and adopt a Protected Streams map and Best Management Practices Manual. *This ordinance was left on the First Reading at the February 3, 2011 City Council meeting. This ordinance was left on the Second Reading at the February 15, 2011 City Council meeting.*

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5390

C. New Business: None

Announcements:

Adjournment: 11:40 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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City Council Meeting: **March 1, 2011** **Adjourn:** 11:40 P.M.

Subject:	**Roll**				
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Thiel	✓			
	Kinion	✓			
	Petty	✓			
	Mayor Jordan	✓			

9-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Thiel				
	Kinion				
	Petty				
	Mayor Jordan				

City Council Meeting: **March 1, 2011**

Subject:	**Consent**				
Motion To:		Approve			
Motion By:		Petty			
Seconded:		Adams			
Minutes approved	**Tennant**	✓			
	Ferrell	✓			
	Adams	✓			
	Lewis	✓			
passed	**Gray**	✓			
	Thiel	✓			
35-11	**Kinion**	✓			
thru	**Petty**	✓			
39-11	**Mayor Jordan**				

8-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Tennant				
	Ferrell				
	Adams				
	Lewis				
	Gray				
	Thiel				
	Kinion				
	Petty				
	Mayor Jordan				

City Council Meeting: **March 1, 2011**

Subject:	**Amend Title XV: ADM 09-3480 (Streamside Protection)**				Change 2.C. Amendment non-evasive trees
Motion To:		3rd Read	Reconsider 2.C, non evasive trees		
Motion By:		Thiel	Gray		Thiel
Seconded:		Adams	Lewis		Kinion
B. 1 Unfinished Business	**Tennant**	✓	N		✓
	Ferrell	✓	N		✓
	Adams	✓	✓		N
	Lewis	✓	✓		N
	Gray	✓	✓		N
	Thiel	✓	✓		N
	Kinion	✓	✓		N
	Petty	✓	✓		N
	Mayor Jordan				
		8-0	6-2 passed		2-6 Failed

Subject:	Streamside Protection				
Motion To:		Amend to Add Subsection (4)		Pass	
Motion By:		Ferrell			
Seconded:		No second			
B.1. Unfinished Business	**Tennant**	motion		✓	
	Ferrell	failed		N	
	Adams	for		✓	
	Lewis	lack		✓	
Passed	**Gray**	of a		✓	
	Thiel	second		✓	
5390	**Kinion**			✓	
	Petty			✓	
	Mayor Jordan				
		No vote No second		7-1	

Fayetteville
ARKANSAS
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Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Lioneld Jordan**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **March 2, 2011**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of March 1, 2011**

1. **Washington County Interlocal Agreement:** A resolution approving an Interlocal agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County through 2011.

2. **Bid #10-56 Upchurch Electrical:** A resolution awarding Bid #10-56 and authorizing the purchase of twenty-five LED light fixtures and poles from Upchurch Electrical Supply Company in the total amount of $49,981.88 for installation on Frisco Trail between Maple Street and Spring Street.

3. **Bid #11-21 Phelps Construction:** A resolution awarding Bid #11-21 and authorizing a contract with Phelps Construction Co., Inc. in the amount of $26,220.00 for the purchase of rock for the Niokaska Stream Restoration.

4. **AR Department of Parks & Tourism Wildlife Observation Trail Grant:** A resolution authorizing application for an Arkansas Department of Parks and Tourism Wildlife Observation Trail Grant in an amount of up to $100,000.00 for natural trail improvements at Lake Fayetteville.

5. **Bale Chevrolet of Little Rock:** A resolution authorizing the purchase of six 2011 Police Package Chevrolet Tahoes from Bale Chevrolet of Little Rock, pursuant to a State Procurement contract, in the total amount of $200,250.00 for use by the police department.

Mayor Lioneld Jordan

City Attorney Kit Williams

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   Left on the Second Reading

C. New Business: None

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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RESOLUTION NO. _____

A RESOLUTION AUTHORIZING APPLICATION FOR AN ARKANSAS DEPARTMENT OF PARKS AND TOURISM WILDLIFE OBSERVATION TRAIL GRANT IN AN AMOUNT OF UP TO $100,000.00 FOR NATURE TRAIL IMPROVEMENTS AT LAKE FAYETTEVILLE

WHEREAS, the City of Fayetteville recognizes the need to provide or improve public access for the observation of Arkansas's wildlife, and

WHEREAS, the City wishes to apply for Wildlife Observation Trails grant funds through the cooperative program of the Arkansas Game and Fish Commission and the Arkansas Department of Parks and Tourism, and

WHEREAS, the Mayor and the City Council understand that if granted funds for development, the City must provide land, by lease, ownership or other means, to develop the facilities, and

WHEREAS, the City of Fayetteville will be required to sign a contract agreeing to provide necessary resources to maintain this park and facilities for a period of ten (10) years,

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to submit an application for grant funding to the Arkansas Department of Parks and Tourism for a Wildlife Observation Trail Grant in an amount of up to $100,000.00 for nature trail improvements at Lake Fayetteville.

PASSED and **APPROVED** this 1st day of March, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

City Clerk - Support for the Streamside Protection Ordinance

From: Kelly Tribell <kelly.tribell@gmail.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/21/2011 10:51 AM
Subject: Support for the Streamside Protection Ordinance

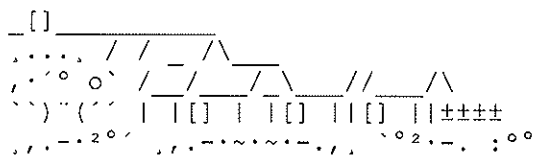
Sondra, please forward:

Dear Mayor and Council, I'd like to offer my support for the Streamside Protection Ordinance as it is currently written. I do own property in the affected area and feel I can continue using the property as I always have. I believe that the overall improvements offered by this ordinance will benefit the value of my property. As a community we can also make use of the natural filters already in place from the proposed buffers to help lower our dependency on engineered filtration and cleaning systems (and hence higher taxes later on). These systems are already in place and all we have to do is protect them to allow them to help us. This brings another point forward. I own a business here that depends on our community remaining healthy, vibrant and forward thinking. Everyone of my clients is making the choice to reinvest in this community or invest for the first time. If we don't take care of where we live none of us can expect for our area to continue to thrive. My livelihood and those of other small businesses (and big for that matter) depend on you to support our community as a whole by protecting one of our most valuable resources.

A common conversation with a client moving to our area for the first time always includes the benefits of living in such a beautiful area of The Natural State. I'd like to see us try our best to keep it that way.

Thanks for your consideration,

Wm. Kelly Tribell
479.582.LEND (5363) Northwest Arkansas
501.663.LEND (5363) Little Rock



City Clerk - Support Stream Ordinance

From: <treehuggerlane@cox.net>
To: "city_clerk@ci.fayetteville.ar.us" <city_clerk@ci.fayetteville.ar.us>
Date: 2/21/2011 10:52 AM
Subject: Support Stream Ordinance

Sondra, Can you please forward this email to all city council members? Thank you so very much.

City Council Members,

I am writing to encourage you to **SUPPORT the Streamside Protection Ordinance**, and pass this measure on March 1.

As is the case with so many important environmental issues, streamside protection is actually an **economic issue, a health and safety issue, and a quality of life issue.**

As an environmental educator, a member of the Environmental Action Committee and an active community volunteer; and as a life-long resident of Fayetteville and mother of two little girls, I urge you to take this step to **ensure the quality of our water resources.**

Sincerely,

Terri Lane

City Clerk - Swimming Pool Flood and Erosion Problem Pics

From: Melissa Terry <melissat@ncat.org>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/22/2011 10:49 AM
Subject: Swimming Pool Flood and Erosion Problem Pics
Attachments: Griggs Pool Flood.jpg; Griggs Backyard Flood.jpg; clear creek pics 025.jpg; Irasema view downstream.JPG

Hi Sondra, Will you please forward these photos to our city councilors?

Thank you!
Melissa

Dear City Councilors,

I'm sending you the attached photos via John Pennington @ the U of A Extension Service...please read his message below and check out his photos.

Here are those photos of the pools by the creek. Griggs pool flood is showing the aftermath of a flood in which the pool is filled with turbid water. They say **it costs about $2,000 dollars after each flood to clean the pool out.** Griggs back yard flood shows the flood in action and you can barely see the outline of the pool underwater.

Irasema downstream view shows a built up brickwall very close to the creek which has had erosion in the past and you can see it is continuing happen. Behind this brick patio wall is the pool.

Clear Creek 025 shows the same brick pool wall, and some new concrete and freshly re-worked rock stack and disturbed soil.....they've had to work at fixing the problem again and **each fix is further taking away from the beauty and function of the creek - not to mention not fixing the problem.**

Hope these can be of use for you somewhere along the line.

Talk to you later,

John

--
John H. Pennington
CEA- Agriculture / Water Quality
Washington County Cooperative Extension Service
2536 N. McConnell Ave.
Fayetteville, AR 72704

Char-Broil

479-444-1770
Fax: 444-1764
Jhpennington@uaex.edu

--

National Center for Appropriate Technology
SE Field Office
207 W. Center
Fayetteville, AR 72701
www.ncat.org
479.575.1385

--

National Center for Appropriate Technology
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Fayetteville, AR 72701
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479.575.1385

From: rharriso <rharriso@uark.edu>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/23/2011 10:40 AM
Subject: steamside ordinance

Dear Council Members,

I am writing in support of the streamside ordinance as it stands. I am in favor of protecting the soil buffer and of doing what we can to reduce polutants. I am an educator and writer and,among the many people I am in contact with, I know that many people share this view.
Rebecca Newth Harrison, Fayetteville, AR

City Clerk - Streamside Protection Ordinance Comments--Please forward to City Council and Mayor

From: Ann Mesrobian <mesrobiana@gmail.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/23/2011 3:19 PM
Subject: Streamside Protection Ordinance Comments--Please forward to City Council and Mayor

To the Honorable Mayor and City Council members of Fayetteville:

I am writing today to urge the City Council to pass the proposed Streamside Protection Ordinance.

I moved to Fayetteville last year, after living in rural Bastrop County outside of Austin, Texas since 1984. For the last twenty years I was heavily involved in environmental issues in Texas, and for the last ten I served on the board of the Lost Pines Groundwater Conservation District that set policy to manage groundwater resources in Bastrop and Lee Counties.

In my tenure on the Lost Pines board, I attended dozens of conferences covering water law, water conservation, water monitoring and groundwater modeling in order to educate myself so that I could make informed decisions. While my policy making experience focused on groundwater, I learned a lot about the interaction of surface and groundwater, and in particular the importance of streamside management via riparian buffer zones.

As do the cities in NW Arkansas, most Texas municipalities have man-made drinking water reservoirs. In Austin, the Colorado River has been dammed into the Highland Lakes that rise and fall dramatically depending on rainfall and management of the dams between them. In addition to supplying the Austin metroplex with drinking water, a water management plan dictates when and how much water is released for different downstream users via a stunningly complex tapestry of water rights.

While I am not familiar with Arkansas water law, it appears to me that the hydrology of central Texas is not terribly different from that of NW Arkansas. Both locations have karst topography and shallow aquifers, and both experience, from time to time, rainfall episodes that can challenge the best efforts of flood control. Both rely on surface water reservoirs for municipal water supply.

Members of the public who view this proposed ordinance as a violation of their property rights may not realize that we all live downstream from something. Those same folks would likely seek a legal remedy if chunks of their stream bank calve off after upstream neighbors devegetate and pave to the water's edge prior to a big rain.

In addition to reducing erosion and flooding, and improving water quality, appropriate management of streamside corridors will also extend the life of Beaver Lake. Few members of the public realize that every drinking water lake in the world has a life span inversely related to how rapidly it fills with sediment. Maintaining riparian buffer zones in the contributing watershed is the smartest and most efficient way to extend the lifespan of this man-made lake.

The same goes for water quality—the cheapest drinking water is that which requires the least treatment. Riparian buffer zones allow mother nature to clean the runoff before it hits the stream, an ecological service that is absolutely free and will drastically reduce water treatment costs down the road.

It is refreshing to me that the City of Fayetteville is forward-thinking in many ways that Texas lagged behind. I love my new community and while I am not thrilled at the explosive population projections I believe that measures such as this streamside protection ordinance can ensure that such growth occurs in the most sustainable manner.

Finally, no matter what the opposition to this might be today, now is the time to adopt this ordinance. It will only become more difficult in the years ahead, and more costly to fix the damage done by inaction.

I appreciate the hard work all of you are doing to make sure Fayetteville remains one of the jewels of NW Arkansas. If I can be of help in any way you may contact me at mesrobiana@gmail.com.

Sincerely,

Ann Mesrobian
19 West Pike Street
Fayetteville, AR 72701

City Clerk - Please vote for the Streamside Protection Ordinance - Please forward this to Mayor Jordan and all City Council Members

From: "Susan Drouilhet" <suedrou@juno.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/23/2011 3:48 PM
Subject: Please vote for the Streamside Protection Ordinance - Please forward this to Mayor Jordan and all City Council Members

Dear Fayetteville City Council Members –

As a resident of Fayetteville and a member of the city's Environmental Action Committee, I'm writing to ask that you support the Streamside Protection Ordinance as it is currently written.

Thank you for helping make Fayetteville a beautiful and healthy place to live, work and play!

Sincerely,

Susan Drouilhet

Susan Drouilhet
New Paradigms Coaching
www.newparadigmscoaching.com
(479) 443-1379

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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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

City of Fayetteville Arkansas
Special City Council Meeting Minutes
February 08, 2011

A special meeting of the Fayetteville City Council was held on February 08, 2011 at 5:55 p.m. in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

This meeting did not start until 5:55 p.m. because it followed Agenda Session.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Gray, Thiel, Kinion, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Matthew Petty

Pledge of Allegiance

New Business:

Rock Salt for Snow and Ice Removal: An ordinance to waive competitive bidding and to approve the purchase of medium crushed rock salt for snow and ice removal.

City Attorney Kit Williams read the ordinance.

Terry Gulley, Transportation Services Director: We are not out of material yet. We started the year with about 750 tons of salt which is double what we have had in the past. We did not think we would need to purchase salt this year so we did not include it in our bulk material bid. We will obtain quotes every time we make a purchase. We are asking for you to approve the bid wavier.

Don Marr, Chief of Staff: This is a supply that does not go unused. We can carry it over to the next year.

Unofficial

Alderman Ferrell: When would you usually shop it during the year to build it up?

Terry Gulley: We are going to wait until the demand is not so high. It will probably be during the summer.

Alderman Ferrell 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 Petty was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Lewis: This changes the salinity of our streams. Out fresh water fish can not live in salt water. Keep that in mind as we purchase sweepers to clean it up.

Terry Gully: That is why we are using salt brine instead of salt because it allows us to have at least a 30% reduction of the salt that we use on the road. Salt brine is what we spray as a pretreatment on the streets.

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

Ordinance 5386 as Recorded in the office of the City Clerk

Announcements: David Jurgens gave an update on trash services that have been delayed due to the weather.

Meeting adjourned at 6:10 p.m.

Lioneld Jordan, Mayor	**Sondra E. Smith, City Clerk/Treasurer**

Unofficial

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

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Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

City of Fayetteville Arkansas
City Council Meeting Minutes
February 15, 2011

A meeting of the Fayetteville City Council was held on February 15, 2011 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, Kinion, Petty, Tennant, Ferrell, Adams, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Lewis

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan: Connie Edmonston would like to announce an award the City received.

Connie Edmonston, Parks and Recreation Director: I am pleased to announce that the Arkansas Recreation and Park Association awarded Fayetteville Parks Trail Systems the Best in the State of Arkansas. We are very proud of that. She spoke on the various programs that the City currently offers regarding the trails.

Mayor Jordan: You do a tremendous job running the Parks Department so to you and your staff a great round of applause.

City Council Meeting Presentations, Reports and Discussion Items:

Airport Board Annual Presentation – Ray Boudreaux

Ray Boudreaux, Airport Director introduced the Airport Board members. He gave the annual Airport Board presentation for the year 2010.

UNOFFICIAL

Mayor Jordan: You, the staff and Airport Board do a fantastic job. I want to give you my thanks.

Agenda Additions: None

Consent:

Approval of the October 18, 2010 Joint Firemen's Pension and City Council and February 1, 2011 City Council meeting minutes.

Approved

Bid #11-15 Elk River Construction, Inc.: A resolution awarding Bid #11-15 and authorizing a contract with Elk River Construction, Inc. in the amount of $84,825.00 plus a five percent (5%) project contingency for the construction of stream restoration at Niokaska Creek in Sweetbriar Park and approving a budget adjustment of $9,066.00.

Resolution 26-11 as recorded in the office of the City Clerk.

Bid #11-17 ADS Environmental Services, LLC: A resolution awarding Bid #11-17 and authorizing the purchase of seventeen (17) sewer flow monitors from ADS Environmental Services, LLC in the amount of $136,528.63 for installation in the city sewer collection system.

Resolution 27-11 as recorded in the office of the City Clerk.

Police Recording System: A resolution approving a budget adjustment in the amount of $43,000.00 moving unused funds designated for the police recording system to the police building remodeling project.

Resolution 28-11 as recorded in the office of the City Clerk.

Ogden Insurance Agency Donation Revenue: A resolution approving a budget adjustment in the amount of $100.00 representing donation revenue received from Ogden Insurance Agency for the Fire Department's annual employee service awards event.

Resolution 29-11 as recorded in the office of the City Clerk.

Garver, LLC: A resolution approving a contract with Garver, LLC in an amount not to exceed $38,200.00 for the performance of an environmental assessment study for the Van Asche Boulevard extension project between Gregg Avenue and Garland Avenue.

Resolution 30-11 as recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc. Task Order #4: A resolution approving task order #4 to the contract with McClelland Consulting Engineers, Inc. contingent upon receipt of grant funding, authorizing the application and acceptance of a grant from the Federal Aviation

UNOFFICIAL

Administration and Arkansas Department of Aeronautics to fund the project, and approving a budget adjustment.

Resolution 31-11 as recorded in the office of the City Clerk.

Atlantic Machinery, Inc.: A resolution authorizing the purchase of a Schwarze A9000 sweeper from Atlantic Machinery, Inc. of Silver Spring, Maryland, pursuant to a competitive bid through the National Joint Powers Alliance (NJPA) cooperative purchasing agreement, in the amount of $190,100.00 for use by the Transportation Division, and approving a budget adjustment.

Resolution 32-11 as recorded in the office of the City Clerk.

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

Unfinished Business:

Amend Title XV: ADM 09-3480 (Streamside Protection): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 155: Appeals, Chapter 156: Variances, and Chapter 168: Flood Damage Prevention Code in order to establish Streamside Protection Zones and adopt a Protected Streams map and Best Management Practices Manual. *This ordinance was left on the First Reading at the February 3, 2011 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Karen Minkel, Director of Strategic Planning and Internal Consulting: We went through all the questions and comments that we heard at the last Council meeting and Agenda Session. She briefly addressed those specific questions.

Alderman Ferrell: Just because it's in a utility easement doesn't remove the problem that it's in the riparian zone, which is what we are going to forbid other people to do if the property changes. Is that correct?

Karen Minkel: They would still be allowed to put in the same width of impervious surface if they follow the best management practices manual.

Alderman Ferrell: If the property changes hands at some particular time they would still be able to do that?

Karen Minkel: Yes.

Alderman Ferrell: The projected miles, how many of those in our trail system are going to be directly adjacent to the riparian zone?

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Karen Minkel: What we know is that 20% of our future trails follow a stream corridor but when you look at that Master Trails Plan the line on the map can be deceptive because it's a negotiation for the easement. We typically try to locate out of the first 25 feet because the City has concerns about maintaining the integrity of the trail because of erosion problems on that stream. However if there is an existing utility easement it might make more sense to put it there. Also in that 25 feet you have to remember that a lot of that is along Scull Creek and that is a creek where development is really close to the creek and in some cases there may not have been a place to put it. The City would have to follow all the best management practices. Property owners are allowed that 12 foot width of impervious surfaces because they may need to put in a driveway or have another purpose.

I think there were also several comments about modifications that could be made to the ordinance. One was clarification about gardening. Staff agreed that it can be confusing so what we are suggesting is that in Subsection (E)(2)(l) it currently says management of lawns and gardens but no mechanized gardening is allowed we are asking that to be changed to say lawns and gardens. And in (E)(2)(l) take out mechanized cultivation entirely which will make it more clear to everyone.

The other modification was about woody vegetation. What we are proposing is to change that language in Subsection (E)(2)(c). Right now it says clearing of noninvasive woody vegetation and we agree that it could be confusing for someone reading it to determine if it is woody vegetation or not. We are proposing to change it so that it says clearing of noninvasive trees.

She continued to address questions and comments from the previous meetings and to explain the ordinance. She showed pictures of various creeks with erosion problems and pointed out that property owners are losing property.

Alderman Ferrell: Were there some other exceptions that the City received for Parks like mowing close to the water or were there at one time some things in there that the City exempted itself from?

Karen Minkel: No, the project team worked really hard to make sure that public and private property owners are being treated the same.

Alderman Thiel: I have had people say this ordinance will not allow you to mow within the buffer area.

Karen Minkel: In the best management practices we would recommend that you mow on the highest setting and that you mow several times per year rather than every week to allow your root system to grow and have more of a buffer in that area. This grandfathers in all current practices but we would encourage all property owners to take a look at that and if possible let the grass grow a bit more so you can maintain a better buffer.

Alderman Thiel: The ordinance does not prohibit it though?

Karen Minkel: Absolutely not.

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Alderman Thiel: I had a call from someone about the agriculture practices being grandfathered in. Someone contacted me that had purchased almost 1/4 acre lot several years ago. They went to the City and made sure they could build on a portion of this lot and this will eliminate being able to build on this lot at all. Is that something we are going to do in this ordinance? Someone's property will be absolutely worthless?

Karen Minkel: No, there is a variance procedure in place for that very reason. In fact it says the lot cannot be made undevelopable or unbuildable. So that would be a perfect example of a lot that could qualify for a variance.

Alderman Thiel: I wonder if there is some way we can write that in the ordinance without a variance process.

City Attorney Kit Williams: That is already handled in a section and it really needs to be handled on a case by case basis. Each lot needs to be looked at before you can decide what kind of variances, if it is going to be a reduction of the setbacks, or in buildable area or what kind of variance setback is needed so the lot can be built upon. If they are not happy with the variance procedure they can appeal it to the City Council so before any lot would ever be deemed unbuildable it will be before this Council for your determination about whether a variance is appropriate or whether you think it is not appropriate. That is when you would take the possible chance of an actual constitutional taking. I think we need to leave the variance procedure as is because you can't make a general statement and automatically say every lot is going to be buildable.

Alderman Adams: One person wrote to me and said that this area of law is already covered by the flood plan rules. Have you spoken on that already?

Karen Minkel: I believe they might be referring to floodways. They are governed by federal law and not city but this includes areas that maybe outside of that floodway.

City Attorney Kit Williams: This is part of our chapter that deals with flood reduction. There are parts of the other ordinances that we have already passed that would impact anybody that has property with flooding problems. This is not the first ordinance that has any effect upon streams and flooding problems.

Karen Minkel: This could provide additional capacity for floods but the purpose of the two regulations is pretty different. One is related to flooding and this one is related to nutrient reduction. While they interact the primary purpose of the two codes are different as well.

Alderman Petty: Did you say you had two language related amendments to offer, one regarding gardening and the other regarding the definition of woody plants?

Karen Minkel: Yes and I can go over those again.

Alderman Petty: I think I understand them.

Alderman Petty moved to amend Subsection (E)(1)(a)(10) to say "management of lawns and gardens." Alderman Thiel seconded the motion.

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Alderman Gray asked Karen to go over the gardening section again because she has had a lot of concerns about that.

Karen Minkel gave a brief explanation of the gardening amendment. Subsection (E)(1)(a)(10) currently says management of lawns and gardens but no mechanized cultivation is allowed. Staff is proposing that say management of lawns and gardens and also in Section (E)(2)(l), which is the list of called out prohibited practices, that you simply delete that. Right now it says cultivation and we are saying take it out.

Alderman Thiel: What department will be enforcing this and do we have the staff to go out and measure? I think there is going to be difficulty in measuring these distances.

Karen Minkel: We actually looked at this because we had concerns about additional work load. If there is a large development they will have a surveyor who can easily determine where this buffer area would be and call it out on a plan. We looked back at the people who were in the floodway or floodplain that had come through our office and it was less than 10 per year looking at statistics from the past four years. We looked at how many times our Floodplain Administrator might be asked to go out there and actually do a measurement for a property owner and less than 10 times per year seemed fairly minimal. In terms of enforcement it would be handled like all our other codes, it is complaint driven. The book of regulations is going to be when people have to come through our office for development or building permits and that is where we are really going to do the review. Some of these items are going to be an educational process and we fully anticipate that. We are hoping that with all the partnerships we formed we can provide those education materials because we think that is going to be the real tool that is used.

Mayor Jordan asked for the amendment to be read.

City Attorney Kit Williams: Did you want me to discuss the constitutionality of legality before we get into amendments?

Don Marr, Chief of Staff: We walk all streams on a five year cycle through our Engineering Division. While we have a complaint driven ordinance we also have a visual physical observation that has to take place so that each stream within the City boundaries are walked within that five year period. Items that don't come up through complaints or items that may not come up during a development process could potentially be identified that way as well.

City Attorney Kit Williams: I believe this proposed ordinance is clearly within the statutory power of the City Council to enact. I believe the reasonable regulations and variances within this ordinance should prevent it from being a constitutionally taking of anybody's property. He spoke on the constitutionality of the ordinance.

Alderman Ferrell: I understand you have to give us your best research and hang your hat on that. I would still say that I think it depends on whose ox is getting gored. I hope we never get to that point because I think a great amount of education has already went out to the citizens of this town. We are the most educated populous in this state so hopefully we can find a compromise on this thing.

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Alderman Thiel: I would suggest that we wait on the amendment. This is a little confusing to the pubic and I think we are pretty much on board with the amendments. We can make them maybe after we have the public discussion.

A discussion followed on how public comment should be taken.

Colleen Gaston, Staff Attorney for Beaver Water District gave a brief presentation and addressed some of the misconceptions about the ordinance. She stated these types of requirements in general undoubtedly will have a positive effect on water quality. She also clarified Beaver Water District's role in the creation of this ordinance.

Alderman Thiel asked Colleen to explain what turbidity was.

Bob Morgan with Beaver Water District: Turbidity is actually a measure of the clarity or cloudiness of the water. It's a relationship between the amount of algae and suspended particles in the water.

Alderman Ferrell: After a big rainstorm and you have mud coming down the river, as it goes into the lake you can see it spread, the turbidity changes with the load, it is carried in there correct, the sediment?

Bob Morgan: Yes sir, the turbidity will start settling out as it comes into the lake.

Alderman Ferrell: So clearness is what most people would think about.

Bob Morgan: Actually it would be the inverse of clarity.

Colleen Gaston continued with her presentation and stated science shows that this will produce benefits.

Alderman Ferrell: I understand Fayetteville has a great watershed that goes into that but isn't Fayetteville the largest purchaser of water from Beaver Water District?

Colleen Gaston: I would assume so just because of the population.

Nancy Varvil, resident of 1824 Pine Cone that backs up to Hamestring Creek voiced her concerns about the debris and sediment that is continually washed onto her property. She stated I accept this legal oversight as necessary to maintain the health of our mountainside environment and the values of our properties there. She spoke in favor of the ordinance.

Jim Laubler, a resident just outside the city limits voiced his concerns with ordinance and stated this country is founded on individual rights and asked the Council to consider what their oaths are. He spoke against the ordinance.

Kevin Bavin, resident of Ward 2 near Niokaska Creek on Elm Street asked are we going to study the removal of phosphates as a total phosphorous load being taken off of the waste coming out of our sewer plants. What are we doing to figure out if that is going to help our situation? Is that removal of phosphates from dishwashing detergent going to confuse the results of this

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proposal of this ordinance? He asked the Council to please slow down and think about what they are doing.

Angie Albright, resident of Ward 1 and representative of the Environmental Action Committee stated I am here to say on behalf of the committee that we whole heartedly support this. She asked the Council to think about not just the individual property owners but think about what is best for everyone. She encouraged the Council to support the ordinance.

Amy Robinson, resident of Ward 4 asked the Council to support the ordinance. She stated if we do not take these steps now we will pay for them exponentially later through the health and the economic deficits that we will incur, including the reduction of recreational use, increased cleanup cost and restoration and loss of property value, as well as land itself.

Lee Owen, Fayetteville resident stated I respectfully disagree with your ordinance. He asked the Council if this was affecting your property would you still vote for it. He stated if you are representing me I am asking you not to do it.

Terry Michaels, property owner near Spout Spring stated I am fully supportive of this ordinance and very proud that the City is considering it.

Bill Moler, resident of Ward 4 stated I am in support of this ordinance. I think it's needed and there is good solid science pointing to that need. City staff has done an extraordinary job of researching the situation, developing a best practices manual and drafting an ordinance. He pointed out that people have rights. He spoke in favor of the ordinance.

Halley Hoggatt, Fayetteville resident expressed his concerns with phosphorous and sediment and stated the purpose of the report in the introduction was an agreement to try and not have to meet the phosphorous output at the wastewater treatment plant. If the wastewater treatment plant is the problem then the City needs to take responsibility for their problem. We all are responsible for taking care of what comes out of the wastewater treatment plant.

Steve Harris, property owner on 15th Street near Town Branch questioned whether or not he would be grandfathered in and be able to use the land as he has used it for the last several years.

Mayor Jordan: That is what I understand.

Steve Harris also questioned the buffer area.

City Attorney Kit Williams: What he is referring to is new use. If you are currently doing something and it is grandfathered in you can't initiate a new action.

Steve Harris: It should say new action.

City Attorney Kit Williams: The ordinance is clear when it says if you are doing some sort of activity you may continue.

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Steve Harris: You can read it either way. Also there is a section in there about stream crossings. If we put a tree lined buffer on both sides of the creek how am I going to access from one side to the other?

Alderman Thiel: Wasn't that in the best practices manual?

Steve Harris: It is in there but it doesn't really say.

Karen Minkel: If there is a current crossing it is grandfathered in. What it states in the ordinance is that stream crossings including driveways, roadways, trails or railroads are allowed when the City Engineer determines there is no practical and feasible alternative. If it is within the first 25 feet and a stream crossing would fall within that then you would have to follow the best management practices manual for that crossing.

Alderman Thiel: Does it say he has to build a crossing?

Karen Minkel: No, if you were you would follow the best practices manual.

Steve Harris: My situation is that I have a dirt crossing which washes out every time the creek gets up and I have to take my tractor and build a new crossing.

Mayor Jordan: I assume that is going to be grandfathered in.

City Attorney Kit Williams: Yes, if he has a crossing he can continue to use the crossing and maintain it.

Karen Minkel: If the crossing were destroyed then you would need to follow the best practices manual that is consistent with all our other ordinances. What it says is you are going to consider minimize or reduced stream crossings through proper planning and you are going to minimize the amount of excavation and filling. It goes on to tell you the methods that you can use to minimize your stream crossing impact.

Steve Harris: If you pass this ordinance who is going to maintain this buffer that we are putting down through there?

Mayor Jordan: The City will.

Steve Harris: The City is going to plant trees on it?

City Attorney Kit Williams: We are not maintaining the buffer.

Steve Harris: Who is going to maintain it?

Mayor Jordan: If you are maintaining it now you would be allowed to maintain it later on.

Steve Harris: So if it fills up with brush it is still going to be my responsibility to get it out of there.

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City Attorney Kit Williams: The City is not trying to take over the creek or trying to maintain it. It's only trying to limit certain activities, which you are not doing now, that would be a degradation to the stream or creek. So if you are doing stuff now to maintain your creek side then you can continue to do that.

A discussion followed on whose responsibility it would be to maintain Mr. Harris's property when other problems occur along the creek.

Steve Harris: How does the City plan to enforce this ordinance?

Karen Minkel briefly explained how the City would enforce the ordinance.

Steve Harris expressed his concerns about the damages that flooding can have on his property and wondered what the City would do if that happened. He encouraged the City Council to walk the creek side to see the problem areas. He continued to speak against the ordinance.

Jerry Patton, Fayetteville resident stated I believe you are moving way too fast and this is not the time to do this. I am for clean water and property rights but I do not feel this is the right time to do this. He spoke against the ordinance.

Tom McKinney, representing the Arkansas Chapter of the Sierra Club expressed his concerns with growing development and its effects on our creeks. He stated the Sierra Club supports the ordinance and he encouraged the Council to not allow any weakening amendments.

Joanna Pollack, Fayetteville resident stated this ordinance protects our drinking water and our recreational areas and there is a much more economical value in our future when we protect our resources. She spoke in favor of the ordinance.

Warren Phillips, a citizen voiced his concerns about the affect this would have on property owners. He suggested that rather than approving this ordinance why not do something on a voluntary basis with a threat of your ordinance if it does not work out. He spoke against the ordinance.

Lee Kenburg, resident along Town Branch stream stated this ordinance is very important to the City. He gave examples of how this ordinance will protect the value of Fayetteville properties along streams. He continued to speak in favor of the ordinance.

Pat Tobin, Fayetteville property owner stated the City is going too far with this. He expressed his concerns and spoke against the ordinance.

Steve Lyle, Attorney for some of the property owners along Clear Creek stated the benefits of this ordinance have been overstated as far as reducing the nutrient levels that are a problem with the City. He asked is this going to have a significant impact or do we need to look at bigger issues. He expressed his concerns and spoke against the ordinance.

Joann Kvamme, resident of 1982 Greenview stated no property owner wants their property to be polluted and every one of us wants clean water. She pointed out ways that property owners could protect the streams. She suggested that the City give some sort of incentive to the people

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that live in the floodplain areas to make them want to cooperate. She asked the Council to vote for the ordinance.

John Pennington, Cooperative Extension Service employee stated I have collected input from streamside landowners for the City as related to this ordinance. He encouraged the Council to look at the report that he submitted on his findings and somehow find a way to compromise with those that have conflicts it might be one of the best ways to do this.

Frank Sharp, resident of 2062 S. Smokehouse Trail shared his memories as a child dealing with the issues of water supply. He encouraged the Council to support the ordinance.

Lauren Hawkins, a citizen stated we all live up and down stream from someone. Let's embrace this opportunity to assist each other to do the right thing. She asked the Council to please support the ordinance.

Robert Kossieck, President of the NWA Property Rights Association commended the staff and Council for their concern about water quality. He stated however that the City is trying to fix something that is not broke. He expressed his concerns and spoke against the ordinance.

Mayor Jordan: Did the Illinois River Group say that we should not pass an ordinance?

Robert Kossieck: The Illinois River Watershed Protection group does all their work through teaching.

Mayor Jordan: I wanted to clarify your statement. Did you say they did not support the ordinance?

Robert Kossieck: They do not support the ordinance that is correct. They would like to see this as a voluntary teaching situation. He spoke against the ordinance.

Karen Reece, Fayetteville resident and Real Estate Broker expressed her concerns with property values and urged the Council to support the ordinance.

Liev Black, West Fork resident expressed her concerns with the pollution and sewage currently in the streams near her city and stated I would like to see this ordinance not only pass but also be a model for other communities.

Dot Neely, resident of Ward 1 stated while things may be looking pretty good for our area there are some dramatic changes projected. I see this ordinance as an opportunity to put in place safe guards that will help the whole community. She spoke in favor of the ordinance.

Bob Morgan with Beaver Water District commended the work that is being done by the Noland Wastewater Treatment Plant. They have optimized their operation and they have taken all the low hanging fruit in terms of phosphorous and nutrients. To get anymore out of that plant the cost goes up exponentially. It's easy to get down to 1 milligram per liter but as you go lower than that it gets much more difficult. If they get much lower than where they are right now they are probably going to end up putting in new filters which would raise the cost and raise the rates in the City. The whole point of this agreement was that it doesn't really make sense to spend that

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much money on a plant to get a little bit more phosphorous out when the big issue is the non point sources of phosphorous.

Cynthia Haseloff, Steward of Mae Farm stated this ordinance personally insults me. No one is more aware than I am that I am a steward of this land. She spoke against the ordinance.

Felicia Farris, resident of Markham Hill, questioned if Ms. Minkel would address how many of the 1,300 would meet the criteria of being out of compliance. What education has been done prior to this? What is the penalty if you stay out of compliance? She stated concerns she had with the ordinance.

Peter Njuguna, Fayetteville resident expressed his concerns. He spoke against the ordinance.

Cindi Cope stated she applauds the streamside ordinance and hopes it passes.

Fran Alexander voiced her concerns and spoke on the environmental impacts of different substances.

Gladys Tiffany resident of Willow Street stated a lot of dissatisfaction with the ordinance comes from the fact that people are leery about being regulated. She spoke in favor of the ordinance.

David Jurgens speaking as a citizen of Fayetteville stated this ordinance protects my property more than it constrains my property. He urged his alderman to vote in favor of the ordinance.

As the Utilities Director of the City of Fayetteville he addressed various questions that had been brought up. This ordinance allows us to make the correct choices, and gives us the ability to do so. It protects my property rights and it helps the City in addressing the sources of the pollutants in the water ways. He spoke in favor of the ordinance

Kyle Johnson, Vice Steward of Mae Farms spoke in opposition of the ordinance.

Don Pitts resident of Fayetteville and property owner of Lokomotion stated his concern is when he develops his property further he will be limited to how he can put it along the stream. He would like to have his buildings close to the stream rather than parking lots.

Michael Ollie, Ward 2 resident: I see this ordinance as an inevitable future. He spoke in favor of the ordinance.

Eden Reif stated she thinks this ordinance is well reasoned and the right thing to do.

Kevin Cooper, Ward 4 resident urged the Council to vote for the ordinance.

David Orr, resident of 1564 West Cedar Street stated what I've heard tonight is a lot of the citizens who really are conscientious are afraid. They are afraid of something they don't understand. He spoke in favor of the ordinance.

Alderman Ferrell: Do you live along a stream?

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David Orr: I do not live along a stream. If I owned property along a steam I would be demanding everyone along the stream be as conscientious as I've tried to be.

Alderman Ferrell: It was mentioned that berms could be built. How would you talk to the guy down the creek if you built a berm? It pushes water away from you but it goes down and gets a neighbor.

David Orr: I think berms are a bad idea. If I have a house and my neighbors upstream who I have no control over cause floods to be more intense, I'm going to do what it takes to protect my home.

Alderman Ferrell: Thank you.

Joe Edgmon, Former Mayor of Tontitown stated an ordinance is designed to protect the welfare of a city. Stick with the ordinance and if you see something that becomes a problem then you know you can address it.

Aubrey Shepherd stated he hopes people that are grandfathered in will understand but it seems they don't believe it and don't trust us. He spoke in favor of the ordinance.

Mayor Jordan: We have an amendment to vote on.

Alderman Thiel: Do we want to clarify it?

Alderman Petty clarified his amendment.

A discussion followed regarding the amendment.

The amendment was as follows: Alderman Petty moved to amend Subsection (E)(1)(a)(10) to say "management of lawns and gardens." Alderman Thiel seconded the motion.

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

Alderman Thiel moved to amend (E)(2)(c) so that it says clearing of noninvasive trees. Alderman Kinion seconded the motion.

A discussion followed regarding the amendment.

Alderman Petty: I separated the amendments because I intend to vote against this amendment. He stated why he didn't support the amendment.

Upon roll call the motion passed 5-0. Aldermen Petty and Adams voting no. Alderman Lewis was absent.

The ordinance was left on the Second Reading

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Huntingdon Heights Appeal: An appeal of the City Engineer's determination regarding the driveway approach at 3172 Warwick Dr. *This item was tabled at the February 3, 2011 City Council meeting to the February 15, 2011 City Council meeting.*

Jeremy Pate, Development Services Director gave a brief description of the ordinance. He stated we successfully convinced this applicant to delay his hearing tonight. The request is to table for two meetings.

City Attorney Kit Williams stated that will be March 15th.

Alderman Thiel moved to table the ordinance to the March 15, 2011 City Council meeting. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Lewis was absent.

This appeal was tabled to the March 15, 2011 City Council meeting.

New Business:

Amend 2011 Adopted Budget: A resolution amending the 2011 city budget by re-appropriating up to $58,840,788.00 in bonded or ongoing capital projects, outstanding obligations and grant-funded items previously appropriated in the 2010 city budget but not completed or delivered in 2010.

Paul Becker, Finance Director gave a brief description of the resolution.

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

Resolution 33-11 as recorded in the office of the City Clerk.

Ozarks Electric Cooperative Corporation Cost-Share Agreement: An ordinance to waive competitive bidding, to approve a cost-share agreement with Ozarks Electric Cooperative Corporation in the amount of $38,250.48 for the extension of power to the Stone Mountain Water Pump Station, to approve a project contingency of $7,500.00, and approve a budget adjustment of $45,751.00.

City Attorney Kit Williams read the ordinance.

David Jurgens, Utilities Director stated he had nothing to add.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked David to give a brief explanation regarding waiving competitive bidding.

David Jurgens: The reason for waiving competitive bidding is because Ozarks Electric owns the utility. They are the only ones that can do the work and authorize work on the utility.

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

Ordinance 5387 as Recorded in the office of the City Clerk

RZN 10-3732 (Brown, 2600 Crossover Rd.): An ordinance rezoning that property described in rezoning petition RZN 10-3732, for approximately 1.64 acres, located at 2600 Crossover Road from R-A, Residential Agricultural, to R-O, Residential Office.

City Attorney Kit Williams read the ordinance.

Jeremy Pate stated the Planning Commission voted 7-1 to forward this to the Council with a recommendation of approval. He gave a brief description of the ordinance. He stated staff is recommending approval of the ordinance.

Alderman Ferrell: When this came along it had a serious impact on Mr. Brown. This has come through the Planning Commission and passed.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Petty seconded the motion.

JB Hayes, 2595 N Sherwood Dr. stated he appreciated the City Council's patience and service to the City of Fayetteville. He also stated he supports his friend and neighbor in his request for rezoning.

Alex Moore, grandson of Mr. Brown spoke on behalf of his grandfather: This property is not conducive for residential and the more logical choice would be for small office buildings.

Ben Israel, 1501 Starr Drive stated he started looking at this property in 2004 for Mr. Brown. At that time we felt the highest and best use of it was residential office. He asked the Council to consider the ordinance.

Alderman Tennant thanked Dr. Hayes for his comments. I spoke with several residents that live in the Candlewood Subdivision and some of them had concerns regarding the traffic flow on 265. Some of those questions were answered when I received information from city staff on the way 265 is going to look. There were also questions of sound and if that would help or hurt. If I read it right they think it might improve the sound buffer between Candlewood and the street.

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The bigger issue for me is the restriction on the landowner because you can't build houses there. I think this is the only thing for him to do and get the property value. I support the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5388 as Recorded in the office of the City Clerk

VAC 10-3735 (Firestone): An ordinance approving VAC 10-3735 submitted by H2 Engineering, Inc. for property located at 1965 Box Avenue to vacate a utility easement, a total of 240 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. He stated Planning Commission voted 8-0 and staff recommends approval.

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 Lewis was absent.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell 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 Lewis 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 Lewis was absent.

Ordinance 5389 as Recorded in the office of the City Clerk

Appeal Chapter 166.18 of the UDC: An appeal regarding staff interpretation of Chapter 166.18 of the UDC.

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Jeremy Pate gave a brief description of the appeal. He stated staff recommends City Council pass a resolution denying the appeal but approve a Master Street Plan resolution reducing the amount of Master Street Plan right-of-way required for the piece of property.

Tracy Hoskins: We need a particular size sign and set back measured from the 40 foot right-of-way which is historic along North College Avenue. To be able to get the sign that we need an appeal was required. It doesn't make a difference to us if the appeal is granted as far as the sign goes. I appreciate staff supporting a measurement at 43½ feet from center line but it doesn't help us. I have talked to some of the Council members and we are okay if the City Council would rather deny the appeal but allow us to change the right-of-way along North College on our side of the road at 40 feet from center line. Then we could reapply for our permit and get what we need.

Alderman Petty: If we went with 43½ feet right-of-way have you considered options of extending the island?

Tracy Hoskins: Yes, it's possible to do something like that other than the City has a regulation to where we have to have 24 foot parking lots. The building and parking lot in 2006 was almost 100% pavement. We shrank the size of the parking lot and added more green space and landscape area out front on North College. At the south end of the lot it's measured at the historic right-of-way of 40 feet. The northern end of the lot we had more room because of the shape of the property so we set our parking spaces back further and installed a sidewalk and added green space. We closed the drive lane to 24 feet. If we extend the island then our drive lanes would not be in compliance with code.

Alderman Petty: Thank you.

Alderman Ferrell: Are you saying you're alright with the appeal not being granted and the 40 foot from right-of-way, if we can do a resolution to remove that parcel to 40 foot right-of-way to allow you a sign.

Tracy Hoskins: I would be okay with that as well. The end net result gets us what we need for the businesses that are located at the building. I understand the need for maintaining right-of-way as much as possible for future road improvements.

Alderman Ferrell: Jeremy, the Master Street Plan is our tool and guide for development. What would you recommend if I wanted to make an amendment to resolve this to go back to the 40 foot setback?

Jeremy Pate: Kit would probably write the resolution. I would make a motion to deny the appeal and in the same motion approve a resolution amending the Master Street Plan for property at 3155 North College Avenue reducing the Master Street Plan right-of-way to 40 feet.

City Attorney Kit Williams: If you were going to reduce the Master Street Plan from 47 ½ that is recommended down to 43 or 40 feet you will have to follow the code section which is 166.04 (B)(3)(a)(i) and find that there is an undo hardship or practical difficulties with the subject property that justifies reducing the Master Street Plan.

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Jeremy, if Mr. Hoskins was going to place his sign so it would not be 10 feet back from the established setback but it would be 6 ½ feet back how much smaller would his sign have to be if he keep it within his island?

Jeremy Pate: A six foot tall sign the display surface area measured is 75 square feet. Every foot that it reduces you would have to make that calculation.

Tracy Hoskins: 23%.

City Attorney Kit Williams: How many square feet would your sign be?

Jeremy Pate: Roughly 52 square feet.

City Attorney Kit Williams: You all would be determining that having a sign 52 square feet instead of 75 square feet would be an undo hardship and a practical difficulty for his property.

Alderman Ferrell: Where the sign would be moved to seems like it would present an undo hardship.

City Attorney Kit Williams: If he could only have a 75 foot sign that would be correct because that would be in the drive isle. He does have the option in the sign ordinance to have it placed closer to the right of way but with a reduction in size down to approximately 50 square feet instead of 75 square feet.

Alderman Ferrell: I would like to go that way with a resolution except I would like to have it worded that if the Council agrees to the 40 foot right-of-way on the Master Street Plan exception then the appeal would be denied or withdrawn.

City Attorney Kit Williams: He is not withdrawing his appeal.

Alderman Ferrell: He said it didn't make a difference to him if he got the 40 feet. Didn't I understand you to say that?

Tracy Hoskins: Yes sir, but there is one statement Mr. Williams made that I would like to clarify. Regardless of the size of the sign it can't be moved closer to the right-of-way.

City Council Kit Williams: I guess I'm confused.

Tracy Hoskins: I am too because you made the statement that the smaller sign could be moved closer to the right-of-way.

Jeremy Pate: That is correct, 10 feet minimum is the closest you can be to the right-of-way line. It's the right-of-way line that would potentially move. I would offer that we would recommend 43½ and potentially even 40 as a unique hardship as this is a fully developed property. There are five lanes of traffic, sidewalk, and green space.

Mayor Jordan: You are okay with 40 feet?

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Alderman Ferrell: It's not his first choice.

Jeremy Pate: That's correct.

Don Marr, Chief of Staff: The likelihood that you are going to have a road that's greater than a five lane road going through this section of town is probably not very likely. That is why we have some comfort in getting it closer to 40 feet.

City Attorney Kit Williams: I talked to David Jurgens about this issue and he stated the water line in that particular location is very old and they have had problems with it. Even if the highway department does not come back to approve it he would like to see the water main moved out of the road so that when it blows or needs to be replaced you don't have to dig up College Avenue.

The City has not gained any right-of-way from Mr. Hoskins. This would only keep development out of a place where if we needed to move the line and we were buying the right-of-way it would not have a sign on it that would be more expense to the City.

Alderman Ferrell: What is your take on that?

Tracy Hoskins: I talked to David Jurgens, the line is 65 years old and there have not been any problems along North College in our area. They have had problems with a line in front of Burger King. The cross section of the road is 55 feet. The City has 80 feet of right-of-way. The City has 11 feet on both sides to locate utilities.

Alderman Ferrell moved to change the Master Street Plan to 40 foot right-of-way and deny the appeal. Alderman Thiel seconded the motion.

Tracy Hoskins: I appreciate your patience.

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

Resolution 34-11 as recorded in the office of the City Clerk.

Announcements:

Meeting adjourned at 11:20 p.m.

Lioneld Jordan, Mayor | **Sondra E. Smith, City Clerk/Treasurer**

UNOFFICIAL

Handed out at Agenda Session 2/22/2011

Fayetteville
ARKANSAS

Fayetteville Animal Shelter
City/County

Summary

This report has been drafted in response to a letter from the Washington County Judge's office to consider a partnership in the proposed Washington County Animal Shelter. This document will first establish the cost savings that are anticipated in the year 2012 after the city's contracts with the county and smaller cities expire. This data will be based on current budget items and population estimates. The report will show the length of time that the Fayetteville Shelter can operate into the future and the cost saving reflected in less need for Capital Improvement Program (CIP) project monies or operational budget increases for at least the next 2 years.

Secondly, this report will explore two possible scenarios if the city were to contract with a Washington County Shelter to shelter Fayetteville animals. This information is based on retaining the current cost of operating animal control, which would remain a constant cost to the city. The scenarios also contain unknown variables since Washington County has not provided detailed information to date related to the actual cost of up front capital or per animal intake fees for which the City of Fayetteville would be directly responsible.

In order to accommodate Fayetteville animals another 7,000 square feet would need to be added to the County's current plan for a new shelter based on calculations made from information received from the County's Feasibility Committee. This would result in the need for an additional estimated $1,000,050 in capital building funds. It is anticipated that this amount would either be asked for upfront in 2011 or spread over the course of 5 years by adding an additional sum to the current estimated $75 per animal charge. Regardless of our affiliation with the County regarding sheltering animals, the City of Fayetteville will have to provide Animal Control Services. These services will require continued funding and staff support from other departments. The County does not currently know what their actual operating costs will be, so there is a possibility that the animal sheltering fee may be higher than the $75 estimate.

According to population projections by the Northwest Arkansas Regional Planning Commission, once the Fayetteville Shelter is established as a facility to serve Fayetteville residents exclusively, the current Shelter's animal housing capacity should carry through the next 30 years. Although facility improvements would be needed during that time, the Shelter estimates that donation revenue could be generated to cover most of these expenses. In addition, Animal Services estimates that it would not need to ask for additional funds to add to its operating budget through at least the end of calendar year 2013. These factors make maintaining the status quo a financially sound decision for the City.

Census and Cost Savings Data

Population projections were gathered from the Northwest Arkansas Regional Planning Commission. These population estimates are based on the population per dwelling unit ratio from Census 2000. Census data is from the latest 10 year Census reported by the U.S. Bureau of the Census. Rural data is not updated because the county neither issues building permits nor reports building activity.

	Estimated Population
Fayetteville: **2010**	77,044
Fayetteville: **2029**	109,041
Fayetteville: **2039**	125,882
Washington County: **2010** Population served by the Fayetteville Animal Shelter	131,966

The above Washington County population served estimate does not include the cities of Springdale, Prairie Grove and Lincoln. The Fayetteville Animal Shelter does not serve these cities.

In 2010 the City of Fayetteville Animal Shelter facility has provided services for a population base of 131,966. The current projected population for the City of Fayetteville for 2039 is 125,882. Therefore, based on these estimates our current animal shelter facility would serve the residents of Fayetteville at a minimum through the end of 2039. Improvements to the facility would be required, but it is anticipated that most if not all capital improvements would be funded from the donation account. This would generate a cost savings to the CIP Fund on future shelter projects.

Option 1: City of Fayetteville Shelter Remains in Operation

This option has the City of Fayetteville maintaining an Animal Control Program and an Animal Shelter Program for the animals of Fayetteville only.

Sheltering Animals

The current shelter agreement fee charged to the county and small cities is $75.00 per animal which covers a five (5) day stay at a rate of $15.00 per day. Most adoptable animals remain at the shelter an average of twenty-one (21) days. Of the estimated 1,500 animals which come from the county and small cities approximately 40% will be adoptable, which means 600 animals will be at the shelter for an average of twenty-one (21) days. At a rate of $15.00 per day these animals will generate an estimated cost of $189,000. The fees currently collected from the county and small cities for these animals would be $45,000 with a net cost overrun of $144,000 that is absorbed by the City of Fayetteville.

There are many studies that verify strong spay/neuter and microchip programs reduce shelter animal populations (see appendix). The City of Fayetteville is committed to continuing both efforts at the highest level possible.

If the Fayetteville Animal Shelter were to house only Fayetteville animals the cost overrun of approximately $144,000 would no longer be needed to house county and small city animals but would provide for Fayetteville animals instead. The City of Fayetteville will continue to stress spay/neuter and microchipping for Fayetteville animals which coupled with the population estimates above would indicate that it would be at least 30 years before the Fayetteville shelter population reached current levels. It is anticipated that by not housing County animals the Animal Services Program would not require a budget increase through the calendar years of 2012 and 2013.

Future CIP Needs

The Shelter has been operating with an insufficient budget for medical/veterinary supplies. Due to this, the Shelter had to use approximately 95% of the undesignated public donations it received to cover this expense in both 2009 and 2010. As of 2011 the Shelter's medical/veterinary supply budget is increasing to cover the previously existing shortfall. This will allow future undesignated donations to be used for building improvements and major repairs which will reduce the funding requests from Capital Improvement Project funds.

Also, it is anticipated that future fundraising efforts will be more successful because donors will be able to contribute to a specific goal (i.e. a new roof) and will be able to see the tangible benefit of their donation instead of only helping the Shelter in some abstract way.

Animal Services estimates that in the future it will be able to generate donations to cover most of the capital improvement projects. In summary, if the current Animal Services Program operating budget remains the same after the end of 2011, Animal Services does not anticipate the need to ask for additional monies through the CIP budgeting process for the calendar years of 2012 and 2013.

Option 2: Enter into a Shelter Agreement with the County

The City of Fayetteville would enter into a sheltering agreement with Washington County and would maintain a Fayetteville Animal Control Program.

Animal Control Program

The mission of this program would be to enforce current animal related ordinances. General Funds would be used to fund the program. All revenue generated by fees from this program will be returned to the General Fund.

The following is the suggested level of staffing to support the required animal control component. Five full-time equivalents (FTEs) and one additional vehicle would be needed to run the program. The existing kennel and clinic buildings would be maintained for emergency pet sheltering.

Program Staff – Animal Control

Table 1.1

Position	Salary & Benefits	FTE	FTE Cost
Senior Officer	$55,819	1.00	$ 55,819
Officer	$42,614	4.00	$170,456
Total		5.00	**$226,275**

Fayetteville Central Dispatch estimates two additional dispatch positions to handle citizen calls for assistance and dispatching of Animal Control personnel at an estimated cost of $67,000. The additional dispatch positions will be required because there will no longer be Animal Shelter staff to receive and dispatch calls during normal operating hours.

Estimated Operating Budget – Animal Control Only Option

Table 1.2

	Estimated Budget
Building and Grounds Maintenance	8,000
Office Supplies	500
Copier Supplies & lease	2,500
Minor Equipment	4,000
Fuel	10,439
Uniforms	2,500
Travel & Training	6,080
Telephone expense	3,343
Motor Pool Charges	5,533
Shop overhead charges	2,800
Contract Services	500
Radio, Vehicle & Machine Maintenance	428
Estimated Operating Budget Total	**$ 46,623**

This is the initial budget estimation. Future changes may be deemed necessary by administration.

First Year Budget (Year 2012)

Estimated Animal Control Budget including additional FTE and Vehicle	$272,898
Additional Dispatch Positions (2 FTE's)	$ 67,000
Total Estimated Budget	**$339,898**

Interlocal Partnership Scenarios

A sheltering agreement with Washington County would require added square footage for the new county shelter to adequately service the estimated animal population generated by the residents of Fayetteville. Currently the new county shelter has 3,500 square feet allocated to kennel area (based on current estimates from the County). An additional 7,000 square feet would be needed to serve the estimated need of the City animal intake. Based on the current estimated construction cost this additional space would equal an additional capital cost of $1,000,050.

(The County has not provided detailed information related to the actual cost of up front capital or per animal intake fees to the City of Fayetteville if a partnership were established. The alternatives presented are based on possible scenarios developed by the report team. All projections are made with the $75/animal shelter rate remaining unchanged.)

Alternative #1 – Construction Cost

The City of Fayetteville would provide the construction cost of $1,000,050 for the additional space required for the county shelter in Budget Year 2011. Operations and services at the Animal Shelter would remain as normal for 2011. In Budget Year 2012, the city would establish the Animal Control Program and support as outlined previously at a projected annual operating cost the first year of $339,898.

Alternative #2 – Construction Cost

The City of Fayetteville would provide the construction cost as a part of the animal sheltering fee with an increase of $50 to the original $75 fee with an estimated animal intake of 4000. The $50.00 construction cost surcharge would see the total $1,000,050 required for construction of the additional space paid out in an estimated 5 years if the animal intake held close to the 4000 animal estimate.

Unforeseen Expenses

There are some possibly substantial expenses that are unknown. For example, some animals require a longer mandatory holding period. Animals that are known to have an owner (i.d. tag, etc.) must be held for 10 days before being put up for adoption. The County has not said if there will be a higher fee for these animals. In addition, animals that have court holds (pending aggressive dog cases, etc.) are often held for periods of 6 to 8 months. It is logical that the County would charge a much higher fee for these animals or refuse to house them altogether, leaving the City to contract with a Vet to hold those animals for the required amount of time.

There is no commitment that the $75/animal charge used in the current animal sheltering agreement between the City and the County will be the fee utilized by the County. Data provided earlier in this document shows that $75 is inadequate for Fayetteville to cover the actual cost of housing adoptable animals being sheltered, which is a primary reason that the City can no longer continue to house the animals of the county and smaller cities. Therefore, it is likely the County will determine that the $75 fee is not adequate to cover the costs of housing animals at their new shelter.

Conclusion

At this time the future county shelter programs and costs for operation have not been identified. Therefore, comparison of current city shelter and future county practices and procedures can not be made with a high degree of accuracy. In addition, there always remains the possibility that conflicting Shelter practices and procedures could occur. Fayetteville citizens are extremely animal conscious and enjoy being directly involved with the running of their Animal Shelter.

Overall, if the City decided to partner with the County on new facility, it would necessitate an initial contribution of $1,000,050 within the next five years. In addition, the cost of continuing a stand alone Animal Control Program and paying the sheltering costs for an estimated 4,000 animals would average $600,000 (if the base animal sheltering rate of $75 held constant).

At a time when the City of Fayetteville, like many other cities is experiencing budget challenges, the financial demands of partnering to build a larger Shelter are not in the best interest of the taxpayers. This is especially true when the current Shelter is estimated to be adequate for another three decades. As the City of Fayetteville strives to provide the best services for our citizens, the best alternative is to focus on existing Animal Services within our municipality. The current Animal Services facility will provide decades of service to our citizens. The city cannot forecast the county's fee structure or future changes to the fees. The city does know that Animal Services is providing a valuable service to the citizens and animals of Fayetteville.

Appendix: Effectiveness of Animal Control Programs in Reducing Shelter Population

Companion animal overpopulation is a serious problem in almost every community throughout the United States. The cost of animal control to deal with this problem is estimated to be in the billions of dollars nationwide. It is left up to the individual municipalities to manage pet overpopulation in their area. Low cost spay/neuter programs and microchip programs have been shown to be very effective means to manage overpopulation.

Joshua M. Frank, Ph..D and Pamela Carlisle-Frank, Ph. D. write in their study "Analysis of Programs to Reduce Overpopulation of Companion Animals" that spay and neuter programs not only result in lower animal intake and euthanasia rates at shelters but also result in higher adoption rates.

Peter Marsh founder of Solutions to Pet Overpopulation found that In 1970-71 the City of Los Angeles impounded 144,000 animals and started a spay and neuter program that sterilized five percent of reclaimed animals. By 1982-83 the intake of animals had been reduced to nearly half at 72,454 animals.

Geoff Handy published data from New Hampshire's statewide spay and neuter program in his 2001 book *Animal Control Management: A Guide for Local Governments*. This data indicated that by the sixth year of the program, New Hampshire's eight largest shelters admitted 30,985 fewer animals at a cost savings to the state.

The New Jersey State Animal Population Control program reports that since its inception in 1984 there has been a 27 percent reduction in animal intake at shelters and a 45 percent reduction in the number of animals euthanized. The report also found that the adoption rate increased from 20 percent to 39 percent.

Microchips are a very effective means of animal identification and results in animals being returned to their homes 72 percent of the time according to Dr. Linda Ford with Ohio State University. She gathered information from 53 shelters in 23 states in a study from August 2007 to March 2008.

Spay/neuter programs and microchip programs have been proven to reduce shelter animal populations. The City of Fayetteville Animal Shelter is committed to continuing both efforts at the highest level possible.

Streamside Protection
3-01-2011

Bobby Ferrell's
Proposed Amendment
NO Second therefore no
vote was taken

Fayetteville
ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Alderman Bobby Ferrell**

FROM: **Kit Williams**, City Attorney

DATE: **December 16, 2010**

RE: **Opt out provision for Streamside Protection Ordinance**

You asked me to draft an opt out provision for landowners who do not wish their streamside land to be affected by the proposed Streamside Protection Ordinance. The best place to put such a provision in within the proposed §168.12 **Streamside Protection Zones** (B) *Applicability*. It currently is proposed to read:

> "*Applicability*. This ordinance shall apply to all land within a Streamside Protection Zone as defined by this section, except as provided:
>
> (3 minor exceptions follow)

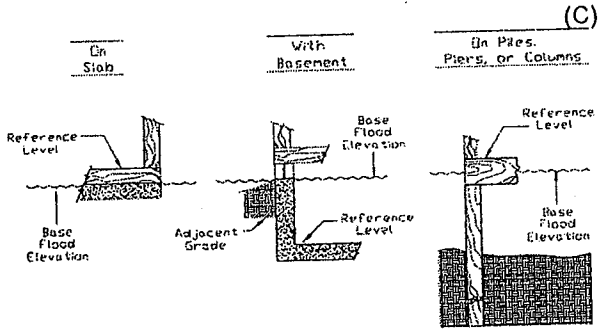
You could propose a subsection (4) as follows:

> "(4) Any landowner whose property is in one or both Streamside Protection Zones can opt out of all regulations imposed by §168.12 **Streamside Protection Zones** by submitting a written notification to the Fayetteville City Engineering Division."

If your proposal is accepted by the City Council, the **Streamside Protection Zone** section will effectively be changed from regulations to requests or suggestions about the use of property near a stream. Attached is the portion of the proposed **Streamside Protection Zones** section relevant to your requested change.

Your change would go here

including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided.



Elevations should be measured at the top of the reference level floor.

(Ord. 5141, 5-6-08)

168.12 Streamside Protection Zones

(A) *Streamside Best Management Practices Manual.* The City of Fayetteville's Streamside Best Management Practices Manual, which may be administratively changed by the City Engineer, shall be used in support of this chapter to explain specific objectives and principles.

(B) *Applicability.* This ordinance shall apply to all land within a Streamside Protection Zone as defined by this section, except for as provided below:

(1) Undeveloped lots created by a lot split, concurrent, or final plat application, which was submitted or approved prior to the effective date of this ordinance, are exempt from the requirements of this section for the following time periods:

(a) 24 months from the effective date of this ordinance for lots one half (½) acre or less;

(b) 18 months from the effective date of this ordinance for lots greater than one half (1/2) acre but less than 1 acre; or

(c) 12 months from the effective date of this ordinance for lots one (1) acre or greater.

(2) A preliminary plat which was submitted or approved prior to the effective date of this ordinance shall be exempt from the requirements of this section, provided the time periods listed herein shall be in force from the date of final plat approval.

(3) A use and/or activity permitted by an unexpired building permit, which was approved prior to the effective date of this ordinance, is exempt from this ordinance.

(C) *Establishment of Designated Surface Waters.* The Streamside Protection Zone shall apply to all surface waters meeting any one of the following criteria:

(1) All surface waters identified on the adopted Streamside Protection Zone map, including any pond, lake or reservoir located within the natural drainage way of said surface water; or

(2) Any surface water where a floodway has been established by the Federal Emergency Management Agency (FEMA).

(D) *Streamside Protection Zone Requirements.* The Streamside Protection Zones shall be established as follows:

(1) *Zone 1: Waterside Zone.* The Waterside Zone shall extend a minimum of 25 feet landward from the top of bank in each direction, measured horizontally on a line perpendicular to the top of bank and includes the surface water.

(a) *Steep slope.* Slope shall be calculated at the upstream and downstream property lines for every property. Properties with more than 100 feet of stream frontage shall require additional slope calculations at 100 foot increments, beginning at the upstream property line and ending at the downstream property line. When slope calculations are equal to or greater than 15%, the width of the Waterside Zone shall be extended by an additional 20 feet at that point. The boundary width determined at each designated slope measurement point shall be connected by a continuous line to form the boundary of the Waterside Zone (illustrations available in Best Management Practices Manual).

(2) *Zone 2: Management Zone.* The Management Zone shall begin at the outer edge of the Waterside Zone and extend landward 25 feet as measured horizontally on a line perpendicular to Zone 1. The combined width of Zones 1 and 2 shall be no less than 50 feet from the top of bank on all sides of the surface water.

Handed out at the City Council Meeting 3/1/2011

Streamside Protection

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

TO: City Council

FROM: Karen Minkel, Internal Consultant

DATE: March 1, 2011

SUBJECT: Streamside Protection Ordinance Clarification

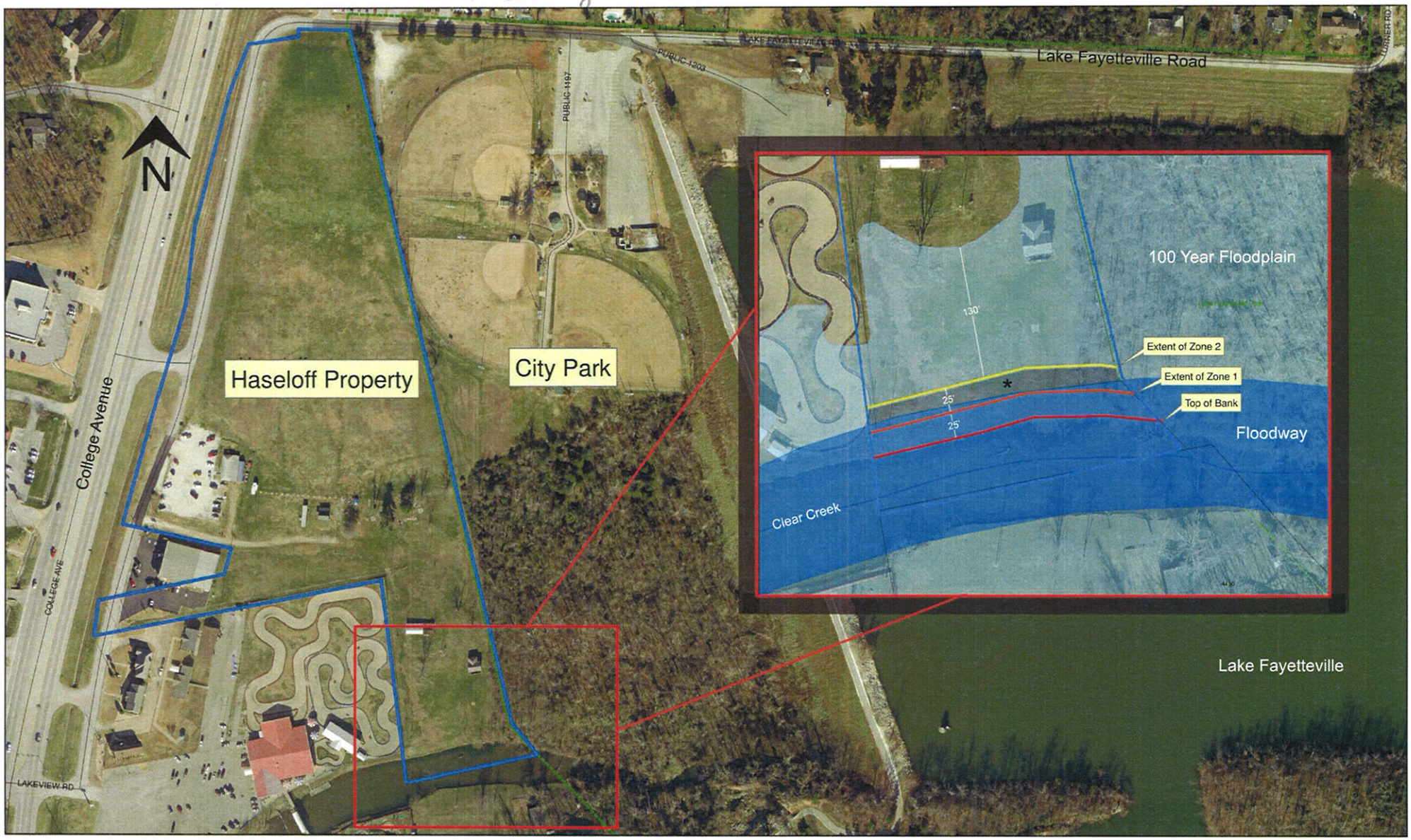
Staff wanted to clarify some of the points made in the Sunday article in the *Northwest Arkansas Times* about the streamside protection ordinance and its effect on property values. This is a topic that staff included in our initial research. We did not find any evidence to suggest that a riparian buffer decreased property values. There have been several studies that looked at effects on property value in a specific area, generally finding a three to six percent increase in the value of not only the property that had the buffer but all the properties within a ¼- to ½ -mile radius of an intact buffer. There have also been numerous studies often cited by realtors that show the added value of mature trees on a property. We are cautious about extrapolating from the streamside buffer studies because they are specific to a location such as Tucson, AZ, but we feel comfortable saying that a buffer would likely not decrease property value.

We also wanted to follow up on the numbers published in the paper specific to Ms. Haseloff's property or Mae Farm. Staff wanted to note that half of the proposed buffer area on that property is in a floodway, which has strict limitations on development set forth by federal regulation. The other half is in a floodplain, which also has limitations on development. While staff does not have the technical expertise to speculate on the exact value of the property, we do think the figure provided in the paper was significantly inflated based on these factors.

This situation is not uncommon throughout the City. Approximately 64 percent of the proposed buffer area on private property is floodway.

Handed out at the City Council Meeting 3/1/2011

Streamside Protection



Streamside Ordinance as applied to Mae Farm

Floodway
100 Year Floodplain

* Area within Zone 2, outside of the already development restricted FEMA floodway is 4,571 square feet, or 0.6% of the total tract.

#1
Town Branch - West Bank
Property owned by:
Leif Lindberg

#2
Town Branch-East Bank
Property Owned by:
Leif Lindberg

#3
Town Branch-West Bank
Property owned
by Leif Kindberg

Summary of Water Quality related projects, sponsorships, studies, monitoring, and educational efforts undertaken by the City of Fayetteville from 2005 to 2011

Project Type	Project	City Funding								Federal Funding
		2005	2006	2007	2008	2009	2010	2011*	Total '05 - '11	
	Development of the Nutrient Reduction Plan			$ 199,883					$ 199,883	
Monitoring	City of Fayetteville Urban Stream Assessment (2004 – 2007)		$ 90,626	$ 27,222					$ 117,848	
Monitoring	USGS 3 Urban Stream Gauging Stations partnership	$ 16,235	$ 17,435	$ 18,569	$ 18,845	$ 19,640	$ 19,640	$ 19,640	$ 130,004	$ 53,935
Stormwater Education (NPDES permitting)	Stormwater Education Mass Media Campaign						$ 28,579		$ 28,579	
Stream Restoration	West Fork of the White River at Fayetteville Executive Airport Stream Restoration						$ 367,431		$ 367,431	$ 573,076
Stream Restoration	White River at Noland Treatment Plant Bank Restoration						$ 77,000		$ 77,000	$ 200,000
Sponsorship	Beaver Lake Watershed Protection Strategy Report					$ 10,000			$ 10,000	
Stormwater Education	Watershed Education w/ UA Cooperative Extension Service	$ 38,093	$ 38,182	$ 38,632	$ 39,716	$ 42,272	$ 43,192	$ 44,552	$ 284,638	
Sponsorship	Illinois River Watershed Partnership sponsorship			$ 10,000	$ 10,000	$ 10,000	$ 10,000	$ 10,000	$ 50,000	
Stream Restoration	Niokaska Creek at Sweetbriar Park Stream Restoration					$ 177,000			$ 177,000	$ 234,000
Stream Restoration	Niokaska Creek at Gulley Park Stream Restoration			$ 141,200					$ 141,200	$ 121,000
Stream Restoration (partial)	Red Oak Park, restoration/pipe project to repair erosion						$ 230,479		$ 230,479	
Monitoring	Water Quality Sampling on the West Fork of the White River Grant				in-kind				$ -	$ 45,765
	Pet Waste Program (pet waste bag stations in parks and on trails)					$ 1,212	$ 998	$ 1,997	$ 4,207	
NPDES permitting	Goose Creek losing stream study						$ 4,858		$ 4,858	
NPDES permitting	UA sampling study on the Savoy & Mud Creek						$ 7,555		$ 7,555	
NPDES permitting	UA sampling study on the Savoy & Mud Creek							$ 13,000	$ 13,000	

* 2011 funding is all encumbered but not all expended

Total City Funding 2005 - 2011	$ 1,843,682
Total Federal Funding 2005 - 2011	$ 1,227,776
Grand Total of City and Federal Funding	**$3,071,458**

Note: Excludes basic permitting fees paid to ADEQ.

Note: The above summary does not match the accounting summary of Project Number 02097 Stormwater Quality Mgmt/Nutrient Reduct because this account includes charges for other projects such as the Upper Scull Creek Drainage Study by McClelland which was driven by flooding problems rather than water quality issues. This summary includes information from Project Number 02108 such as the Red Oak Park project and also includes projects funded by Water and Sewer.

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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
March 1, 2011

A meeting of the Fayetteville City Council will be held on March 1, 2011 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. **Animal Shelter Whitepaper** - Yolanda Fields, Community Services Director and Justine Middleton, Animal Services Superintendent

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

1. **Quarterly Financial Report** – Paul Becker, Finance Director

Agenda Additions:

A. Consent:

1. Approval of the February 8, 2011 Special City Council meeting and the February 15, 2011 City Council meeting minutes.

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

3. **Bid #10-56 Upchurch Electrical Supply Company:** A resolution awarding Bid #10-56 and authorizing the purchase of twenty-five (25) LED light fixtures and poles from Upchurch Electrical Supply Company in the total amount of $49,981.88 for installation on Frisco Trail between Maple Street and Spring Street.

4. **Bid #11-21 Phelps Construction Co., Inc.:** A resolution awarding Bid #11-21 and authorizing a contract with Phelps Construction Co., Inc. in the amount of $26,220.00 for the purchase of rock for the Niokaska Stream Restoration.

5. **Arkansas Department of Parks and Tourism Wildlife Observation Trail Grant:** A resolution authorizing application for an Arkansas Department of Parks and Tourism Wildlife Observation Trail Grant in the amount of $100,000.00 for nature trail improvements at Lake Fayetteville.

6. **Bale Chevrolet of Little Rock:** A resolution authorizing the purchase of six (6) 2011 police package Chevrolet Tahoes from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of $200,250.00, for use by the Police Department.

B. Unfinished Business:

1. **Amend Title XV: ADM 09-3480 (Streamside Protection):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 155: Appeals, Chapter 156: Variances, and Chapter 168: Flood Damage Prevention Code in order to establish Streamside Protection Zones and adopt a Protected Streams map and Best Management Practices Manual. *This ordinance was left on the First Reading at the February 3, 2011 City Council meeting. This ordinance was left on the Second Reading at the February 15, 2011 City Council meeting.*

   Left on the Second Reading

C. New Business: None

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/1/2011
City Council Meeting Date
Agenda Items Only

Justine Middleton	Community Services	Development Services
Submitted By	**Division**	**Department**

Action Required:

Approval of the 2011 Interlocal Sheltering Contract with Washington County.

	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date: 02-10-2011

City Attorney — Date: 2-11-11

Finance and Internal Services Director — Date: 2-11-2011

Chief of Staff — Date: 2-11-11

Mayor — Date: 2/14/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 02-11-11 A09:44 RCVD

Received in Mayor's Office ENTERED 2/11/11

Comments:

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www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Yolanda Field, Dir. Community Services; Jeremy Pate, Dir. Development Services

From: Justine Middleton, Animal Services Superintendent

Date: February 3, 2011

Subject: Approval of 2011 Interlocal Sheltering Agreement with Washington County

PROPOSAL:

The previous Interlocal Sheltering Agreement expired December 31, 2010. A new contract was sent out to be reviewed and signed in early January. The Interlocal Agreement with the County is only for a term of one year, running from January 1, 2011 to December 31, 2011.

RECOMMENDATION:

Staff recommends approval of the Interlocal Sheltering Agreement for the 2011 calendar year.

BUDGET IMPACT:

Revenue of $97,650.00

RESOLUTION NO. _____

A RESOLUTION APPROVING AN INTER-LOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND WASHINGTON COUNTY, ARKANSAS TO PROVIDE ANIMAL SHELTERING SERVICES TO WASHINGTON COUNTY THROUGH 2011

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an Inter-local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County through 2011. A copy of the agreement, marked Exhibit "A", is attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute the Inter-Local Agreement with Washington County, Arkansas.

PASSED and **APPROVED** this 1st day of March, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND WASHINGTON COUNTY, ARKANSAS

THIS AGREEMENT is entered into this _____ day of _____, 2011, by and between the **CITY OF FAYETTEVILLE,** and the **COUNTY OF WASHINGTON, ARKANSAS,** concerning the provision of animal sheltering services;

WHEREAS, effective animal control is of mutual interest to the City of Fayetteville and Washington County; and

WHEREAS, the City of Fayetteville possesses the necessary facilities to provide animal sheltering services to Washington County.

NOW, THEREFORE, IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

Article I

The City of Fayetteville agrees to provide sheltering services for animals delivered to its shelter, located at 1640 Armstrong Avenue, in the City of Fayetteville, by designated animal control officers of Washington County and any Washington County citizen that lives outside any incorporated city limits and who is not otherwise covered by a sheltering agreement. The term "sheltering services" shall include, but is not limited to, food, water, shelter, veterinarian care (basic care to be provided during normal working hours), euthanasia, impoundment, and quarantine (up to five days). This shall also include after hours access for the county animal control officers.

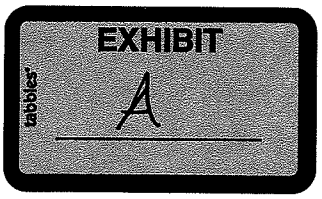
Article II

Washington County agrees to comply with the Fayetteville Animal Shelter's Operating Policy during the term of this Agreement, and understands that the City of Fayetteville may terminate this agreement for noncompliance.

Article III

Washington County sheltering services fees due for 2011 in the amount of $97,650 said sum being based on the number of animals delivered to the shelter by Washington County citizens and designated animal control officers during the year 2010. Future charges will be calculated in the same manner at the rate of $75 per animal. Washington County agrees to pay $97,650, payments shall be made to the City of Fayetteville in the form of twelve (12) monthly payments of $8,137.50. Payments shall be due on or before the first day of each month.

Monthly Report for current year sheltering services activities will consist of a summary activity report and citizen intake forms. Monthly report packet will be mailed to the



County Judge's Officer, Attention: Quorum Court Secretary. If an animal is impounded or quarantined the cost of such shall be born by the owner; however, if the owner fails or refuses to retrieve any such animal, than after five (5) days it shall be forfeited to the shelter.

Article IV

This agreement shall begin on January 1, 2011 and end at midnight on December 31, 2011; however either party, upon 30 days written notice may terminate this agreement.

Article V

The City of Fayetteville agrees to provide assistance to Washington County in the form of minor medical treatment while a shelter veterinarian is on staff, the drafting of animal control ordinances, educational programming, professional consultation regarding animal control matters, and in all other areas necessary and proper to effectuate the highest level of cooperation between the City of Fayetteville and Washington County.

Article VI

Neither the City of Fayetteville nor Washington County may assign any of its rights or delegate any of its obligations under this Agreement, without the express written consent of the other.

Article VII

This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

Article VIII

Each paragraph of this Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

Article IX

Washington County shall hold harmless the City of Fayetteville from any and all claims or liabilities arising from the performance of this Agreement, provided that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville or Washington County under the Constitution and Statutes of the State of Arkansas.

Article X

It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law in the event of one or more breaches or defaults by any party under the Agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

Article XI

This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this Agreement shall be valid unless made in writing and signed by the duly authorized agents of the parties.

IN WITNESS WHEREOF, the City of Fayetteville and Washington County have executed this Agreement on or as of the date first written above.

CITY OF FAYETTEVILLE, ARKANSAS

_____
LIONELD JORDAN, Mayor

ATTEST:

_____
SONDRA SMITH, City Clerk

WASHINGTON COUNTY, ARKANSAS

Marilyn Edwards
_____
MARILYN EDWARDS, County Judge

ATTEST:

Karen Combs Pritchard
_____
KAREN COMBS PRITCHARD, County Clerk

1-26-11

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THE CITY OF FAYETTEVILLE, ARKANSAS
ANIMAL SERVICES PROGRAM
1640 S Armstrong Avenue
Fayetteville, AR 72701
Phone (479) 444-3456

January 21, 2011

Washington County
280 N. College, Suite 300
Fayetteville, AR 72701

Washington County Clerk:

The time has come to renew our sheltering agreement. The terms of the contract have not changed in any material way from the contract that was signed in 2010. The fees and all of the other provisions have remained unchanged.

I have enclosed the original contract and another copy to serve as the second original. Judge Edwards and the Washington County Clerk, must sign both of these sheltering agreements before the Fayetteville City Council can approve the agreement, and then be signed by Mayor Jordan and the Fayetteville City Clerk.

Please return both signed copies of the agreement to Fayetteville Animal Services, 1640 South Armstrong, Fayetteville, AR 72701. Once City of Fayetteville officials sign both agreements, one original agreement will be sent back to you for your records. If you have any questions, please call me at 444-3455. Thank you for your assistance in this process.

Sincerely,

Justine Middleton

Justine Middleton
Animal Services Superintendent
City of Fayetteville
(479) 444-3455
jmiddleton@ci.fayetteville.ar.us

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/1/2011
City Council Meeting Date
Agenda Items Only

Matt Mihalevich	Engineering	Development Services
Submitted By	**Division**	**Department**

Action Required:

A resolution awarding Bid #10-56 and approving the purchase of twenty-five (25) LED light fixtures and poles in the amount of $49,981.88 from Upchurch Electrical Supply Company for installation on the section of Frisco Trail between Maple Street and Spring Street.

$ 35,069.25	724,900.00	Energy Efficiency / Conservation Block Grant
$ 14,912.63	$ 1,249,747.00	Transportation Bond Trail Improvements
Cost of this request	Category / Project Budget	Program Category / Project Name
2240.9240.5315.00	143,821.64	Energy Block Grant
4520.9550.5814.05	$ 1,135.00	Trail Improvements
Account Number	Funds Used to Date	Program / Project Category Name
09011.0030	581,078.36	Energy Block Grant
06036.1004	$ 1,248,612.00	Sales Tax Construct Bonds
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] **Budget Adjustment Attached** [ ]

Department Director — Date 02-10-2011

City Attorney — Date 2-11-11

Finance and Internal Services Director — Date 2-11-2011

Chief of Staff — Date 2-11-11

Mayor — Date 2/14/11

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 02-10-11P02:59 RCVD Kim G.

Received in Mayor's Office ENTERED 2/11/11

Comments:

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THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Chris Brown, City Engineer

From: Matt Mihalevich, Trails Coordinator

Date: January 31st, 2011

Subject: Frisco Trail LED fixtures and poles

PROPOSAL:

Staff requests approval of a resolution awarding Bid #10-56 and approving the purchase of twenty-five (25) LED light fixtures and poles in the amount of $45,750.00 plus sales tax from Upchurch Electrical Supply Company for installation on the section of Frisco Trail between Maple Street and Spring Street.

RECOMMENDATION:

In October of 2010, the Transportation Trails Construction Crew completed a 0.4 mile section of Frisco trail from Spring Street to Maple Street. Since that time, staff has been researching and testing LED light fixtures to find a suitable match to the existing "Dickson Street Style" fixtures installed along Frisco trail from Spring Street south to Prairie Street. The fixture and pole specified in Bid #10-56 is a perfect match to the existing fixtures and has performed well to the testing.
The purchase of the LED fixtures and poles was advertised on August 25th 2010 as bid number 10-56 with official bids received on September 15th, 2010 and Upchurch Electrical Supply Company was low bid. The official bid tab is attached.

BUDGET IMPACT:

The LED fixtures will be purchased using funds from the Energy Efficiency and Conservation Block Grant as part of the American Recovery and Reinvestment Act (ARRA) in the amount of 32,100.00 plus tax and the Poles will be funded in the amount of $13,650.00 plus tax as part of the budgeted Transportation Bond Trail Development Program.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #10-56 AND AUTHORIZING THE PURCHASE OF TWENTY-FIVE (25) LED LIGHT FIXTURES AND POLES FROM UPCHURCH ELECTRICAL SUPPLY COMPANY IN THE TOTAL AMOUNT OF $49,981.88 FOR INSTALLATION ON FRISCO TRAIL BETWEEN MAPLE STREET AND SPRING STREET

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 #10-56 and authorizes the purchase of twenty-five (25) LED light fixtures and poles from Upchurch Electrical Supply Company in the total amount of $49,981.88 for installation on Frisco Trail between Maple Street and Spring Street.

PASSED and **APPROVED** this 1st day of March, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

Fayetteville
ARKANSAS

BID: 10-56
DATE: 09/15/10
2:00 PM
CITY OF FAYETTEVILLE

Bid 10-56, Frisco Trail LED Lighting Equipment

Item	Description	Quantity	*Upchurch Electric*	
			Price Each	Total Price
1	Lighting Fixture	25	$1,284.00	$32,100.00
	Manufacturer		Beacon	
	Model		PIE20/PC/LED60W-120/DIR3/LSP/EQS/BG/AA-38/B/BG	
2	Fiberglass Pole	25	$546.00	$13,650.00
	Manufacturer		NPG	
	Model		WPODS15ASDS4DB-GRN	
	TOTAL BID PRICE:		$45,750.00	

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

CERTIFIED: P Vice — P. VICE, PURCH MGR

J Foren — WITNESS

9/15/10 — DATE

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under $2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)

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

Requisition No.:

Date: **3/1/2011**

P.O Number:

Expected Delivery Date:

Vendor #: **12090**

Vendor Name: **Upchurch Elec Supply**

Mail Yes: X No:

Address:

Fob Point:

Taxable Yes: X No:

Quotes Attached Yes: No: X

City:

State:

Zip Code:

Ship to code: **104**

Divison Head Approval:

Requester: **Ginny Gundlach**

Requester's Employee #: **2283**

Extension: **489**

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	**Light Poles for Frisco Trail (Maple St. to Spring St.)**	**25**	**Ea**	**546.00**	**$13,650.00**	**4520.9550.5814.05**	**06036 / 1004**		
2					**$0.00**				
3					**$0.00**				
4					**$0.00**				
5					**$0.00**				
6					**$0.00**				
7					**$0.00**				
8					**$0.00**				
9					**$0.00**				
10					**$0.00**				
*	Shipping/Handling		Lot		**$0.00**				

Special Instructions:

Per Bid 10-56 and Res. ____

Subtotal: **$13,650.00**

Tax: **$1,262.63**

Total: **$14,912.63**

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

Revised 1/2/2008

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: **3/1/2011**

A. 3
Bid #10-56 Upchurch Electrical Supply Company
Page 6 of 6

P.O Number:

Expected Delivery Date:

Vendor #: **12090**

Vendor Name: **Upchurch Elec Supply**

Mail Yes: X No:

Address:

Fob Point:

Taxable Yes: X No:

Quotes Attached Yes: No: X

City:

State:

Zip Code:

Ship to code: **104**

Divison Head Approval:

Requester: **John Coleman**

Requester's Employee #: **2974**

Extension: **272**

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	**LED Light Fixtures for Frisco Trail (Maple St. to Spring St.)**	**25**	**Ea**	**1,284.00**	**$32,100.00**	**2240.9240.5315.00**	**09011 / 0030**		
2					**$0.00**				
3					**$0.00**				
4					**$0.00**				
5					**$0.00**				
6					**$0.00**				
7					**$0.00**				
8					**$0.00**				
9					**$0.00**				
10					**$0.00**				
*	Shipping/Handling		Lot		**$0.00**				

Special Instructions:

Per Bid 10-56 and Res. ____

Subtotal: **$32,100.00**

Tax: **$2,969.25**

Total: **$35,069.25**

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

Revised 1/2/2008

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3/1/2011
City Council Meeting Date
Agenda Items Only

Carole Jones	Park Planning	Parks and Recreation
Submitted By	**Division**	**Department**

Action Required:

A resolution awarding Bid #11-21 and approval of a contract with Phelps Construction Company, Inc. in the amount of $26,220 for Rock for Niokaska Stream Restoration.

$ 26,220.00	$ 312,000.00	Niokaska Creek Stream Restoration
Cost of this request	Category / Project Budget	Program Category / Project Name
4470.9470.5400.00	$ 197,535.00	Niokaska Creek Stream Restoration
Account Number	Funds Used to Date	Program / Project Category Name
09025.0901	$ 114,465.00	Sales Tax/Grant
Project Number	Remaining Balance	Fund Name

Budgeted Item X **Budget Adjustment Attached** ☐

Connie Edmonston 2-11-11
Department Director Date

2-11-11
City Attorney Date

Paul A. Becker 2-11-2011
Finance and Internal Services Director Date

2-15-11
Chief of Staff Date

2/15/11
Mayor Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 2011-11 P04:12 RCVD
Kim G

Received in Mayor's Office ENTERED 2/14/11

Comments:

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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
Alison Jumper, Park Planning Superintendent

From: Carole Jones, Park Planner

Date: February 11, 2011

Subject: **Bid #11-21, Rock for Niokaska Stream Restoration**
Agenda Request for March 1, 2011 Meeting

PROPOSAL:
Sweetbriar Park contains 4.05 acres and is located at 2645 E. Sweetbriar Drive. The park is situated in the northeast quadrant of town east of Old Missouri Road and south of Joyce Boulevard.

Niokaska Creek, a tributary to Mud Creek, flows through Sweetbriar Park. The creek is located within the Illinois River Watershed. The creek sections are incised and have several banks eroding into the park land and surrounding residential yards which have resulted in vertical cut-banks. These banks contribute excessive sediment to the streams through lateral erosion. Bank erosion presents a safety concern and leads to a lack of riparian canopy. Restoration is necessary to stabilize the creek and prevent further erosion.

On September 1, 2009, the City Council passed Resolution Number 191-09 authorizing the Parks and Recreation Department and the Engineering Division to accept a Wetland Program Development Grant from EPA Region 6 in the amount of $234,000 (see attached resolution). The Wetland Program Development Grant is used for projects that promote research, training, demonstrations, and surveys relating to the causes, effects, extent, prevention, reduction, and elimination of water pollution.

The project includes construction of a natural stream channel with specified geomorphic features, five major rock vane structures, bankfull benches constructed out of rock and wood materials with soil mattresses, and associated site work. Bids for construction of the project were received on January 27, 2011, and the item is on the February 15 City Council consent agenda. The procurement of materials to be used for the project was not included in the construction contract.

The bid for the rock to be utilized in the project was advertised on January 29, and bids were opened on February 11, 2011. Five vendors including Phelps Construction Company, Inc., Stone Gardens, LLC, Schwartz Stone Company, Northwest Arkansas Stone and APAC - Central submitted bids. Phelps Construction Company, Inc. was the low bid in the amount of $26,220. (See attached bid tabulation sheet and bid form).

RECOMMENDATION:
A resolution awarding Bid #11-21 and approval of a contract with Phelps Construction Company, Inc. in the amount of $26,220 for Rock for Niokaska Stream Restoration.

BUDGET IMPACT:
This project is funded with Sales Tax/US EPA Region 6 Grant funds ($30,690). The cost of the rock to construct the stream restoration including applicable sales tax is $26,220.

Attachments:
Staff Review Form
Resolution Number 191-09
Bid Tabulation Sheet
Bid Form and Submittal
Purchase Requisition

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #11-21 AND AUTHORIZING A CONTRACT WITH PHELPS CONSTRUCTION CO., INC. IN THE AMOUNT OF $26,220.00 FOR THE PURCHASE OF ROCK FOR THE NIOKASKA STREAM RESTORATION

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 #11-21 and authorizes a contract with Phelps Construction Co., Inc. in the amount of $26,220.00 for the purchase of rock for the Niokaska stream restoration.

PASSED and **APPROVED** this 1st day of March, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

Fayetteville
ARKANSAS

BID: 11-21
02/11/11
2:00 PM
CITY OF FAYETTEVILLE

Bid 11-21, Rock for Niokaska Stream Restoration

	BIDDER	TYPE OF ROCK	COLOR	PRICE PER TON	QTY (PER TON)	TOTAL PRICE
1	APAC - Central					
	Item 1	Quarried Stone/Limestone		$46.50	200	$9,300.00
	Item 2	Sandstone		$59.00	300	$17,700.00
						$27,000.00
2	Northwest Arkansas Stone					
	Item 1	Native Stone	Brown/Grey	$90.00	200	$18,000.00
	Item 2	Native Stone	Brown/Grey	$90.00	300	$27,000.00
						$45,000.00
3	Phelps Construction Co., Inc.					
	Item 1	Sandstone	Light Reddish Brown/Brown	$36.00	200	$7,200.00
	Item 2	Sandstone	Light Reddish Brown/Brown	$56.00	300	$16,800.00
						$24,000.00
4	Schwartz Stone Company					
	Item 1	Sandstone	Blue/Brown	$85.00	200	$17,000.00
	Item 2	Sandstone	Blue/Brown	$85.00	300	$25,500.00
						$42,500.00
5	Stone Gardens, LLC					
	Item 1	Sandstone/Fieldstone	Brown, Grey, Red, Black Mix	$74.00	200	$14,800.00
	Item 2	Quarried Sandstone	Brown/Grey	$75.50	300	$22,650.00
						$37,450.00

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

CERTIFIED: P Vice — P. VICE, PURCH MGR

A Foren — WITNESS

2/11/11 — DATE

Bids must be submitted on this bid form *in its entirety*.

EXECUTION OF BID -
Bidders are requested to indicate by check mark or "Yes/No" on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and pre-approved as an option.

Upon signing this Bid, the bidder certifies that:

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

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

***NAME OF FIRM:** Phelps Construction Co. Inc.
Purchase Order/Payments shall be issued to this name

***BUSINESS ADDRESS:** PO Box 61, 8015 Hwy 253 S.

***CITY:** Midland ***STATE:** AR ***ZIP:** 72945

***PHONE:** 479-639-2255 **FAX:** 479-639-9035

E-MAIL: dphelps@email.com

***BY: (PRINTED NAME)** Dale Phelps

***AUTHORIZED SIGNATURE:** Dale Phelps

***TITLE:** President

*Acknowledge Addenda:

Add. No. 1 Dated: 1/31/11
Add. No. 2 Dated: 2/4/11
Add. No. _____ Dated: _____
Add. No. _____ Dated: _____
Add. No. _____ Dated: _____

City of Fayetteville
Bid 11-21, Rock for Niokaska Stream Restoration
Bid Form – PER ADDENDUM 2 DATED 02/04/11

The City of Fayetteville Parks and Recreation Department is accepting bids for the purchase of 200 tons of rock to be used as boulder fill and 300 tons of hard sandstone boulders to be used as structure rock on a stream restoration project at Niokaska Creek in Sweetbriar Park and surrounding properties in northeast Fayetteville.

NOTICE: This project is expected to be constructed in March 2011; therefore, delivery of the rock shall begin no later than March 8, 2011. A minimum of 50% of the total rock (100 tons of boulder fill and 150 tons of stone boulders) may be required to be delivered by March 11, 2011. The remainder of the rock may be required to be delivered no later than March 18, 2011.

Purchase price includes delivery to Sweetbriar Park located at 2645 E. Sweetbriar Drive. Purchase price includes unloading of material at the site.

*GUARANTEED DELIVERY DATE: 3 weeks after notice to proceed

F.O.B. City of Fayetteville, Sweetbriar Park, 2645 E. Sweetbriar Drive, Fayetteville, AR 72701

*NOTE: All quantities listed are estimates only. The City reserves the right to deviate from quantities listed in this bid package.

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE PER TON:	*TOTAL PRICE
1.	Boulder rock with an average diameter ranging from 2-foot to 4-foot	200 tons	$ 36.00	$ 7,200.00

NOTE: The rock shall range in size from two feet to four feet in nominal diameter with individual rocks weighing ¼ to one ton. **At least 50% of individual rocks must be equal to or greater than ½ ton in weight.**

*TYPE OF ROCK: Sandstone COLOR: Light Reddish Brown-Brown

2.	Hard sandstone rock with an average diameter ranging from 3-foot to 5-foot	300 tons	$ 56.00	$ 16,800.00

NOTE: The rock shall range in size from three feet to five feet in nominal diameter with individual rocks weighing one to three tons. **No more than 25% of individual rocks shall exceed a weight of two tons.**

*TYPE OF ROCK: Sandstone COLOR: Light Reddish Brown-Brown

TOTAL BID PRICE: $ 24,000.00

THIS FORM CONTINUES ON THE NEXT PAGE. . .

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

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

Bid 11-21, Addendum 1

Bid 11-21, Rock for Niokaska Stream Restoration

Date: Monday, January 31, 2011

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 should be attached to the inside cover of the bidding documents, signed, and dated.

Bid 11-21, has the following modifications and clarifications:

1. REFER TO PAGE 2 (BID FORM):

   Change NOTICE to read as follows:
   The project is expected to be constructed in March 2011; therefore, delivery of the rock shall begin no later than March 8, 2011. A minimum of 50% of the total rock (125 tons of boulder fill and 200 tons of stone boulders) **may be required** to be delivered by March 11, 2011. The remainder of the rock **may be required** to be delivered no later than March 18, 2011.

2. REFER TO PAGE 5 (TECHNICAL SPECIFICATIONS) LINE ITEM 2: HARD SANDSTONE:

   Change first line item to read as follows:
   The rock shall range in size from three feet to five feet in nominal diameter with individual rocks weighing one to three tons. **No more than 25% of individual rocks shall exceed a weight of two tons.**

Acknowledge Addendum #1:
Printed Name: Dale Phelps
Signature: Dale Phelps
Title: President Date: 2/8/11
Company: Phelps Construction Co. Inc.

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS

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

Bid 11-21, Addendum 2

Bid 11-21, Rock for Niokaska Stream Restoration

Date: Friday, February 04, 2011

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 should be attached to the inside cover of the bidding documents, signed, and dated.

Bid 11-21, has the following modifications and clarifications:

1. REFER TO PAGE 2 (BID FORM): THE BID FORM HAS BEEN REVISED PER THIS ADDEDNDUM – **ALL BIDDERS NEED TO USE THE CORRECTED BID FORM ATTACHED.**

   Change Quantities were revised as follows:

Item No. 1	Boulder rock with an average diameter ranging from 2-foot to 4-foot	**200 tons**
Item No. 2	Hard sandstone rock with an average diameter ranging from 3-foot to 5-foot	**300 tons**

2. REFER TO PAGE 5 (TECHNICAL SPECIFICATIONS) LINE ITEM 1: BOULDER FILL:

   Change first line item to read as follows:
   The rock shall range in size from two feet to four feet in nominal diameter with individual rocks weighing ¼ to one ton. **At least 50% of individual rocks must be equal to or greater than ½ ton in weight.**

Acknowledge Addendum #2:
Printed Name: Dale Phelps
Signature: Dale Phelps
Title: President Date: 2/8/11
Company: Phelps Construction Co. Inc.

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: 2/11/2011
P.O Number:	Expected Delivery Date:
Mail Yes:__ No:____	
Taxable Yes: X No:____	Quotes Attached Yes:_____ No:_____

Vendor #:	Vendor Name: Phelps Construction Company, Inc.			
Address: P.O. Box 61		Fob Point:		
City: Midland	State: AR	Zip Code: 72945	Ship to code:	Divison Head Approval:
Requester: Carole Jones, Park Planner		Requester's Employee #: 3003		Extension: 472

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Rock for Niokaska Stream Restoration	1	1	LS	$24,000.00	4470.9470.5400.00	09025.0901		
2					$0.00				
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				
*	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal:	$24,000.00
Tax:	$2,220.00
Total:	$26,220.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 1/8/2008

RESOLUTION NO. 191-09

A RESOLUTION AUTHORIZING ACCEPTANCE OF AN EPA REGION 6 WETLAND PROGRAM DEVELOPMENT GRANT IN THE AMOUNT OF $234,000.00 FOR A STREAM RESTORATION DEMONSTRATION ON NIOKASKA CREEK THROUGH SWEETBRIAR PARK AND OTHER PROPERTIES; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of an EPA Region 6 Wetland Program Development Grant in the amount of $234,000.00 for a stream restoration demonstration on Niokaska Creek through Sweetbriar Park and other properties.

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment recognizing the grant revenue.

PASSED and **APPROVED** this 1st day of September, 2009.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

3/1/2011
City Council Meeting Date
Agenda Items Only

Alison Jumper	Park Planning	Parks and Recreation
Submitted By	**Division**	**Department**

Action Required:

Parks and Recreation requests City Council approval of a resolution to authorize the City to apply for up to $100,000 from the Wildlife Observation Trail Grant Program for nature trail improvements at Lake Fayetteville.

$ -0-	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Connie Edmonston 2-11-11
Department Director — Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

2-11-11
City Attorney — Date

Paul a Becker 2-11-2011
Finance and Internal Services Director — Date

Received in City Clerk's Office 02-11-11P01:54 RCVD
Kim G.

2/13/11
Chief of Staff — Date

Received in Mayor's Office ENTERED 2/14/11

2/15/11
Mayor — Date

Comments:

Fayetteville
ARKANSAS
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

From: Alison Jumper, Park Planning Superintendent

Date: February 11, 2011

Subject: **Resolution to apply for 2011 Wildlife Observation Trail Grant**
Agenda Request for March 1 City Council Meeting

PROPOSAL:

The Wildlife Observation Trail Grant Program is a cooperative effort between the Arkansas Game and Fish Commission and the Arkansas Department of Parks and Tourism. The Arkansas Department of Parks and Tourism will administer the grant application process. The Arkansas Game and Fish Commission will adminster the project construction process. This grant does not require a monetary match, however, it does require that the applicant provide land suitable for the project and provide the necessary resources to maintain the park and facilities for a period of 10 years.

The grant application must include a detailed budget, plans, specifications and bid documents. Staff is partnering with Progressive Trail Design and the Ozark Off Road Cyclists (OORC) to prepare a project proposal to seek outside funding for the project. The OORC has already contributed over 150 hours of volunteer labor at Lake Fayetteville to re-route sections of the trail that have been eroding. Progressive Trail Design has designed many nature trails in Northwest Arkansas and has resources to solicit and secure funding if needed.

RECOMMENDATION:

Parks and Recreation requests City Council approval of a resolution to authorize the City to apply for up to $100,000 from the Wildlife Observation Trail Grant Program for nature trail improvements at Lake Fayetteville.

BUDGET IMPACT:

This grant application is for up to $100,000. There is no monetary match required.

Attachments:
Grant Application

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING APPLICATION FOR AN ARKANSAS DEPARTMENT OF PARKS AND TOURISM WILDLIFE OBSERVATION TRAIL GRANT IN THE AMOUNT OF $100,000.00 FOR NATURE TRAIL IMPROVEMENTS AT LAKE FAYETTEVILLE

WHEREAS, the City of Fayetteville recognizes the need to provide or improve public access for the observation of Arkansas's wildlife, and

WHEREAS, the City wishes to apply for Wildlife Observation Trails grant funds through the cooperative program of the Arkansas Game and Fish Commission and the Arkansas Department of Parks and Tourism, and

WHEREAS, the Mayor and the City Council understand that if granted funds for development, the City must provide land, by lease, ownership or other means, to develop the facilities, and

WHEREAS, the City of Fayetteville will be required to sign a contract agreeing to provide necessary resources to maintain this park and facilities for a period of ten (10) years,

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to submit an application for grant funding to the Arkansas Department of Parks and Tourism for a Wildlife Observation Trail Grant in the amount of $100,000.00 for nature trail improvements at Lake Fayetteville.

PASSED and **APPROVED** this 1st day of March, 2011.

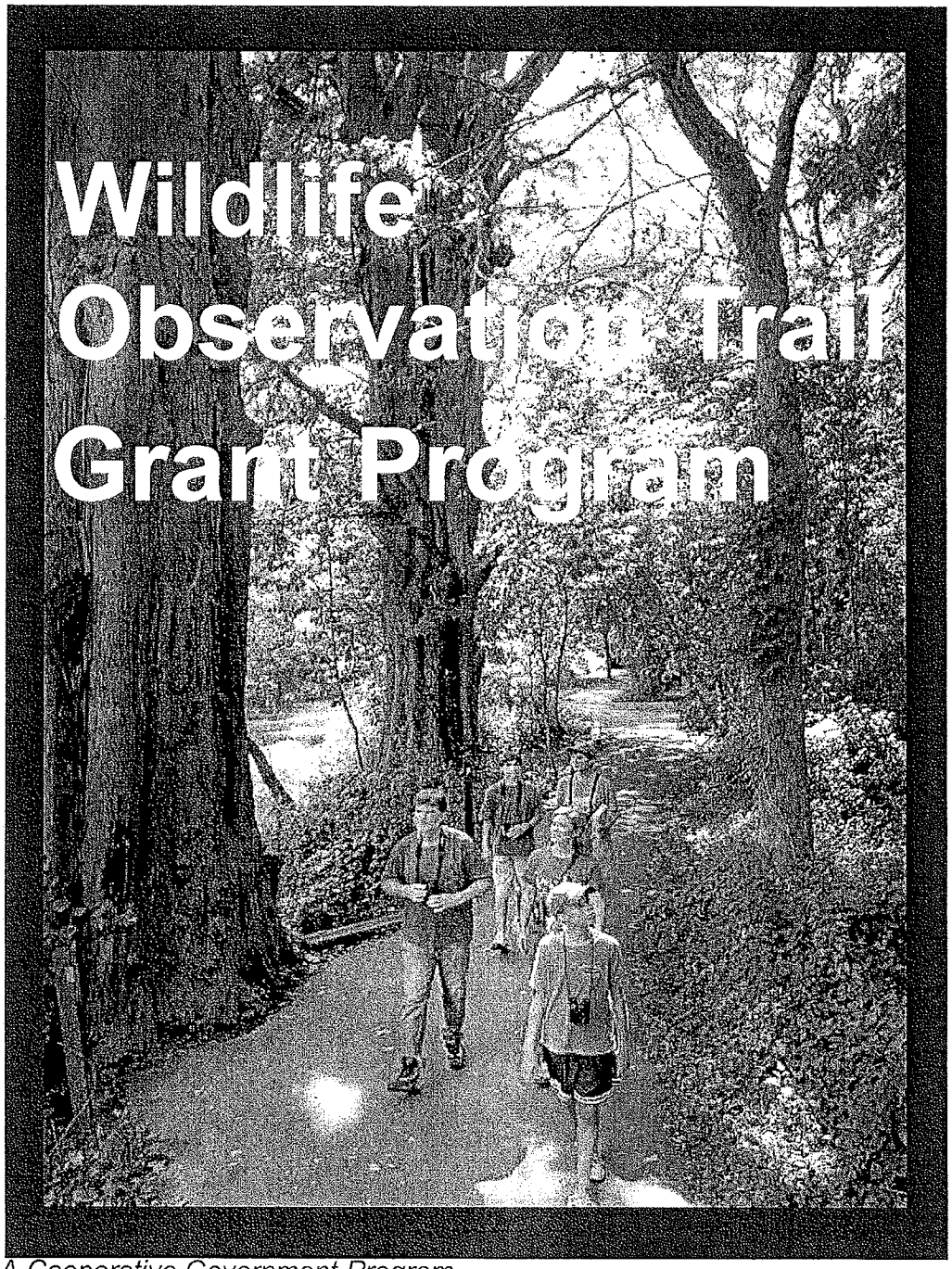
APPROVED: ATTEST:

By: _____ By: _____

LIONELD JORDAN, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

Grant Deadline: 5:00 P.M. *March 18, 2011*

FY 2010/11 APPLICATION



A Cooperative Government Program
Funded by the Arkansas Game and Fish Commission
Application Administered by Arkansas Department of Parks & Tourism's
Outdoor Recreation Grants Program
http://www.outdoorgrants.com

Wildlife Observation Trail Grant Program

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Wildlife Observation Trail Grant Program

Introduction

PURPOSE

The purpose of the Wildlife Observation Trails Grant Program is to make grant funds available to cities, counties, state agencies and non-profit organizations to provide access to Arkansas's natural resources and wildlife through the development of trails and associated facilities.

FUNDING

Act 686 of 2009 (AR Code Ann. 15-11-701) established The Wildlife Observation Trails Pilot Program which authorizes the Arkansas Game and Fish Commission to make available one million dollars for fiscal year 2010 /11 from money the Arkansas Game and Fish Commission has received from the oil and gas leases in the Fayetteville Shale.

COOPERATION

The Arkansas Game and Fish Commision and the Arkansas Department of Parks and Tourism are cooperating to solicit applications and make available funds for the development and enhancement of trails for the observation of Arkansas wildlife.

OTHER GRANT OPTIONS

The Wildlife Observation Trails Grant Program is intended only for the development of trails and support facilities for the observation of wildlife.

Other grants for recreational trails are available through the Arkansas Recreational Trails Grant Program administered by the Arkansas State Highway and Transportation Department; 50/50 Matching Grant Program administered by the Arkansas Department of Parks and Tourism; Rural Community Development Grant Program administered by the Arkansas Department of Rural Services;Trails for Life Grant Program administered by the Arkansas Department of Parks and Tourism.

Wildlife Observation Trail Grant Program

Grant Process

The Wildlife Observation Trail Grant Program is a cooperative effort between the Arkansas Game and Fish Commision and the Arkansas Department of Parks and Tourism. The Arkansas Department of Parks and Tourism will administer the grant application process. The Arkansas Game and Fish Commission will administer the project construction process.

Applicants will submit one (1) copy of the application. The Arkansas Department of Parks and Tourism's Outdoor Recreation Grants Program Staff will review it for deficintcies. The applicant will then be given until ***April 1, 2011*** to submit any additional required content.

The Outdoor Recreation Grants Program Staff will schedule a public hearing of the Wildlife Observation Trail Advisory Board. Each applicant will be notified by mail and given the opportunity to schedule an appearance before the Board to explain their grant proposal.

The Board will make funding recommendations to the Executive Director of the Arkansas Department of Parks and Tourism.

The Arkansas Game and Fish Commission will notify all applicants of the Board's decision regarding their grant request. Those selected for funding will be required to attend a Project Management Workshop presented by Arkansas Game and Fish Commission personnel.

Eligible Projects

The objective of the Wildlife Observation Trail Grant Program is to provide grants to construct, enhance, extend or renovate trails and support facilities that provide enhanced opportunities for the enjoyment and observation of Arkansas's wildlife by the general public:

(A) Projects eligible to be funded by the program are:
(1) new trails,
(2) renovations of existing trails
(3) extensions or relocations of existing trails with a commitment to open the trails to public use, and are specifically designed to encourage and enhance the ability of the general public to observe wildlife.
(4)projects must conform to the intent of the Statewide Comprehensive Outdoor Recreation Plan and the Arkansas Trails Plan.
(B) Trails funded by this program may be either terrestrial or water trails.

Maximum Grant Amount

The maximum amount that any applicant can apply for annually is

$100,000.

Eligible Applicants

(A) Applicants eligible to receive funds from the program are cities, counties, nonprofit organizations, and state agencies within the State of Arkansas.

(B) Projects located on the property of, or constructed in cooperation with, other local government organizations (e.g., school districts, levee districts, conservation districts, etc.) are permitted, but the application must be made by a city, county, nonprofit organization, or state agency which assumes primary responsibility for the entire project. The applicant and the other agencies listed above must sign a binding contract agreement making each party responsible for the operation and maintenance of the project which shall remain open for public use at all reasonable times.

(C) Nonprofit organizations must provide proof of nonprofit status with applications.

Ineligible Applicants

Entities which have applied for Wildlife Recreation Facilities Pilot Program grants administered by the Department of Rural Services are ineligible for grants from this program until constuction of Wildlife Recreation Facilities are completed.

Annual Grant Distribution

(A) A maximum of eighty percent of available grant funds shall be designatedannually for applications from cities or counties.

(B) A maximum of twenty percent of available grant funds shall be designated annually for applications from nonprofit organizations or state agencies.

Costs Eligible For Grant Funding Include, But Are Not Limited To:

(1) Materials for trail construction, such as gravel, cement, asphalt, lumber, etc.

(2) Interpretive or directional signage directly related to the proposed wildlife observation trail;

(3) Design fees, including engineering, inspection, planning, or architect fees, provided that such costs shall not exceed 10% of total requested grant funds;

(4) Restrooms, provided that such costs shall not exceed 20% of total requested grant funds;

(5) Rent of equipment directly related to trail construction and used for no other purpose; and,

(6) Trail amenities such as benches, observation blinds, trash receptacles, etc.

Projects Receiving Preferential Consideration

The Wildlife Observation Trails Grant Committee will give preferential considerations to application proposals that:

(A) Have particular appeal to youth for optimal wildlife observation;

(B) Provide access for hunting or fishing activities;

(C) Demonstrate, with reasonable specificity, promotion of economic development;

(D) The board determines the projects to

Wildlife Observation Trail Grant Program

be a tourism attraction;
(E) Have written commitments from other parties or the applicant to provide additional cash for the project;
(F) Have site preparations made prior to making an application;
(G) Can specifically document written commitments of volunteer labor or material donations for the project;
(H) Include additional items of public support, such as resolutions from neighboring municipalities or letter of support from local government officials;
(I) Meet accessibility guidelines under the Americans With Disabilities Act.

Grant Funds May Not Be Used For

(A) Land acquisition, whether by purchase of fee title, rights-of-way, easements, or payment of leases, rents, permit fees or other land-use related fees or costs;
(B) Construction, maintenance, or operation of enclosed buildings other than restrooms;
(C) Trails designed specifically for motorized vehicles;
(D) Fuel;
(E) Books, publications, or brochures;
(F) Advertising fees or materials;
(G) Website development;
(H) Salaries, direct or indirect employee costs, or any other payroll-related expenses;
(I) Interpretive programs;
(J) Payment of public utilities;
(K)Purchase of personal athletic equipment;
(L)Projects which provide private or selected patronage;
(M) Landscaping beyond that necessary to heal construction damage along trails;
(N) Planting or establishment of gardens or row-crop agriculture;
(O) Irrigation equipment
(P) Playground equipment.

How Much Funding will be Available Annually?

Because this is a pilot program $1,000,000 is available for Fiscal Year ***2010/11***.

Eighty percent (80%) of the funds will be available annually to cities and counties and 20% available to state agencies.

Grant Deadline

One original application must be submitted to the Arkansas Department of Parks and Tourism, Outdoor Recreation Grants Program, One Capitol Mall, Little Rock, AR 72201, prior to the grant deadline of 5:00 PM, ***March 18, 2011.*** Applications may be faxed to 501-682-0081; however, in order to be eligible, the original application must be mailed and postmarked no later than ***March 18, 2011.***

Property Requirements and Responsibilities

To be eligible for a Wildlife Observation Trail Grant, the applicant (city or county) must include with their application proof of ownership or control of the property. A deed, lease, easement, or a letter of intent to sell, donate, lease or provide an easement for the proposed project property. An easement or lease must have a term of 10 years or more. (See example lease on

pages 19-21). A letter from the owner expressing the intent to sell, lease or provide an easement for the project property is acceptable if the applicant does not have possession at the time of the application (see example letter on page 15) but funds will not be released to the grantee until an executed deed or lease is submitted.

Matching Requirement

There is *no* monetary match for this grant program. The applicant must provide land suitable for the project.

Local Project Support

The applicant will be required to provide the Department with a City Council or Quorum Court Resolution supporting the project application as shown on page 22 of this guide.

Who Selects Which Grants are Funded?

Projects will be selected for funding by the Wildlife Observation Trail Pilot Program Advisory Board that consists of seven members: one (1) representative from the Arkansas Game and Fish Commission one (1) representative from the Arkansas Economic Development Commission; one (1) representative from the Arkansas Recreation and Parks Association; one (1) representative from the Arkansas Association of Counties; one (1) representative from the Arkansas Game and Fish Foundation; one (1) representative from the Arkansas Municipal League and one (1) representative from the Arkansas Audubon Society.

During the grant hearings that are to be held ***April 21, 2011***, photographs of project sites will be projected onto a screen during the 5-minute presentations by each of the grant applicants. The photographs are intended to familiarize the Wildlife Observation Trail Pilot Program Advisory Board with the grant applications and provide the applicants a tool to better describe their project. Each applicant may submit up to 10 digital photographs of their project site and surrounding area, numbered in the order they should be shown. The Outdoor Recreation Grants Program staff will incorporate these photographs into the PowerPoint presentation that will be shown at the public hearing. We may edit the number of photographs to allow sufficient time for your presentation and questions from the Wildlife Observation Trail Pilot Program Advisory Board.

Photographs must be submitted in jpg. format, on a CD or as an e-mail attachment sent to bryan.kellar@arkansas.gov . All photos must be submitted by ***April 14, 2011***. No movie clips or mpegs. If you are invited to attend the hearings you will receive a letter notifying you to call and schedule your presentation time. When you call to schedule a time, we will then e-mail a copy of your presentation we will show at the public hearing so that you know which pictures will appear.

Criteria for Selecting Projects to be Funded?

Applications will be reviewed by Outdoor Recreation Grant Program staff when submitted. Only approved applications will be submitted to the Grants Advisory Committee for funding consid-

eration. The Committee will review each project application based on its individual merits. The Committee strongly encourages projects that provide additional cash, site preparations, volunteer labor, material donations, facility enhancements, programs that encourage use, promotional literature, signage and projects in underserved and rural areas.

Grantee Responsibilities

The applicant will be responsible for securing any required state or federal permits prior to construction. If the development is located in a wetland a federal 404 permit may be required.

How Will Grant Funds Be Administered and Distributed

The Executive Director of the Arkansas Department of Parks and Tourism will review the funding recommendations of the Wildlife Observation Trail Pilot Program Advisory Board and then present them to the Arkansas Game and Fish Commission. The Commission will notify each applicant of thier funding status. The Arkansas Game and Fish Commission will require each grantee to attend a Project Management Workshop in order to receive instructions about how to complete their project.

Requirement for Professional Design Services

AR. Code 22-9-101. Observation by registered professionals required

(a) Neither the state nor any township, county, municipality, village, or other political subdivision of the state shall engage in the construction of any public works involving engineering or architecture for which the plans, specifications, and estimates have not been made by, and the construction executed under the observation of, a registered professional engineer or architect, in their respective areas of expertise, who are licensed to practice under the laws of Arkansas.

(b) Nothing in this section shall be held to apply to any public works wherein the contemplated construction expenditure:

(1) For an engineering project does not exceed twenty-five thousand dollars ($25,000); or

(2) For an architectural project does not exceed one hundred thousand dollars ($100,000).

(c) This section shall not apply to any school district, county, municipality, or township project which is planned and executed according to plans and specifications furnished by authorized state agencies.

Professional Design and Administrative Fees:

Administrative and licensed design professional fees are an eligible cost item for up to 10% of the total grant amount.

Barrier Free Accessibility

All developed facilities shall provide barrier free access as provided by the Americans with Disabilities Act of 1990 (42 U.S.C. 12181); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); Arkansas Architectural Barriers Act 122 of 1967.

Wildlife Observation Trail Grant Application

FY 2010/11 - (Maximum $100,000)

Application Form - *(Please Print or Type)*

A. Applicant (City or County) Name: _____

Mailing Address: _____

ZIP: _____ Phone Number: ( ) _____

County: _____

B. Certification of Chief Executive Officer:

"I hereby certify that the information contained in the attached application is true and correct to the best of my knowledge.

Signature: _____ ☐Mayor ☐County Judge

Printed Name: _____ Date: _____

C. Joint-Sponsor 's Name: (if any) _____

Mailing Address: _____

Signature: _____ Phone Number: ( )_____

D. Application Preparers Name: _____

Mailing Address: _____

ZIP: _____ Phone Number: ( ) _____

E. Amount of Grant Funds Requested $ _____

F. Is the project in a floodplain? _____

_____

Wetland? _____

G. What is the population of your city or community? _____

H. Describe each element of this project and how it will provide a trail / facilities located and designed so that they are optimally attractive for wildlife observation.

I. Describe in detail the impact this project will have on tourism and economic development in the area in which the trail is located.

J. Describe how the proposed improvements will appeal to Arkansas's youth.

K. Does the proposed project provide improved access to hunting or fishing? If yes, explain.

L. Operating and maintaining these facilities will take people and financial resources. Who will provide maintenance for this project? Will the city or county budget contain a line item specifically for this project? If not, how will the operation and maintenance be paid for?

M. Attach a copy of any proposed or current contractual agreement with any committee, club, organization, group, or individual that will perform maintenance or maintain the proposed trail facilities.

N. Describe any site preparations made prior to making this application

O. List additional local cash funds or project elements that the local sponsor will construct at their expense, or that will be donated or be included as a part of this project. *Examples might include benches, large trail sign, additional parking, trail lights, etc.* (If none, state "none").

P. Describe what local labor the sponsor will contractually contribute to the project.(If none, state "none")

Q. Describe what programs the local sponsor presently has or will estab lish to make use of the project facilities. Start up dates and program specifics must be described in detail. (If none, state "none")

R. A staff person will be visiting your proposed project site. Please provide a map and detailed instructions on how to get to the site from the nearest major highway.

S. The Wildlife Observation Trail Grants Advisory Board may recommend funding the full amount requested, or a partial amount. Clearly describe in priority order of your proposed project elements and the minimum you consider necessary to complete a viable project.

T. Verify that the trail in this proposed project will be open to the public.

Required Attachments

1. A signed cover letter from the applicant.
2. Copies of deeds, leases, right-of-way, easement, letter of intent to lease or donate or other conveyance with a term of no less than ten years proving that the applicant has an interest in the land upon which the trail will be located.
3. A commitment by a responsible organization to maintain and operate the trail for a minimum period of ten years.
4. Design plans that adhere to state trail standards and guidelines for the trail type designated.
5. If the trail is located within an incorporated area, a resolution passed by the city council signed by the mayor and the city clerk; (see example page 22).
6. If the trail is located within an unincorporated area, a resolution passed by the quorum court signed by the county judge and the county clerk; (see example page 22).
7. A preliminary site plan with reasonable detail, including the existing / proposed trail path, the location of any existing / proposed amenities, and examples of propsed or existing marking and signage.
8. Attach a location map showing the county in which the project lies and its relation to the nearest municipality; (see page 14).
9. Letter of from the applicant and/or other parties detailing additional cash commitments for the proposed project.
10. Letters detailing commitments of volunteer labor or material donations for the project.
11. Include additional items of public support, such as resolutions from neighboring municipalities or letter of support from local government and elected officials.

Detailed Cost Estimate - Wildlife Observation Trail Project

Applicant should be prepared to provide a detailed cost breakout for each budget line item if requested.

Applicant (City or County) Name: _____ Date _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

Engineer/Architect Fee $ _____

Total $ _____

Project Location Map

(Place an "X" on the map locating your proposed project)

February 22, 2011

The Honorable Nathan Mills
Mayor of Anytown
Anytown, Arkansas 79998

Dear Mayor Mills:

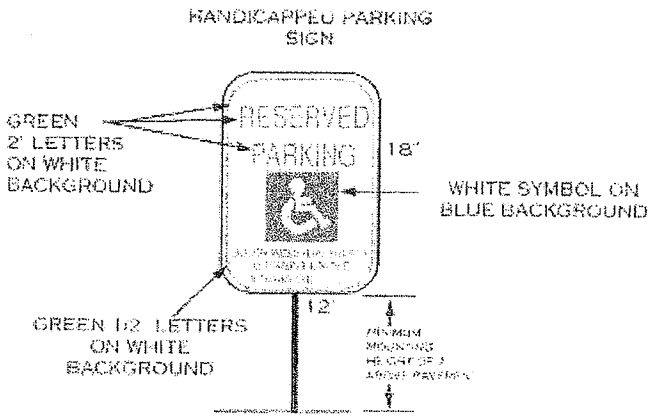
I am hereby submitting this letter confirming my intent to lease to the City of Anytown, for a term of 10 years (or more), a ___ acre parcel of land located at the corner of 12th and Popular Street. The execution of this lease is contingent on the City of Anytown receiving a FY 2010 Wildlife Observation Trail Grant from the Arkansas Game and Fish Commission to develop for public use.

If I can be of further assistance, please do not hesitate to call me at (501) 222-1111.

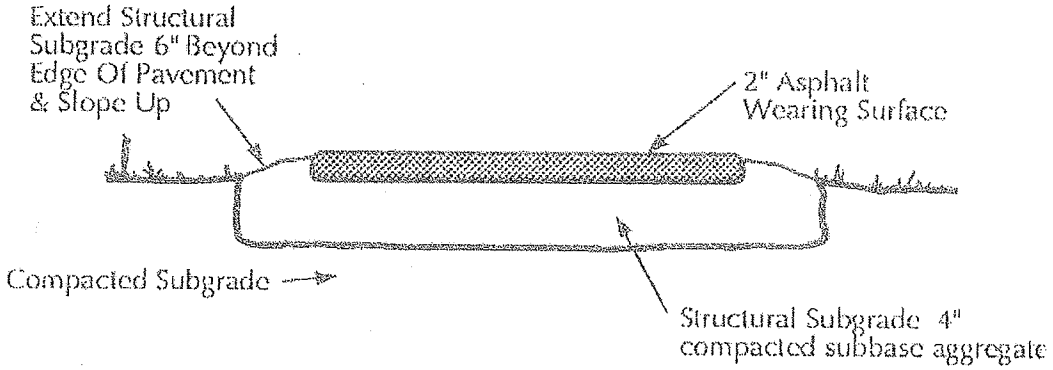
Sincerely,

SAMPLE

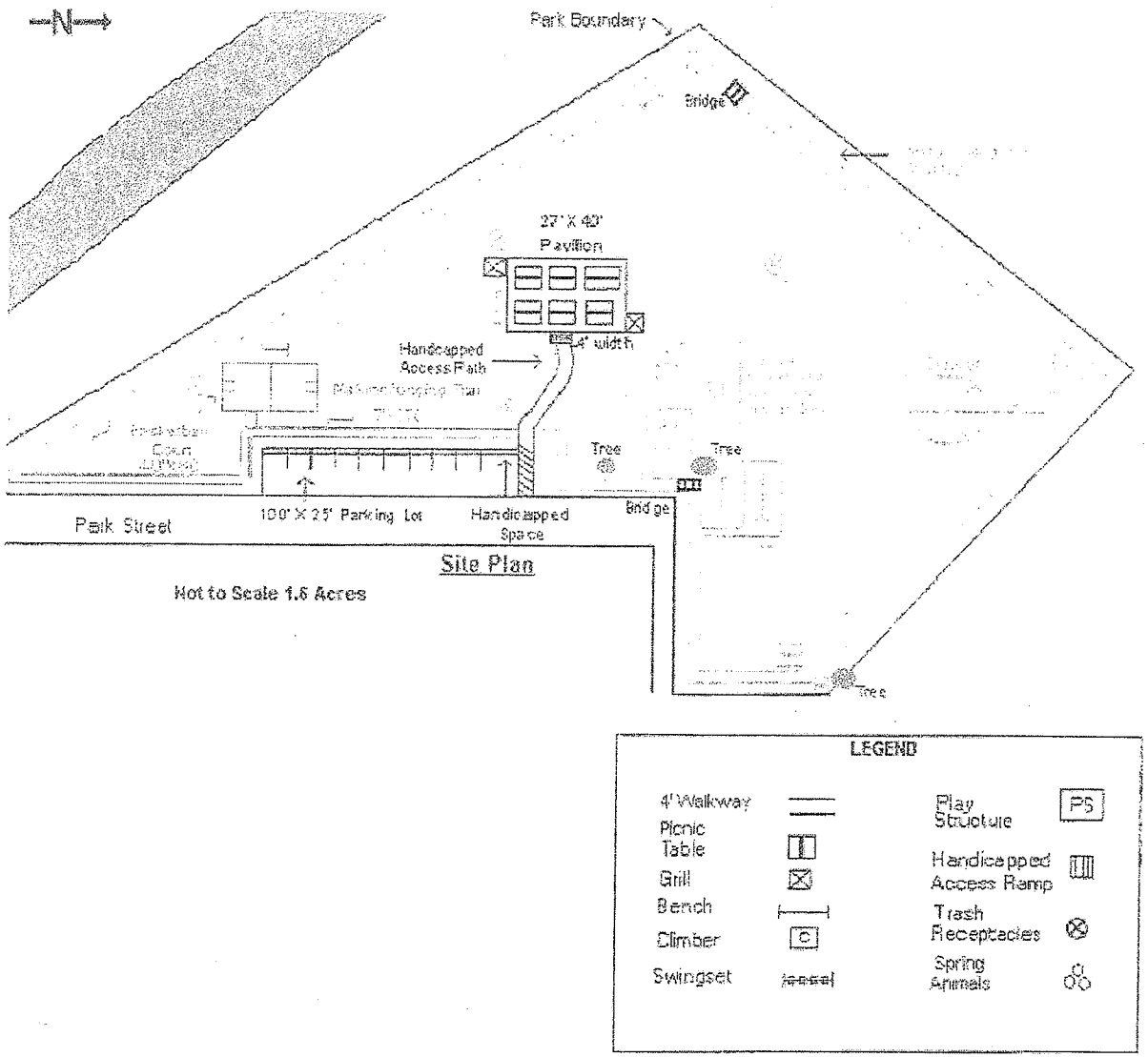
Bob White



Typical Handicapped Parking Sign



Typical Trail Cross Section


N
Park Boundary
Bridge
27' X 40'
Pavilion
Handicapped
Access Path
4' width
Tree
Tree
Bridge
Park Street
100' X 25' Parking Lot
Handicapped
Space
Site Plan
Not to Scale 1.6 Acres
Tree
LEGEND
4' Walkway
Picnic
Table
Grill
Bench
Climber
Swingset
Play
Structure
PS
Handicapped
Access Ramp
Trash
Receptacles
Spring
Animals

Sources of Application Preparation Assistance

Arkansas Department of Parks and Tourism - Outdoor Recreation Grants Program
One Capitol Mall
Little Rock, AR 72201
(501) 682-1301

Director: Bryan Kellar

Project Officers:
John Beneke
Brenda Rowell
Anita Chouinard

Northwest Arkansas Regional Planning Commission
1311 Clayton Street
Springdale, Arkansas 72762
Telephone (479) 751-7125

Northwest Arkansas Economic Development District
Post Office Box 190
818 Hwy 62-65-412 North
Harrison, Arkansas 72601
Telephone (870) 741-5404

Western Arkansas Planning and Development District
Post Office Box 2067
1109 South 16th Street
Fort Smith, Arkansas 72902
Telephone (479) 785-2651

West Central Arkansas Planning and Development District
Post Office Box 21100
835 Central Avenue, Suite 201
Hot Springs, Arkansas 71903
Telephone (501) 525-7577

Southwest Arkansas Planning and Development District
Post Office Box 767
600 Bessie Street
Magnolia, Arkansas 71754
Telephone (870) 234-4030

White River Planning and Development District
Post Office Box 2396
1652 White Drive
Batesville, Arkansas 72503
Telephone (870) 793-5233

Central Arkansas Planning and Development District
Post Office Box 300
902 N. Center Street
Lonoke, Arkansas 72086
Telephone (501) 676-2721

East Arkansas Planning and Development District
Post Office Box 1403
2905 King Street
Jonesboro, Arkansas 72403
Telephone (870) 932-3957

Southeast Arkansas Economic Development District
Post Office Box 6806
721 South Walnut
Pine Bluff, Arkansas 71611
Telephone (870) 536-1971

Before entering into an agreement, both the lessor and lessee should seek the advice of separate legal council. This "Example Lease Agreement" has been prepared to demonstrate many of the elements that will serve to protect the interests of both the lessor and the lessee. Both parties should consider reviewing this example and make a conscious decision before eliminating any of the basic elements contained in this example.

EXAMPLE

LEASE AGREEMENT

This Lease Agreement is made by and between _____, hereinafter known as the Lessor, for and in consideration of Ten dollars ($10.00) and the terms and conditions herein stated, hereby leases to, _____, hereinafter known as the Lessee, the following described property:

Legal Description:

(Place Written Legal Description Here)

hereinafter known as the leased property.

Said Lessee hereby convenants and agrees with said Lessor as follows:

1. **Term**: The Lessor shall lease to the Lessee the above described property for the term of _____ years, beginning on the _____ day of _____, 20___, and lasting until _____, 20___, unless otherwise terminated or extended as herein provided. Lessee shall have the option to renew this Lease Agreement for term and under the same conditions, or under other conditions mutually agreed upon, with a minimum of ninety (90) days written notice to the Lessor.

2. **Use and Subordination:** Lessee shall use and occupy the leased premises only for constructing, operating and maintaining a public recreation trails area and associated activities and programs and shall not have any other right not expressed herein. Lessee and Lessor understand that these leased premises are for general public use and no one may be denied use of these premises because of their race, creed, color, gender, disability or national origin. Additionally, this Lease is and shall be subordinated to any and all existing liens and encumbrances against the leased property.

3. **Assignment:** Lessee shall not assign this Lease and understands and agrees that no portion of these premises may be sublet. The Lessee, however, may enter into agreements with others for the purposes of maintenance of the premises, public recreation programming, or other associated activities.

4. **Ordinances and Statutes:** Lessee may enact and enforce statutes, ordinances, procedures, policies, and requirements as it deems necessary for the health, safety and welfare of the public use of the leased premises.

5. **Liability and Indemnification:** In accordance with the provisions of State Statute 18-11-301 to 18-11-307 (ACA 1987), the Lessor shall not be liable for any and all claims for expenses, loss, damage, injury or other casualty to any person or property caused by, or arising out of, Lessee's use

and occupancy of said premises and the Lessee agrees and covenants to hold the Lessor harmless from any such claim or claims. In addition, the Lessee agrees to indemnify the Lessor for any and all liability, loss or damage the Lessor may suffer as a result of claims, demands, costs or judgments arising out of Lessee's operations hereinafter. Such indemnification shall include the reimbursement to the Lessor for any attorney fees incurred by the Lessor in connection with the defense of any action covered by this indemnification. Further, Lessee agrees to hold the Lessor, its agents, successors or assigns free from any claim for damages to the Lessee's Lease use purpose resulting from Lessor's normal business operations.

6. Care, Maintenance & Taxes: Lessee understands and agrees that the leased premises are in good order and repair, unless otherwise indicated herein. Lessee shall, at his own expense and at all times, maintain the premises in good and safe condition, to include all facilities thereon. It shall be the Lessee's obligation to obtain all necessary permits to implement the purpose of this agreement from all organizations, public or private, who may have an interest or jurisdiction in these matters. It shall also be the Lessee's responsibility to collect and/or pay all required taxes and fees necessary to fulfill the purpose of this Agreement. Lessee shall also be solely responsible for any and all capital improvements, repairs and utilities, to include all costs required on the premises and facilities thereon. It shall also be the responsibility of the Lessee to pay any and all taxes or assessments levied upon the leased premises during the term of this agreement.

7. Termination: This agreement may be terminated by either party subject to:

a. The mutual written consent of both parties with at least ninety days written notice;

b. The default of any of the conditions herein listed;

c. The said lease use ceasing for any reason not agreed to between the parties, for a period of 120 consecutive days.

A written Notice of Complaint or Intent to Terminate shall be sent to the Applicable Party(ies) below:

Lessor
(Name; Address; Telephone Number)

Lessee
(Name; Address; Telephone Number)

Notice shall be deemed to have been duly delivered when personally delivered or when deposited in the United States mail, certified mail, postage pre-paid. Forty-five (45) days shall be allowed after delivery of the Notice of Complaint for the party or parties to correct the item(s) identified in the complaint. Should the party or parties fail to correct the items identified in the complaint, a written Intent of Termination shall be effective fifteen (15) days after the date of delivery of the Intent of Termination notice.

Upon termination of this agreement, the Lessee shall peaceably surrender the leased premises and all facilities thereon in as good condition as they were received, normal wear and tear excepted. In addition, the Lessee may, at their option, leave any and all improvements constructed on the leased premises without penalty.

8. **Right of First Refusal:** The Lessor understands and agrees that should he be made a legitimate offer to sell the leased premises that he will in turn notify, in writing, the Lessee of this offer and offer the leased premises to the Lessee at the same terms, conditions and price as offered to the Lessor. The Lessee shall have ninety (90) days after notification by the Lessor in which to reach an agreement with the Lessor and to sign an Offer and Acceptance, or some other such document, for the purchase of the leased premises. Should a purchase agreement between the parties prove to be impossible to consummate within the time frame provided, then this right is terminated.

9. **Amendments, etc.:** This Lease Agreement shall not be amended, modified, or altered in any way except in writing executed by both parties, and any oral notice, consent or any other event required to be in writing herein shall not be valid unless confirmed in writing.

10. Special Conditions/Restrictions:
(Place special conditions or use restrictions here)

IN WITNESS WHEREOF the said Lease is executed by the said Lessor and Lessee who individually represent that each has the authority to enter into this Lease.

LESSEE(S): LESSOR(S):

By:_____ By:_____

DATE:_____ DATE: _____

By:_____ By: _____

ATTEST: _____ ATTEST: _____

Sample

RESOLUTION No. _____

WHEREAS, _____ , Arkansas recognizes the need to provide or improve public access for the Observation of Arkansas's wildlife ; and

WHEREAS, the City/County wishes to apply for Wildlife Observation Trails grant funds through the cooperative program of the Arkansas Game and Fish Commission and the Arkansas Department of Parks and Tourism ; and

WHEREAS, the Mayor/County Judge and the City Council/Quorum Court understands that if granted funds for development, they must provide land, by lease, or ownership or other means, to develop the facilities on; and

WHEREAS, _____ , Arkansas will sign a contract agreeing to provide the necessary resources to maintain this park and facilities for a period of 10 years;

NOW, THEREFORE, BE IT RESOLVED the City Council/Quorum Court of _____ , Arkansas hereby authorizes the Mayor/County Judge to submit an application for grant funding to the Arkansas Department of Parks and Tourism.

Passed this day of ,2011

APPROVED: _____ _____

Mayor/County Judge Clerk

Wildlife Observation Trail
A Cooperative Program of the
Arkansas Game and Fish Commission
and the
Arkansas Department of Parks and Tourism

Arkansas
State Parks

Arkansas Department of Parks & Tourism
Outdoor Recreation Grants
One Capitol Mall
Little Rock, Arkansas 72201
Phone (501) 682-1301 FAX (501) 682-0081
www.outdoorgrants.com

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

3-1-11 Barbara O.
~~3/15/2011~~

City Council Meeting Date
Agenda Items Only

Dennis Pratt / Barbara Olsen	Fleet Operations	Transportation
Submitted By	**Division**	**Department**

Action Required:

A resolution approving the purchase of six Police package Chevrolet Tahoes from Bale Chevrolet of Little Rock off the State Contract for use by Police Division.

$ 166,875.00	183,143.00	
$ 33,375.00	$ 175,536.00	Police / Passenger Vehicles
Cost of this request	Category / Project Budget	Program Category / Project Name
9700.1920.5802.00		
9700.1920.5802.00	$ -	Vehicles and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02081.2009	183,143.00	
02081.2010	$ 175,536.00	Shop Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] **Budget Adjustment Attached** [ ]

Terry L Gulley 2-10-11
Department Director — Date

J B Kelley 2-11-11
City Attorney — Date

Paul A. Becker 2-11-2011
Finance and Internal Services Director — Date

Chief of Staff — 2-11-11 — Date

Lioneld Jordan 2/14/11
Mayor — Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 02-10-11 P02:14 RCVD
Kim J.

Received in Mayor's Office ENTERED

Comments:

Revised January 15, 2009

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THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: **Mayor/City Council**

Thru: **Terry Gulley, Director of Transportation** TG

From: **Dennis Pratt, Fleet Operations Supt.** DCP

Date: February 9, 2011

Subject: Purchase of six Police Package Chevy Tahoes

PROPOSAL: That City Council approve the purchase of six Chevrolet Police Package Tahoes from Bale Chevrolet of Little Rock, AR off the state contract in the amount of $200,250 for use by the Police Division.

RECOMMENDATION: Fleet has not purchased replacement police vehicles for two years due to the increase in life expectancy in 2009 that was imposed on all units and due to budget restraints in 2010. It is critical that six units are purchased in 2011. The two types of police package vehicles being considered are the Dodge Charger and the Chevy Tahoe. The Ford Crown Vic which the City has used for years has been discontinued and Ford does not yet have a certified replacement for it.

Unknown to each other, Police and Fleet completed separate evaluations and both arrived at the same conclusion that the Tahoe would better meet the needs of the Police. Although the initial purchase price is higher than the Chargers, the increased salvage value more than makes up for it. The State of Louisiana has been replacing their fleet of Crown Vics with Tahoes since they first came out in 2006. They have 200 Tahoes and report that maintenance costs are 8 % less than the Crowns.

Fleet will reuse as many of the upfit items as possible from the Crowns (light bars, etc.), however some upfit items cannot be transferred (seat covers, cages, consoles, etc.). The purchase price includes these items.

I recommend purchase of six Police package Tahoes off the State Contract.

This purchase was approved by the Equipment Committee on January 25th, 2011.

BUDGET IMPACT: These replacements were budgeted on the both the capital and operating side for 2011.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PURCHASE OF SIX (6) 2011 POLICE PACKAGE CHEVROLET TAHOES FROM BALE CHEVROLET OF LITTLE ROCK, PURSUANT TO A STATE PROCUREMENT CONTRACT, IN THE TOTAL AMOUNT OF $200,250.00, FOR USE BY THE POLICE DEPARTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the purchase of six (6) 2011 police package Chevrolet Tahoes from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of $200,250.00, for use by the Police Department.

PASSED and **APPROVED** this 1st day of February, 2011.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

By: _____
SONDRA E. SMITH, City Clerk/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

A. 6
Bale Chevrolet of Little Rock
Page 4 of 4

Requisition No.:	Date: 2/9/2011
P.O Number:	Expected Delivery Date:
Mail Yes:__ No:__	
Taxable Yes:___ No: X__	Quotes Attached Yes:____ No:____
Divison Head Approval: DEG	
Extension: 485	

Vendor #: 13292	Vendor Name: BALE CHEVROLET		
Address:		Fob Point:	
City:	State:	Zip Code:	Ship to code: 50
Requester: BARBARA OLSEN		Requester's Employee #: 1940	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2011 CHEVROLET TAHOES, POLICE PACKAGE	5	EA	33,375.00	$166,875.00	9700.1920.5802.00	02081.2009		
2	PER STATE CONTRACT, TO BE :	1		33,375.00	$33,375.00	9700.1920.5802.00	02081.2010		
3	UNIT 1225, FIXED ASSET 701225				$0.00				701225
4	UNIT 1226, FIXED ASSET 701226				$0.00				701226
5	UNIT 1227, FIXED ASSET 701227				$0.00				701227
6	UNIT 1228, FIXED ASSET 701228				$0.00				701228
7	UNIT 1229, FIXED ASSET 701229				$0.00				701229
8	UNIT 1230, FIXED ASSET 701230				$0.00				701230
9					$0.00				
10					$0.00				
*	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal:	$200,250.00
Total:	$200,250.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 1/2/2008

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

2/1/2011
City Council Meeting Date
Agenda Items Only

Karen Minkel		Strat. Planning and Int. Consulting
Submitted By	**Division**	**Department**

Action Required:

ADM 09-3480 (Streamside Protection): Submitted by Strategic Planning staff for approval of an ordinance to establish streamside protection zones, amending Chapters 155: Appeals, 156: Variances, and 168: Flood Damage Prevention Code of the Unified Development Code and adopt a Protected Streams map and Best Management Practices Manual.

n/a	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Karen Minkel — 1/13/11
Department Director — Date

Jan 14, 2011
City Attorney — Date

Paul A. Becker — 1-14-2011
Finance and Internal Services Director — Date

1-18-11
Chief of Staff — Date

1/18/11
Mayor — Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office 01-13-11P04:31 RCVD

Received in Mayor's Office ENTERED 1/14/11

Comments:

left on the Second Reading at the Feb. 15, 2011 CC Mtg.
left on the First Reading at the Feb 3rd 2011 CC mtg.

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THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Don Marr, Chief of Staff

From: Karen Minkel, Director of Strategic Planning and Internal Consulting KM

Date: January 12, 2011

Subject: ADM 09-3480 (Streamside Protection): Submitted by Strategic Planning staff for approval of an ordinance to establish streamside protection zones, amending Chapters 155 (Appeals), 156 (Variances) and 168 (Flood Damage Prevention Code) of the Unified Development Code and adoption of a Protected Streams map and a Best Management Practices Manual.

PROPOSAL:

The Nutrient Reduction Plan, completed in April 2009 by Geosyntec Consultants as part of an Agreement between Beaver Water District and the City of Fayetteville, recommends the development and implementation of a riparian buffer ordinance. This ordinance is part of a series of recommendations designed to reduce non-point source loadings of total phosphorus in the Beaver Lake Watershed and would ultimately reduce the non-point source loadings of total phosphorus in all the City's waterways. This recommendation aligns with a grant administered by the Washington County Extension Office to develop riparian buffers for the Clear Creek Watershed and is consistent with a recommended action step in the Fayette Junction Master Plan. Both Mayor Jordan and Council member Sarah Lewis requested that staff pursue the development of a streamside protection ordinance based on these recommendations.

A riparian buffer or streamside protection ordinance is one of the most cost-effective tools for reducing the nutrient load in the City's waterways and preventing erosion. Streambank restoration costs approximately $250 per linear foot, and engineering a solution to remove nutrients from the water can cost tens of millions of dollars. Reducing the non-point source loadings of nutrients in the City's waterways will help to reduce increases in the cost of treating drinking water, which has a direct impact on user fees. The City of Fayetteville is also working with the Arkansas Department of Environmental Quality (ADEQ) and the Environmental Protection Agency (EPA) to demonstrate watershed based efforts the City is taking to reduce nutrients in Fayetteville's waterways so that the City can potentially avoid being issued even more stringent and expensive National Pollutant Discharge Elimination System (NPDES) wastewater treatment discharge permit limits.

Strategic Planning formed a project team that included staff from Planning, Engineering, Water and Wastewater, Sustainability, Parks and Recreation and GIS. The team worked to identify model ordinances used in other municipalities and conducted research on best practices, with assistance from members of the Environmental Action Committee. Two public input sessions were held in March 2010, which included a presentation and hands-on field trip to College Branch. Invitations to the meeting targeted the Washington

County Farm Bureau membership, the Illinois River Watershed Partnership, the Fayetteville Forward Green Infrastructure group, Fayetteville Natural Heritage Association and the Planning Division's Developer and Engineer contact list. The City also hosted an online survey for a period of one month to solicit additional public input before crafting the ordinance.

All property owners whose property was likely to be affected by the proposed buffer area were sent a letter about the ordinance before the Planning Commission formally reviewed the proposal. Approximately 300 property owners who have existing principal structures within the buffer area were invited to a question and answer session on October 12, 2010.

The Environmental Action Committee unanimously endorsed the ordinance on September 16, 2010, and the Planning Commission forwarded the streamside protection ordinance to the City Council on November 8, 2010 by a vote of 7-2-0. Commissioners Hoskins and Honchell voted against the ordinance. Staff has made some changes to the ordinance based on recommendations made by the City Attorney and staff for clarification purposes. A copy of the ordinance reviewed by the Planning Commission is included in the packet.

Ordinance Regulations

Best Management Practices Manual: A BMP Manual will work in tandem with the ordinance to explain specific objectives and principles. This manual may be administratively changed by the City Engineer in order to give staff and the public the ability to utilize emerging technologies.

Applicability: The ordinance shall apply to all the land within a streamside protection zone with the following exceptions:

- Undeveloped lots created by a lot split, concurrent, or final plat application, which was submitted or approved prior to the effective date of this ordinance for a period of 12 to 24 months depending on the lot size;
- A preliminary plat that was submitted or approved prior to the effective date of this ordinance; and
- A use and/or activity permitted by an unexpired building permit approved prior to the effective date of this ordinance.

Establishment of Streamside Protection Zones: All surface waters identified on the Protected Streams map, including any pond, lake or reservoir located within the natural drainage way of said surface water or any surface where a floodway has been established by the Federal Emergency Management Agency shall have a streamside protection buffer.

Zone 1, the Waterside Zone, shall extend a minimum of 25 feet from the top of bank on either side of the waterway and include the surface water. Slopes greater that 15 percent will require Zone 1 to extend an additional 20 feet. Zone 2, the Management Zone, shall extend an additional 25; if the floodway extends beyond the edge of the Zone 2 boundary, the boundary shall be adjusted to include the floodway.

Piped Streams and Daylighting: The City Engineer may determine that normal streamside protection regulations shall not be applicable to portions of a stream that have been piped, and streams that are daylighted following the effective date of this ordinance will only require a five-foot setback measured from the top of bank.

Regulated Uses

Zone 1: Waterside Zone
Uses allowed if the Best Management Practices Manual is followed and provided they are designed and constructed to minimize the impact upon streamside areas:

- Open spaces that are primarily passive in character including natural trails, fishing areas, preserves and parkland
- Streambank restoration or stabilization
- Water quality monitoring, education and scientific studies
- Dam maintenance
- Revegetation and reforestation
- Paved trails or other impervious surfaces not exceeding 12 feet in width when the City Engineer determines there is no practical and feasible alternative
- Stream crossings including driveways, roadways, trails or railroads
- Maintenance and upgrades of existing utility facilities
- New utility facilities when the City Engineer determines there is no practical and feasible alternative
- Management of lawns and gardens
- Removal of dead vegetation, pruning for reasons of public safety and removal of invasive species
- Application of fertilizer, herbicides, pesticides and insecticides
- Maintenance of drainage capacity in the channel, including tree and sediment removal
- New stormwater conveyances when the City Engineer determines there is no practical and feasible alternative

Zone 2: Management Zone
Uses allowed:

- New stormwater conveyances when the City Engineer determines there is no practical and feasible alternative
- All uses within Zone 1; the BMP Manual principles are encouraged but not required
- Accessory structures with a footprint no larger than 150 square feet
- Active recreational uses

Prohibited Uses Within the Streamside Protection Zones

- Grading, dredging, dumping, or filling
- Landfills, junkyards, salvage yards
- Clearing of non-invasive woody vegetation
- Storing hazardous materials or chemicals unless they are within waterproof containers and within a structure
- Parking lots
- Buildings and accessory structures with a building footprint larger than 150 square feet
- Septic systems and/or lateral lines
- Parking and storage of motor vehicles
- In-ground pools
- Animal feedlots or kennels
- Housing, grazing or other maintenance of livestock
- Cultivation

- Land application of biosolids

Existing Land Use Exemptions

- Existing uses shall be permitted to continue in their present state. The ordinance shall apply when the use is converted to another use. Agricultural and animal husbandry activities shall cease to exist when they have lain idle for more than 18 consecutive months.
- Existing principal structures as of the effective date of this ordinance may be redeveloped or reconstructed on the same footprint
- Minor alterations or additions to an existing structure, provided the modifications do not extend more than 10 feet toward the surface water than the original foundation
- Any actions taken under emergency conditions

Development Application Procedures: All persons required to submit an application pursuant to Chapter 166 of the City's Unified Development Code shall show the location and type of surface water, the top of bank, Zone 1 and Zone 2 boundaries and slope. Applicants may request that the City's Floodplain Administrator perform a site visit to view conditions on site and make a determination of top of bank location and zone widths.

Streamside Protection Measures and Construction: Streamside Protection Zone boundaries shall be clearly delineated on site by the applicant prior to any land clearing or soil disturbance. A site visit will be conducted by the City Engineer or designated representative to ensure compliance.

Further, the streamside protection zone shall be protected from construction activity except where necessary to allow activities permitted elsewhere in the ordinance. Storage of construction vehicles, materials debris, spoils or equipment is prohibited within the buffer area. The applicant shall install silt fencing on the site at the outer edge of the Management Zone or as directed by the City Engineer.

Other Ordinance Amendments

Variances: The Planning Commission shall hear and decide requests for variances from the dimensional requirements of this ordinance. The Planning Commission may consider the following:

1) the provisions of the Streamside Protection Ordinance are shown by the owner or developer to cause undue hardship as strictly applied to the owner or developer's property
2) a rezoning or variance by the Board of Adjustment will not sufficiently alleviate the claimed hardship; and
3) the Planning Commission may prescribe appropriate conditions and safeguards to substantially secure the objectives and purpose for the regulations so varied and to mitigate any detrimental effects the variance may cause.

Staff recommends including subsection 155.06(A)(2)(d) to state that interpretations of the streamside protection zones shall be made by the City Engineer, adding purpose statements to subsection 168.01(A) and definitions for daylighting, streamside protection zones, Protected Streams Map, and Top of bank to subsection 168.02.

RECOMMENDATION:

Staff recommends approval of an ordinance to establish streamside protection zones, amending Chapters 155: Appeals, 156: Variances and 168:Flood Damage Prevention Code of the Unified Development Code and adoption of a Protected Streams map and a Best Management Practices Manual.

BUDGET IMPACT:

None.

Fayetteville
ARKANSAS
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Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council

FROM: **Kit Williams**, City Attorney

DATE: **January 14, 2011**

RE: **Streamside Protection Ordinance**

With help from Councilmember Sarah Lewis, Director of Strategic Planning Karen Minkel worked with Engineering, Transportation, Water and Wastewater and Planning to formulate the Streamside Protection Ordinance. Even after presentation to and acceptance by the Planning Commission, Karen continued to work with all affected city departments and with my office to fine tune this important ordinance.

You should first know what this ordinance **does not do**. It has no effect upon existing structures within the Streamside Protection Zones (within 50 feet of the stream bank). **It grandfathers in all such structures and even allows minor additions** that could extend up to ten feet further into the Streamside Protection Zones. It allows a homeowner to construct a berm to protect a house from flooding. **It allows current use of the property to continue**, even agricultural uses that are not desirable for streamside preservation.

This ordinance primarily affects **new** construction and prohibits **new** uses and activities close to protected streams that would unnecessarily degrade them and cause water pollution and siltation problems. The ordinance places much discretionary power with the City Engineer when it comes to allowing new paved trails, driveways, stream crossings, stormwater conveyances, etc. within the Streamside Protection Zones. This

provides the Engineering Division with the power to examine the practicality and feasibility of alternatives as they relate to the particular site being developed. Appeals from the City Engineer's decision would be decided by the City Council.

This ordinance places new restrictions on property and limits to some extent what a property owner can do with the land. All land in Fayetteville already has some restrictions ... zoning certainly restricts its use and what can be constructed. Setback requirements from right-of-ways and neighboring lots are similar to the streamside protection zones which provide something like a setback from a protected stream, but with more flexibility than normal setbacks. As long as the City does not make an existing lot unbuildable or unusable, this ordinance which grandfathers in virtually all structures and existing uses should not be a constitutional taking.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE, TO AMEND CHAPTER 155: APPEALS, CHAPTER 156: VARIANCES, AND CHAPTER 168: FLOOD DAMAGE PREVENTION CODE IN ORDER TO ESTABLISH STREAMSIDE PROTECTION ZONES AND ADOPT A PROTECTED STREAMS MAP AND BEST MANAGEMENT PRACTICES MANUAL.

WHEREAS, a riparian buffer will reduce nutrients and sediment loads in waterways, prevent erosion and increase flooding capacity; and

WHEREAS, sediment is listed as the most common pollutant in rivers and streams by the Environmental Protection Agency;

WHEREAS, a riparian buffer is one of the most cost-effective measures for reducing pollutants in waterways; and

WHEREAS, the establishment of a riparian buffer was one of the recommendations provided by Geosyntec Consultants as part of the City's Agreement with Beaver Water District to reduce nonpoint source loadings of total phosphorus in Beaver Lake, the source of Fayetteville's drinking water; and

WHEREAS, the City partnered with the Washington County Cooperative Extension Services Office to develop riparian buffers in the Clear Creek Watershed; and

WHEREAS, the City Council unanimously adopted the Fayetteville Junction Master Plan in 2009, which recommended that the City develop a riparian buffer ordinance.

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 adds §155.06(A)(2)(d) by inserting the following subsection:

"(d) *Streamside Protection Zones.* An interpretation or decision of the City Engineer concerning the regulated uses, structures and activities, streamside boundary location or land use exemptions."

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby adds §156.03(C)(9) by inserting the following subsections:

(9) *Streamside Protection Zones*

(a) *Undue hardship.* **If the provisions of the Streamside Protection Ordinance are shown by the owner or developer to cause undue hardship as strictly applied to the owner or developer's property because of its unique characteristics, the Planning Commission may grant a variance on a permanent or temporary basis from such provision so that substantial justice may be done and the public interest protected, provided that the variance will not have the effect of nullifying the intent and purpose of the Streamside Protection regulations.**

(b) *Consideration of alternative measures.* **The applicant for the variance shall establish that a reasonable rezoning by the City Council or variance request from the Board of Adjustment will not sufficiently alleviate the claimed undue hardship caused by the Streamside Protection regulations.**

(c) *Conditions and safeguards.* **In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards to substantially secure the objectives and purpose for the regulations so varied and to mitigate any detrimental effects the variance may cause. The Planning Commission should consider the Streamside Protection Best Management Practices Manual and any mitigation recommendations from the City Engineer."**

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby amends §168.01(A) by inserting the following subsections and renumbering subsections 4-10:

"(4)Protect, restore and maintain the chemical, physical, and biological integrity of the water resources;

(5) Reduce pollutants in surface waters by filtering, settling, and transforming pollutants in runoff;

(6) Stabilize the banks of streams to reduce erosion and the downstream transport of sediment and nutrients;

(7) Maintain tree canopy to shade streams, reduce water temperatures, promote desirable aquatic organisms resulting in ecological integrity with improved fishing, greater scenic value and recreational opportunity;"

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby amends §168.02 by adding the following definitions:

"Daylighting" **is to remove a stream, creek or natural drainage way or other waterway from an underground pipe and restore the waterway to open air.**

"Streamside Protection Zones" **are areas of trees, usually accompanied by shrubs and other vegetation along a stream, river or shoreline that is managed to maintain the integrity of the waterway and to reduce pollution.**

"Protected Streams Map" is the official map adopted by the Fayetteville City Council indicating the point where at least 100 acres drains into a waterway and the requirements of the Streamside Protection Zone apply downstream.

***"Top of bank"* is the point along a streambank where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during flows at or exceeding the average annual high water stage.**

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby adds §168.12 Streamside Protection Zones, a copy of which is marked "Exhibit A" is attached hereto and made a part hereof and renumbers "Enforcement" to 168.13.

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby adopts the Protected Streams map, a copy of which is marked "Exhibit B" is attached hereto and made a part hereof.

Section 6. That the City Council of the City of Fayetteville, Arkansas hereby adopts the Best Management Practices Manual, a copy of which is marked "Exhibit C" is attached hereto and made a part hereof.

PASSED and **APPROVED** this ____ day of _____, 2011.

APPROVED: ATTEST:

By: _____ By: _____

LIONELD JORDAN, Mayor **SONDRA E. SMITH**, City Clerk

168.12 Streamside Protection Zones

(A) *Streamside Best Management Practices Manual.* The City of Fayetteville's Streamside Best Management Practices Manual, which may be administratively changed by the City Engineer, shall be used in support of this chapter to explain specific objectives and principles.

(B) *Applicability.* This ordinance shall apply to all land within the Streamside Protection Zones, except for as provided below:

(1) Undeveloped lots created by a lot split, concurrent, or final plat application, which was submitted or approved prior to the effective date of this ordinance, are exempt from the requirements of this section for the following time periods:

(a) 24 months from the effective date of this ordinance for lots one half (½) acre or less;

(b) 18 months from the effective date of this ordinance for lots greater than one half (1/2) acre but less than 1 acre; or

(c) 12 months from the effective date of this ordinance for lots one (1) acre or greater.

(2) A preliminary plat which was submitted or approved prior to the effective date of this ordinance shall be exempt from the requirements of this section, provided the time periods listed herein shall be in force from the date of final plat approval.

(3) A use and/or activity permitted by an unexpired building permit, which was approved prior to the effective date of this ordinance, is exempt from this ordinance.

(C) *Establishment of Designated Surface Waters.* The Streamside Protection Zones shall apply to all surface waters meeting any one of the following criteria:

(1) All surface waters identified on the adopted Protected Streams map, including any pond, lake or reservoir located within the natural drainage way of said surface water; or

(2) Any surface water where a floodway has been established by the Federal Emergency Management Agency (FEMA).

(D) *Streamside Protection Requirements.* The Streamside Protection Zones shall be established as follows:

(1) *Zone 1: Waterside Zone.* The Waterside Zone shall extend a minimum of 25 feet landward from the top of bank in each direction, measured horizontally on a line perpendicular to the top of bank and includes the surface water.

(a) *Steep slope.* Slope shall be calculated at the upstream and downstream property lines for every property. Properties with more than 100 feet of stream frontage shall require additional slope calculations at 100 foot increments, beginning at the upstream property line and ending at the downstream property line. When slope calculations are equal to or greater than 15%, the width of the Waterside Zone shall be extended by an additional 20 feet at that point. The boundary width determined at each designated slope measurement point shall be connected by a continuous line to form the boundary of the Waterside Zone (illustrations available in the Best Management Practices Manual).

(2) *Zone 2: Management Zone.* The Management Zone shall begin at the outer edge of the Waterside Zone and extend landward 25 feet as measured horizontally on a line perpendicular to Zone 1. The combined width of Zones 1 and 2 shall be no less than 50 feet from the top of bank on all sides of the surface water.

(a) *Floodway.* Where the floodway extends beyond the edge of the Management Zone boundary, said boundary shall be adjusted so that the zone consists of the extent of the floodway as designated by the most recently adopted FEMA Flood Insurance Rate Map (FIRM).

(3) *Piped streams.* When reviewing any development, grading or building permit application, the City Engineer may determine that normal streamside protection regulations shall not be applicable to that portion of a stream that has been piped or enclosed

within a culvert or similar conduit prior to the adoption of this ordinance.

(4) *Daylighting.* Streams enclosed prior to the effective date of this ordinance and subsequently daylighted shall only require a 5-foot setback measured from the established top of bank. Daylighted streams shall be maintained in a natural state by the property owner, who shall also be responsible for monitoring and controlling trash, litter and pollutants.

(E) *Regulated uses, structures and activities within the Streamside Protection Zones.*

(1) The following are permitted within the designated streamside zone, subject to the requirements of this section, the Flood Damage Prevention Code, and all applicable requirements of the City of Fayetteville. Where a use is not listed, but is similar to a permitted use and is in keeping with the purpose of the Streamside Protection Zones, the City Engineer may determine the use to be allowed. All other uses shall be prohibited.

(a) Zone 1: Waterside Zone. The following may be permitted in the Waterside Zone, provided the standards of the *Streamside Best Management Practices Manual* shall be followed where applicable and that these uses and any necessary construction is designed and built to minimize the impact upon streamside areas and minimize any excavation or filling that will only be allowed by express authorization of the City Engineer. All construction, grading, excavation or filling must also fully comply with all necessary local, state and federal permits.

(i) Open space uses that are primarily passive in character including: preserves, fishing areas and docks, parkland, and natural trails.

(ii) Streambank restoration or stabilization.

(iii) Water quality monitoring, education and scientific studies.

(iv) Revegetation and reforestation.

(v) Dam maintenance.

(vi) Paved trails or other impervious surfaces not exceeding 12 feet in width when the City Engineer determines that there is no practical and feasible alternative. Such area may not be used to park vehicles.

(vii) Stream crossings, including driveways, roadways, trails, or railroads when the City Engineer determines there is no practical and feasible alternative.

(viii) Maintenance and upgrades of existing utility facilities.

(ix) New utility facilities when the City Engineer determines there is no practical and feasible alternative.

(x) Management of lawns and gardens but no mechanized cultivation is allowed.

(xi) Removal of dead vegetation, pruning for reasons of public safety, removal of invasive species.

(xii) Application of any fertilizer, herbicide, pesticide, or insecticide shall be allowed only if their harmful effect on water quality is prevented by ensuring no over-application or misapplication occurs.

(xiii) Maintenance of drainage capacity in the channel including tree and sediment removal.

(xiv) New stormwater conveyances when the City Engineer determines that there is no practical and feasible alternative.

(b) Zone 2: Management Zone.

(i) New stormwater conveyances when the City Engineer determines that there is no practical and feasible alternative and provided the

standards of the Streamside Best Management Practices Manual .shall be followed.

(ii) All uses within the Waterside Zone with the exception of stormwater conveyances, provided that compliance with the standards of the *Streamside Best Management Practices Manual* are not required but encouraged.

(iii) Accessory structures without a foundation and no larger than 150 square feet, including storage sheds, playground equipment, gazebos, decks, etc.

(iv) Active recreational uses.

(2) Establishment of the following uses/activities after the effective date of this ordinance shall be prohibited in both Streamside Protection Zones, except where necessary to allow an activity permitted by Section (E)(1).

(a) Grading, dredging, dumping, filling, or similar construction activities.

(b) Landfills, junkyards, salvage yards.

(c) Clearing of non-invasive woody vegetation.

(d) Storage of hazardous materials or chemicals unless within waterproof containers and within a structure.

(e) Parking lots.

(f) Buildings and accessory structures with a building footprint larger than 150 square feet.

(g) Parking or storage of motor vehicles.

(h) Septic systems and/or lateral lines.

(i) In-ground pools.

(j) Animal feedlots or kennels.

(k) Housing, grazing or other maintenance of livestock.

(l) Cultivation.

(m) Land application of biosolids.

(F) *Existing land use exemptions.* The following activities and structures are allowed to continue within the Streamside Protection Zones, provided that the provisions of the Flood Damage Prevention Code and all other applicable regulations shall be enforced.

(1) *Existing uses.* Existing uses shall be permitted to continue in their present state, but may not be enlarged, extended, or moved within the streamside protection zones. A use or activity shall be existing if it is present and ongoing within the Streamside Protection Zones as of the effective date of this ordinance. Uses and activities cease to be existing under the following conditions:

(a) *Agricultural and animal husbandry activities.* The activities cease to be existing when the area on which they were conducted has been converted to a nonagricultural use or has lain idle for more than eighteen (18) consecutive months.

(b) *All other uses.* This ordinance shall apply when an existing use is converted to another use.

(2) *Existing principal structures.*

(a) *Reconstruction within existing footprint.* Existing principal structures as of the effective date of this ordinance may be redeveloped or reconstructed within the same footprint.

(b) *Minor alterations.* Minor alterations or additions to an existing structure, such as an awning or deck, shall also be permitted, provided the modifications do not extend more than ten (10) feet further toward the surface water than the original foundation of the principal structure, and do not extend into the Waterside Zone.

(c) *Berm to prevent flooding.* If a principal structure has suffered flooding from a stream, the owner may construct a berm to protect the principal structure if approved by the City Engineer as to the berm's location, size and composition. Revegetation of the disturbed area

and berm shall be in accordance with the Best Management Practices Manual.

(3) *Emergencies.* Actions taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms, or other hazards.

(G) *Development Application Procedures.*

(1) All persons required to submit an application pursuant to Chapter 166 of the City's Unified Development Code shall also show the location and type of surface water, the top of bank, Zone 1: Waterside Zone and Zone 2: Management Zone boundaries, and slope, when any portion of the property being developed falls within the Streamside Protection Zones. The same shall also be identified for building, moving, demolition and grading permits.

(2) An applicant may request that the City's Floodplain Administrator perform a site visit to view conditions on site with the applicant to assist in making a determination of top of bank location and widths of the Waterside Zone and Management Zone.

(3) A final determination of any boundary shall be made by the City Engineer or designated representative, where there is question as to its location or width.

(H) *Streamside protection measures and construction.*

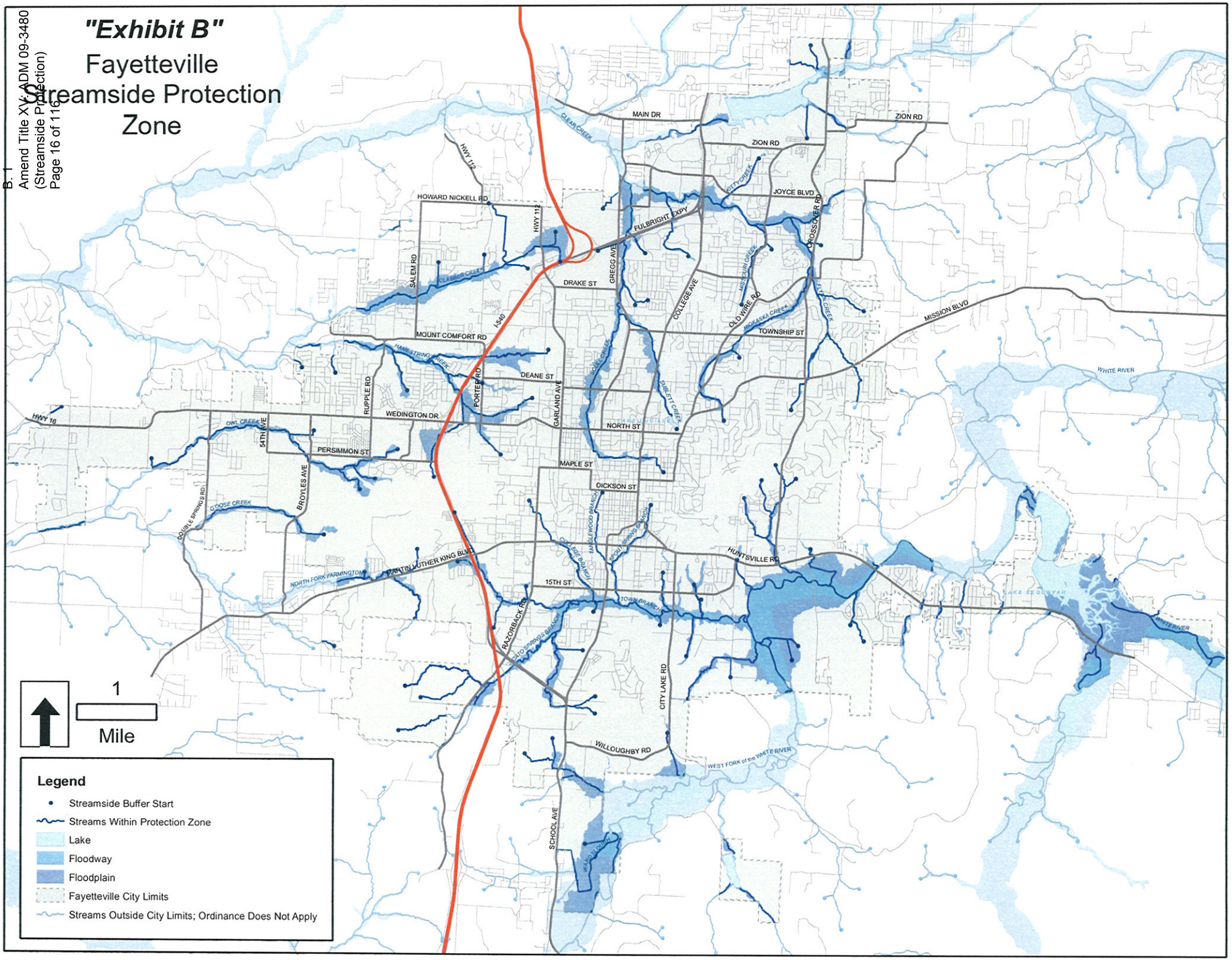
(1) Prior to any land clearing or soil disturbing activity, the Streamside Protection Zone boundaries shall be clearly delineated on site by the applicant, and such delineation shall be maintained throughout construction activities.

(2) A site inspection followed by periodic inspections during construction will be conducted by the City Engineer or designated representative to ensure compliance with the Streamside Protection Zone ordinance.

(3) Streamside protection zones shall be protected from construction activity except where necessary to allow an activity permitted by Section (E)(1). To prevent impacts, construction vehicle access is prohibited in the Streamside Protection Zones except at permitted crossings. Storage of construction vehicles, materials, debris, spoils or equipment is prohibited in the Streamside Protection Zones. Before commencing any construction activity, the applicant shall install silt fencing on the site at the outer edge of the Management Zone or as directed by the City Engineer. The City Engineer may require other protective measures based upon the individual characteristics of the site and the proposed construction methods. If the required barriers surrounding the Streamside Protection Zones are not adequately maintained during construction, the City Engineer shall prescribe remedial measures, and may issue a stop work order in accordance with §153.07. All remedial measures shall be completed within the specified amount of time and shall be considered prior to granting final plat approval or issuing a certificate of occupancy.

"Exhibit B"

Fayetteville Streamside Protection Zone



"Exhibit C"

Streamside Protection Best Management Practices Manual

The citizen's guide to preserving and protecting our streams

Fayetteville
ARKANSAS

Adopted on _____ by Ordinance No. _____

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Introduction

The City of Fayetteville adopted a Streamside Protection Ordinance to accomplish several goals:

1) Reduce Pollutants in the Waterways: Pollutants damage fragile ecosystems in our city's waterways and increase the costs of treating drinking water, which has a direct effect on water rates.
2) Preserve Flood Capacity: Healthy streamsides result in less flooding by providing greater infiltration capacity and slowing down stormwater that runs into the streams.
3) Protect the Integrity of a Natural Resource: Protecting the streamsides ensures greater recreational and nature enjoyment for current residents as well as future generations.

The ordinance establishes streamside protection zones along many of our City's streams and establishes protective requirements within those streamside buffers. This Best Management Practices (BMP) manual provides guidance for complying with the requirements adopted in the Streamside Protection Ordinance. A streamside buffer may also be called a riparian or forested buffer. It is the area along a stream that acts as a buffer between the waterway and activities that have a negative impact on the aquatic environment. These buffers protect natural habitats, reduce the potential for flooding and filter pollutants such as sediment, nutrients, bacteria, trash, emerging contaminants and vehicle pollutants.

Fayetteville is home to countless numbers of streams. The adopted ordinance affects streams that have at least 100 acres draining into that stream, which means it's typically a stream that runs year-round. However, this BMP manual can be used to protect smaller streams. Approximately 25 percent of the area affected by the ordinance is public property, often located in city parks and near trails. The rest of the area is owned by private property owners, which means that the entire community has a responsibility to ensure the protection of Fayetteville's waterways.

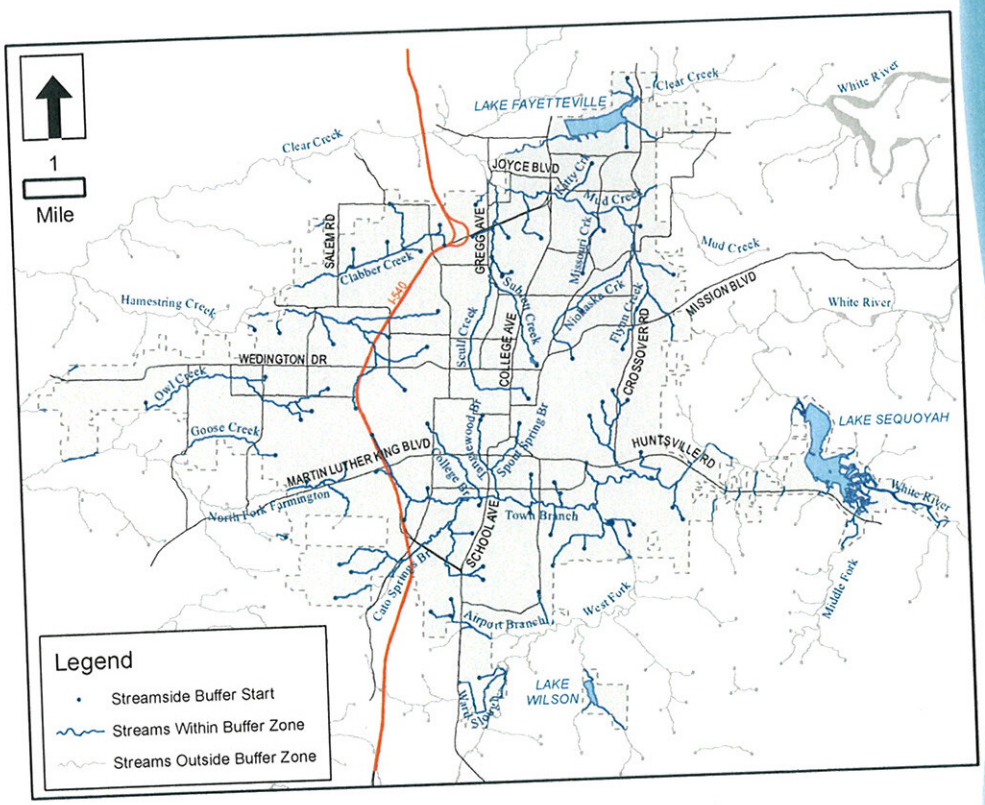
Benefits of a streamside buffer

- Stabilize streambanks
- Filter sediment and the nutrients, pesticides, and pathogens bound to the sediment
- Protect groundwater and drinking water supplies
- Improve aquatic habitat
- Improve wildlife habitat
- Provide visual interest
- Protect against flooding
- Provide shade

Streams identified on the Streamside Protection Map will have at least a 50-foot buffer applied from the top of bank. Visit www.accessfayetteville.org or the Development Services office to view the Streamside Protection Map. If your property contains or borders a buffer zone, the extent of the buffer should be measured from the stream's top of bank, as follows: Waterside Zone – 25 feet from top of bank, and an additional 20 feet if the slope exceeds 15%*. Management Zone – 25 feet from edge of Waterside Zone or to the edge of the FEMA floodway, whichever is greater.

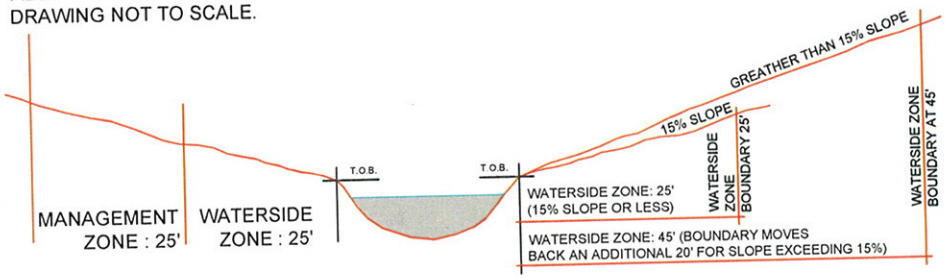
*[Slope shall be calculated at the upstream and downstream property lines for every property. Properties that exceed 100 feet in width shall require additional slope calculations at 100 foot increments.]

Protected Streams



Streamside Zones: Cross section

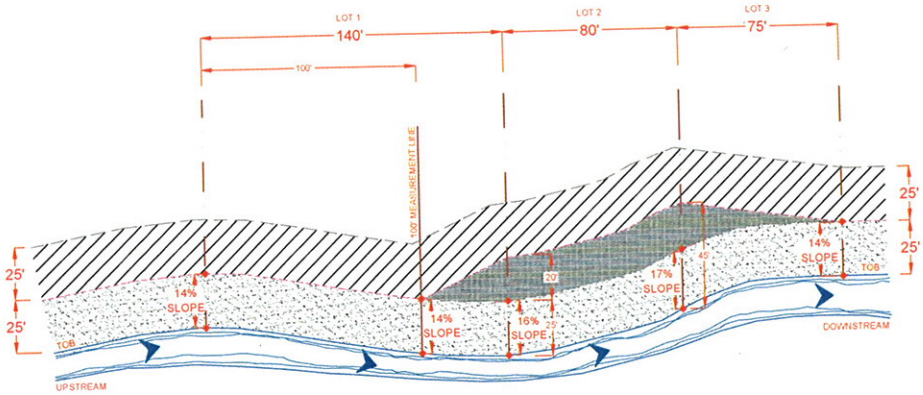
THE WATERSIDE ZONE EXTENDS 25 FEET FROM TOP OF BANK (T.O.B.) WHEN THE SLOPE IS LESS THAN 15%. THE BOUNDARY MOVES BACK AN ADDITIONAL 20 FEET FROM THE T.O.B. FOR SLOPE THAT EXCEEDS 15%. DRAWING NOT TO SCALE.



STREAMSIDE ZONE BOUNDARIES WITH 15% SLOPE OR LESS

WATERSIDE ZONE BOUNDARIES WITH SLOPE GREATER THAN 15%

Streamside Zones: Slope Diagram (Aerial View)



EDGE OF WATERSIDE ZONE

WATERSIDE ZONE

WATERSIDE ZONE EXTENDED 20 FEET WHERE SLOPE EXCEEDS 15%

EDGE OF MANAGEMENT ZONE

MANAGEMENT ZONE

SLOPE MEASUREMENT POINTS

PROPERTY LINE

DIRECTION OF STREAM FLOW

TOP OF BANK

MEASUREMENTS TAKEN AT 100 FOOT INTERVALS AND PROPERTY LINES, WHICHEVER IS THE SHORTEST DISTANCE.

Ordinance Requirements for Property Maintenance

The goal of buffer management is to develop a self-sustainable, variable-aged stand of mixed trees, shrubs and groundcover with a floor of either leaf litter and debris, or mulch. Dense, vigorous vegetation protects the soil from raindrop impact, a major force in dislodging soil particles and moving them down slope. The shielding effect of a plant canopy is augmented by roots that hold the soil, improve its physical condition, and increase the rate of infiltration. Plants also reduce the moisture content of soil through their uptake of water and transpiration, the process by which moisture escapes through their leaves and stems, thus increasing the soil's capacity to absorb water. Large trees and carefully designed buffers may dramatically increase property value. Once established, vegetated buffers do not require maintenance beyond the routine procedures and periodic inspections.

- Mowing twice during the season is usually enough. Mow just before annual weeds produce seeds to keep the seed from maturing.
- Soil testing is available free of charge. Contact the Washington County Extension Office at (479) 444-1755.

vegetated stream

LAWN AND GARDEN CARE

Ordinance requirements:

- Managing your lawn, and garden, is permitted within the streamside protection zones; however, the best care of a buffer area is a hands-off approach. In the Waterside Zone, the best management practices are required; in the Management Zone, the best management practices are encouraged.
- New lawns and gardens may only be created within the buffer area if the lawn would not replace wood vegetation. Many properties have existing lawns and gardens that already extended into the buffer prior to the establishment of the streamside buffer and are grandfathered in under this ordinance.
- Some City parks are included in the properties that have existing lawns within the buffer area. Some of these lawns have playgrounds or other recreational uses, which will continue to require that the lawns be mowed more frequently than several times a year for reasons of public safety.

- Maintained lawns, while better than bare soil, do not provide all of the required buffer functions and may actually contribute to nonpoint source pollution through the application of fertilizers and pesticides associated with maintaining a lawn.

Why are lawns and gardens discouraged in the streamside protection zone?

Manicured lawns do not perform important buffer functions like preventing erosion and slowing water run-off. The root systems of manicured lawns are not deep enough or strong enough to prevent stream banks from eroding, which can lead to loss of property. In addition, lawns typically are not tall enough to adequately slow down water as it runs into the creek, preventing filtration and causing water surges during storm events. Additionally, manicured lawns and gardens will often require the application of fertilizers, herbicides and pesticides, which increases the likelihood that these pollutants will enter the water system.

grass clippings and leaf debris

- Lawn care consumes more herbicides per acre than most farmers broadcast to grow crops.
  - *UA Community Design Center Low Impact Development Design Manual*

Leaves and grass clippings naturally contain nutrients such as phosphorus and nitrogen, which means that these pollutants can enter the waterways when leaves and grass clippings are swept into the buffer areas. Leaves and grass can also clog storm sewers and drainage swales and contribute to localized flooding.

The nutrients that create fertile soil for gardening also foster algae growth in waterways. When possible, property owners should locate gardens and compost piles outside of the streamside protection zones.

What do I do?

Property owners can help protect streams by employing the following best practices:

Lawn and Garden Management Practices:

- Limit treatment with herbicides, pesticides or fertilizers.
- Mow on the highest setting on your lawn mower.
- Reduce the frequency with which you mow to only several times a year within the buffer area, provided the property does not become unsightly or unsanitary as outlined in Chapter 95 of the Fayetteville City Code.
- Dispose of leaves and grass clippings outside of the

streamside protection zones.

- Make sure leaves and grass clippings are not raked to or disposed of in the street or other water flow routes where the nutrients they contain can be washed into streams.
- Sweep clippings and leaves off paved surfaces and onto lawns.
- When possible, property owners should locate gardens and compost piles outside of the streamside protection zones.
- Position garden rows parallel to the stream to reduce potential sediment and nutrient run-off.
- Establish a small buffer around the garden to reduce potential sediment and nutrient run-off.

Other Alternatives:

- Convert such lawn areas to woody vegetation or native grasses that are not mowed.
- If you would like to have access or a view of the stream, then you could create a small area of low growing vegetation that will preserve the buffer and the wildlife corridor.

- Fayetteville offers a weekly curbside Yard Waste Service to city residents as an environmentally conscious means for disposing of yard waste. The City collects yard waste in the form of grass, leaves and brush. The City encourages participation in some form of yard waste reuse, whether it is the Yard Waste Service, backyard composting, or the use of a mulching lawn mower.

PESTICIDE AND FERTILIZER APPLICATION

Ordinance requirements:

- Fertilizers and pesticides may be permitted when applied in conformance with the following standards.
- Storage of hazardous materials or chemicals in the streamside protection zone is prohibited unless stored in waterproof containers in a garage or shed protected from precipitation.

In the Waterside Zone, the best management practices are required; in the Management Zone, the best management practices are encouraged.

Why is the use of chemicals on the lawn discouraged?

Chemicals contaminate the water supply. Chemical treatment may be required to counter the tenacity of invasive species or insects, but because of dangers of unintended damage to the underlying native vegetation or "good" insects, chemical use should be the choice of last or extreme resort.

chemicals

What do I do?

- ▶ Use in the streamside protection zones should be limited and approved for use adjacent to a water body.
- ▶ Pesticides should be applied directly to the roots, bark, leaves and/or stumps using devices such as a hand sprayer, foam brush, wand or hypo-hatchet.
- ▶ Applications should occur at least two days prior to a rain event.
- ▶ Consult with a knowledgeable source such as a county extension agent to assure use of the appropriate chemical at the correct rate.
- ▶ Adhere to the manufacturer's recommendations to ensure the safety of nearby surface waters.
- ▶ Complete a soils analysis to identify the property type and quantity of fertilizer needed. Soil test kits can be obtained through the Washington County Extension Office.

the application of lawn fertilizer

- Store all chemicals in waterproof containers in a garage or shed protected from precipitation.
- Buy only what you need to reduce the need to store leftovers.

REMOVING VEGETATION

Ordinance requirements:

- The removal of living trees and woody plants is prohibited in the streamside protection zone, unless the removal is needed to maintain drainage capacity in the stream channel. In addition, removing dead vegetation, invasive species, and pruning is allowed. In the Waterside Zone, the best management practices are required; in the Management Zone, the best management practices are encouraged.

When should I remove vegetation?

In a natural setting, dead and dying trees are a natural part of forest succession. Dead standing trees and logs on the ground provide food and shelter to many organisms and provide nutrients to the young forest vegetation as it grows and should not be removed unless they threaten to undermine the integrity of the stream bank or create flooding hazards. Naturally occuring leaf litter, twigs, and branches are an essential part of the buffer, functioning to retard run-off and return nutrients to the soil. Snags, or dead standing trees, offer nesting and perching sites for many wildlife and bird species. However, trees that are diseased or infested may have to be removed if the disease or insects threaten other trees and other control methods, such as chemical application, are likely to damage the adjacent waterway.

Minimal pruning should be required because trees will self-prune as lower branches get shaded out. Trees grow most efficiently when there is enough canopy to provide plenty of food for the tree. Overzealous pruning can result in the loss of food production so that trees become stunted and may take time to regain optimum growth rates.
Removal of vegetation should also be considered when invasive species threaten to over-run or out-compete native trees and shrubs.

streamside clearing

bird nesting in a snag

Control of non-native, exotic species, or even invasive native species, may be justified when this happens.

What do I do?

- Leave stumps and roots in place to help bind the soil, if they are not a danger to life or property. Leaving an otherwise healthy stump can encourage new growth and regeneration.
- Contact a certified arborist if a tree is diseased or infested and threatens other trees in the vicinity. A list of tree pruners/ tree services certified by the City of Fayetteville is available at accessfayetteville.org.
- Prune trees during late fall, winter, or early spring while the plants are dormant. Pruning while the tree is dormant helps reduce problems with losing food production while actively growing and decreases the risk of infection.
- When pruning trees and shrubs:
    - Correct multiple leaders as soon as possible.
    - Leave side branches until they are 1 inch in diameter, but remove before they become 3 inches in diameter.
    - Never cut out more than 25% of the crown of a tree.
    - Retain at least 2/3 of the tree height in live branches to protect tree health.

IN-STREAM MAINTENANCE ACTIVITIES

Ordinance Requirements

- Maintenance of drainage capacity in the channel may be permitted including tree and sediment removal. The best management practices are required because the channel is in the waterside zone.

Why should caution be exercised when removing sediment?

Streams are complex natural systems. Gravel bars are natural components of some stream types and some locations are naturally subject to sediment deposition.

When sediment is removed from a stream channel, further deepening of the channel as well as bank erosion often occurs. This could lead to property damage or loss during high flow events. Sediment removal at one stream location can also lead to bank failure and property loss at upstream locations as well. Downstream of where the sediment has been removed, all the newly eroded sediment collects. This restricts the channel flow, often causing extreme widening of the channel. This sediment deposition can result in property damage or loss during flood events for downstream neighbors.

widened channel and property loss resulting from improper sediment removal

- Sediment in the stream and banks may range in size from silt and sand to gravel, cobbles and boulders.

Why should caution be exercised when removing trees within the channel?

Many healthy trees lean over to catch sunlight and remain that way for many years. Determination of tree removal should consider a variety of factors, including the tree's overall condition, its potential for falling, and the amount of undercutting it may be causing.

tree over channel

What Do I Do?

- Restore the channel to a width and depth consistent with the width and depth observed at a more stable channel location in cases where there has been a significant change in the flow

area of the channel.

- Remove blockages such as large trees or debris that are underneath or against a bridge or culvert to maintain or protect approaches to stream crossing structures.
- Leave stumps unless the stump is obstructing flow in a harmful way. If possible cut the stump flush with the existing ground. If stump is removed back fill the hole with soil or rock to stabilize and revegetate the disturbed area.
- Do not remove large rock and boulders from a stream. Gravel bars, rocks and boulders all help reduce flood power, keep a stream stable and provide valuable aquatic habitat.
- Do not place loose gravel and material on stream banks or build up artificial barriers, debris piles or levees. This will prevent the stream from spreading out on the floodplain and will increase water velocities and associated flooding downstream.
- Contact state or federal resource agencies about obtaining the required permits for in-stream activities.
- The Corps of Engineers can provide guidelines for responsible methods of sediment removal including how heavy equipment may be used. Heavy equipment in the stream such as bulldozers should not be used in the creek without proper permits and approvals.
- A Corps of Engineers permit is required when more than 25 cubic yards of fill material will be used below the "ordinary high water mark" (the approximate yearly flood level).
  US Army Corps of Engineers, Beaver Lake Project Office,
  (479) 636-1210 or ceswl-by@usace.army.mil
- Arkansas Department of Environmental Quality may require a permit called a Short Term Activity Authorization for stream activity with the potential to create a water quality standards violation such as turbidity.
  Arkansas Department of Environmental Quality,
  (501) 682-0645 or http://www.adeq.state.ar.us/

rocks provide stream stabilization and natural aquatic habitat

- Don't remove gravel where deepening of the channel is the primary cause of the instability, as gravel extraction will only accelerate the problem.

dredging of stream channel

ADDITIONAL RESOURCES

- Washington County Cooperative Extension Office and U of A plants database
http://www.arhomeandgarden.org/landscaping.htm
479-444-1755
- USDA Plant Database
http://plants.usda.gov/
- "Go Native When You Go Green!"
http://www.fayettevillenatural.org/userfiles/file/Northwest%20Ark%20Trees%20and%20Shrubs.pdf
- City of Fayetteville Tree and Landscape Manual
Listed on the City Parks and Recreation website under "Urban Forestry"
http://www.accessfayetteville.org/government/parks_and_recreation/documents/
- University of Florida & USFS Northern Tree Database
http://lyra.ifas.ufl.edu/NorthernTrees/
- University of Florida Landscape Plants Database
http://hort.ifas.ufl.edu/woody/
- National Invasive Species Information Center
http://www.invasivespeciesinfo.gov/unitedstates/ar.shtml

Helpful Information for Property Maintenance

SOIL EROSION

What's wrong with bare soil?

The Environmental Protection Agency lists sediment as the most common pollutant in rivers, streams, lakes and reservoirs, causing $16 billion in environmental damage annually. Area waterways, such as the West Fork of the White River, are listed as impaired for sediment. Sediment entering waterways degrades the quality of drinking water, wildlife and the land surrounding streams in several ways:

- Sediment fills up storm drains and catch basins that carry water away from roads and homes, which increases the potential for flooding.
- Sediment in stream beds destroys habitats for the smallest organisms and causes massive declines in fish populations.
- Sediment increases the cost of treating drinking water and can result in odor and taste problems.
- Sediment particles carry other pollutants such as phosphorus, pathogens and heavy metals.

What do I do?

- ▶ Inspect areas for bare soil after heavy rainfall. Focus on gully erosion, the density of the vegetation, evidence of concentrated water flow through the areas, and any damage from foot or vehicular traffic.
- ▶ Plant ground cover vegetation or use wood-chip mulch or landscape fabric.
- ▶ On steep slopes, plant a vigorous ground cover and avoid turf grass that requires mowing.

flood waters and streambank erosion

eroded streambank

streambank restoration using landscape fabric

REVEGETATION: WHAT TO PLANT

Why are plants, and native plants in particular, important in the streamside protection zone?

The vegetation planted in the streamside protection zone greatly influences the effectiveness of the buffer. The vegetation's root systems and density will significantly affect how well the streambank is protected. Property owners should be aware of the distinction between noxious weeds or invasive species and native plants. For the purpose of this manual, "noxious weed" encompasses any invasive species that has gotten out of control and has become harmful to the health and survival of the woody vegetation in the buffer. Invasive plants disrupt natural habitats by choking out native plants, altering the local ecology and potentially threatening local animal species.

If an invasive species is performing a desirable function such as preventing erosion on a bank, it should not be removed without replacing it with vegetation of at least equal value for erosion control and water quality functions. Some common noxious species are Japanese honeysuckle, kudzu, mile-a-minute, multi-flora rose, English ivy, all privets, and winged euonymus.

What do I do?

- Plant native plants, which are already adapted to the area and generally withstand local weather and soil conditions. They often require less ongoing maintenance, including watering. Native plants are naturally resistant to insect pests and diseases and by planting them not only are you are helping prevent the establishment and spread of invasive non-native plants, but also protecting the local ecology.
- Replant in such a way that minimizes disturbance to the root systems of existing vegetation.
- Avoid planting invasive species.

- Invasive Species tend to spread uncontrollably, overwhelming other, especially native, species; some native species may qualify as an invasive.

japanese honeysuckle

kudzu

mile-a-minute vine

- Common invasive species: Japanese honeysuckle, kudzu, mile-a-minute, multi-flora rose, English ivy, all privets, and winged euonymus

Examples of species suitable for planting in riparian buffers.

Flood Tolerant Trees	
Bald Cypress *Taxodium distichum*	Black Willow *Salix nigra*
Overcup Oak *Quercus lyrata*	Water Tupelo *Nyssa aquatica*
Swamp Tupelo *Nyssa sylvatica var. biflora*	
Moderately Flood Tolerant Trees	
Sycamore *Platanus occidentalis*	Sugarberry *Celtis laevigata*
Eastern Cottonwood *Populus deltoides*	American Elm *Ulmus americana*
Green Ash *Fraxinus pennsylvanica*	Water Oak *Quercus nigra*
River Birch *Betula nigra*	Willow Oak *Quercus phellos*
Swamp Chestnut Oak *Quercus michauxii*	Nutall Oak *Quercus nuttallii*
Flood Intolerant Trees	
Black Walnut *Juglans nigra*	Shortleaf Pine *Pinus echinata*
Persimmon *Diospyros virginiana*	White Ash *Fraxinus americana*
White Oak *Quercus alba*	Sweet Pecan *Carya illinoinensis*
Blackgum *Nyssa sylvatica*	Cherrybark Oak *Quercus pagoda*
Small Trees	
Redbud Cercis canadensis	Fragrant Sumac Styrax obassia
American Plum Prunus americana	Crabapple Malus spp.
Serviceberry Amelanchier canadensis	Flowering Dogwood Cornus florida
Shrubs	
Roughleaf Dogwood Cornus drummondii	Shrub Willow Salix spp.
Elderberry Sambucus nigra	Beautyberry Callicarpa americana
Grasses	
Indiangrass Sorghastrum nutans	Big Bluestem Andropogon gerardii
Little Bluestem Schizachyrium scoparium	Switchgrass Panicum virgatum

sycamore

black willow

eastern redbud

indiangrass

PETS AND PET WASTE

Does pet waste really affect our streams?

The EPA has placed pet waste in the same category of nonpoint source pollution as oil and toxic chemicals. It is considered a major pollutant and contaminant of water supplies and is one of the most common sources of nutrient load in waterways. Pet waste in lakes and streams can use up and lower oxygen levels, killing fish. Nutrients from the waste can encourage weed and algae growth, which is harmful to a healthy balance in an aquatic system.

What do I do?

- Kennels are prohibited within the streamside protection zone and should be located away from any drainage paths leading to the stream. Kennels as defined in the Unified Development Code are structures or facilities used for the purpose of breeding two or more litters within a 12-month period or a facility that keeps animals commercially and has open dog runs.
- Pet waste should be picked up regularly and disposed of in the trash.

pet waste bag dispenser

Ordinance Requirements for Development and Construction

STREAMSIDE PROTECTION MEASURES AND CONSTRUCTION

Ordinance Requirements

- Prior to any land clearing or soil disturbing activity, the Streamside Protection Zones (SPZ) boundaries shall be clearly delineated on site by the applicant, and such delineation shall be maintained throughout construction activities.
- A site inspection followed by periodic inspections during construction will be conducted by the City Engineer or designated representative to ensure compliance with the Streamside Protection Zones ordinance.
- Streamside protection zones shall be protected from construction activity. To prevent negative impacts, construction vehicule access is prohibited in the SPZ except at permitted crossings.
- Storage of construction vehicles, materials, debris, spoils or equipment is prohibited in the SPZ.
- Before commencing any construction activity, the applicant shall install silt fencing on the site at the outer edge of the SPZ, or as directed by the City Engineer. The City Engineer may require other protective measures based upon the individual characteristics of the site and the proposed construction methods.
- If the required barriers surrounding the SPZ are not adequately maintained during construction, the City Engineer shall prescribe remedial measures, and may issue a stop work order in accordance with §153.07.
- All remedial measures shall be completed within the specified amount of time and shall be considered prior to granting future inspections from any other city division, final plat approval or issuing a certificate of occupancy.
- The City Engineer may require other protective measures based upon the individual characteristics of the site and the proposed construction methods.

- **Construction activities can be particularly damaging to the streamside zone.** Some results of construction disturbances in the streamside zone are permanent loss of vegetation, permanent loss of water infiltration due to soil compaction, alteration of natural water runoff patterns, and an avenue for noxious weeds to establish themselves.

silt fence along construction zone

soil compaction during construction

- Soil compaction by heavy equipment can reduce water intake of soils to 5 percent or less of the original rate.

STREAM CROSSINGS FOR TRANSPORTATION

Ordinance requirements:

- Stream crossings, including driveways, roadways, trails, or railroads, provided they are designed and constructed to minimize the impact upon streamside areas, and result in minimal amounts of excavation and filling and are in accordance with required local, state, and federal permits.

streamside low impact bridge

Minimizing Stream Crossing Impacts

Consideration of the following elements will aid in reducing the impact of stream crossings:

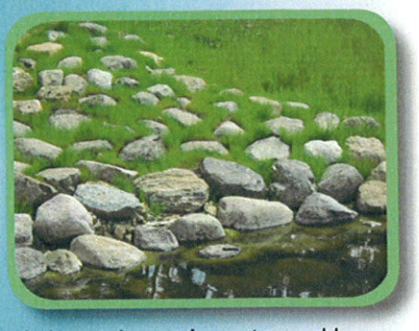
- ▶ Minimize or reduce stream crossings through proper planning.
- ▶ Minimize the amount of excavation and filling.
- ▶ Maintain the dimension, pattern, and profile of the stream.
- ▶ Minimize scour, erosion, and flooding.

Methods to minimize stream crossing impacts:

- ▶ Construct stream crossings during periods of low flow.
- ▶ Locate crossings where streambed and banks are composed of firm, cohesive soils to minimize erosion.
- ▶ Design crossings to reduce the possibility of obstructions such as debris and silt blockages through the minimization of channel obstructions.
- ▶ Bridges and bottomless arches, wide enough to span the stream and allow for some dry ground or an artificial ledge beneath the bridge on one or both sides are preferred and should be used whenever possible.
- ▶ Bridge soffits should be a minimum of one foot above the height of adjacent banks--high enough to allow wildlife passage.
- ▶ Exceptionally wide stream crossings may be allowed to utilize piers in the channel under the discretion of the City Engineer.

clear span trail bridge

- Maintain a natural substrate underneath the bridge. If concrete is necessary to prevent scour, then it is recommended to cover the concrete with a natural substrate.
- All disturbed areas shall be revegetated immediately upon completion of the work
- **The use of culverts should be avoided.** If culverts must be used, the following installation guidelines should be followed:
    - Provide water depths and velocities (at low flows) matching natural areas upstream and downstream of the crossing.
    - Create no drop-offs or plunge pools and no constriction of the channel.



drainage riprap along streamside

The practices listed may be subject to additional regulation per UDC Chapter 168 Flood Damage Prevention Code, Chapter 169 Physical Alteration of Land, and Chapter 170 Stormwater Management, Drainage and Erosion Control.

UTILITIES

Ordinance requirements:

- Maintenance and upgrades of existing utility facilities are allowed in the Waterside Zone if BMPs are followed. BMPs are encouraged in the Management Zone.
- Installation of new utility facilities are allowed in the Management Zone, and may be allowed in the Waterside Zone if they are designed and constructed to minimize the impact upon streamside areas and in accordance with required local, state and federal permits. This requirement also applies to the installation of facilities in the waterway itself.

Establishment of Easements:

- ▶ New utility easements shall be specifically labeled for the type of utility intended.
- ▶ The width of the easement shall be limited to the minimum width necessary for the utility's installation and maintenance.

Maintenance, Upgrades and Installation of New Utilities:

- ▶ Once started, carry out and complete construction without delay. Leaving construction work incomplete increases risk of erosion and sediment transport.
- ▶ Where clearing is required, limit or delay grubbing until grading and construction is ready to proceed; the root masses and associated organic matter provide substantial erosion control.
    - Clearing ahead of the point of construction may not exceed 500 feet.
    - Except for clearing, the maximum length of disturbed work area, including grubbing, shall not exceed 300 feet before temporary stabilization is made with, at a minimum, seed and mulch.
    - Permanent soil stabilization with perennial vegetation or other permanently stable, non-eroding surface shall be initiated within 14 days after final site grading.

clearly labeled utility

minimized utility easement work width

sediment filter used during construction

native plants used for final stabilization

- Implement erosion and sediment controls that meet or exceed the requirements set forth in UDC Chapter 169 and 179 and the Arkansas Department of Environmental Quality.

- Access maintenance routes shall be limited to 20 feet in width and, where possible, shall approach manholes, risers, valves, or other appurtenances perpendicular to the stream rather than running the length of the utility line to minimize post installation clearing in the buffer.
- Leave stumps and roots in place when trees are cleared to help bind the soil, if they are not a danger to life or property.
- Prepare and maintain on site a Stormwater Pollution Prevention Plan (SWPPP) for construction sites over one acre. (Required by the Arkansas Department of Environmental Quality)
- File a Notice of Intent with the Arkansas Department of Environmental Quality for construction sites over five acres. (Required by the Arkansas Department of Environmental Quality)
- Sediment and erosion controls shall be installed prior to any surface disturbance activity, such as clearing or grubbing.

above grade piers outside of stream

Installation of Utility Stream Crossings:

- Crossings shall be contained within the footprint of an existing road or utility crossing where possible.
- Stream bank stabilization to protect new structures from future channel migration shall be accomplished through vegetative or flexible linings. The utility installation shall not increase or decrease the natural rate of channel migration.
- For above grade utility crossings, pier locations shall be planned to minimize or avoid placement in the stream.
- Below grade utility crossings:
  - The installation shall be accomplished by directional boring or jacking beneath the scour depth of the water body and channel migration zone, where feasible.
  - Where directional boring or jacking are not feasible, detailed plans showing how flow will be diverted away from the area during construction (use of coffer dams,

temporary culverts, etc.) and how the channel will be rehabilitated to its pre-alteration state following installation of the utility are required

- Utilities shall cross at an angle perpendicular to the channel centerline, or as near to perpendicular as possible, whenever boring under the channel is not feasible.
- Below grade utilities shall be encased in steel, to minimize maintenance needs, and buried to a depth sufficient so as not to alter the flow of the stream, catch debris, or cause erosion or deposition.

PAVED TRAILS AND IMPERVIOUS SURFACES

Ordinance requirements:

- Paved trails or other impervious surfaces not exceeding 12 feet in width are permitted in the Waterside Zone.

Trails, like any impervious surface, prevent infiltration and require the removal of vegetation, which can compromise the bank's stability. However, the trails system also offers multiple benefits to riparian areas:

- By creating a place for public enjoyment along the stream, the trail brings people in contact with the stream to appreciate the natural beauty and report dumping or other detrimental activities.
- The Adopt-A-Trail program has been very successful at attracting volunteers to pick up litter along the trails and stream corridors.
- The trail provides educational opportunities along the stream by providing easy access to the unique and diverse riparian corridor. Children can come in direct contact with the streams and grow a stronger appreciation for the natural systems.
- The trail provides access for equipment to remove large debris or trash and repair impaired areas of the stream to prevent future stream bank erosion through naturalized repair methods.

stream cleanup volunteers

illegal streamside dumping

The following best management practices are required in the Waterside Zone and encouraged in the Management Zone:

- ▶ Locate trail as far from the "top of bank" as practicable.
- ▶ The existing vegetated buffer between trail and "top of bank" shall be maintained to the extent practical to protect significant trees and sensitive areas such as stream edges or springs.
- ▶ Once started, carry out and complete construction without delay. Leaving construction works incomplete increases risk of erosion and sediment transport.

- Where clearing is required, limit or delay grubbing until grading and construction is ready to proceed; the root masses and associated organic matter provide substantial erosion control.
  - Clearing ahead of the point of construction may not exceed 500 feet.
  - Except for clearing, the maximum length of disturbed work area, including grubbing, shall not exceed 300 feet before temporary stabilization is made with, at a minimum, seed and mulch.
- Final stabilization shall be done using native plants to match or exceed the quality of vegetation existing prior to trail.
- Implement erosion and sediment controls that meet or exceed the requirements set forth in UDC Chapter 169 and 179 and the Arkansas Department of Environmental Quality.
- If a utility easement is established, and has been previously cleared and disturbed, the impervious surface shall be located on the utility easement to minimize the overall amount of disturbance.
- Concrete shall be required, in flood prone areas, because it has a greater resistance to flooding conditions than asphalt, requiring less repair and overall land disturbance.
- If there is an exposed cut bank or highly eroded stream bank on the same property as the impervious surface being constructed, the bank shall be stabilized using natural channel design methods at the time of trail construction. All bank stabilization shall receive approval from the City Engineer, prior to land disturbance activities.
- Sheet flow drainage conditions from the impervious surface and its appurtenances are required. Where flow is concentrated, the methods in the flow diffusion section of this manual shall be used.
- Turf grass is allowed 5 feet from the edge of the impervious surface to allow for periodic mowing. Beyond 5 feet from the edge of the impervious surface, native plants shall be used where revegetation is necessary.

minimalized trail construction footprint

existing utility easement and site of future trail

5' turf grass buffer along trail

STORMWATER OUTFALLS

Existing stormwater conveyances on site or accessible to the site are the preferred location to direct stormwater runoff from the site. Existing conveyences utilized for additional stormwater flows shall be modified in conformance with best management practices for new facilities.

Ordinance requirements:

- New stormwater conveyances where no conveyances exist or are accessible to the site may be permitted in the SPZ provided the standards of the Streamside Best Management Practices Manual are followed.

Minimizing Stormwater Outfall Impacts:

All of the following Best Management Practices shall apply to new stormwater conveyances through the SPZ:

- ▶ Minimize sediment loads and trash prior to entrance into the SPZ through practices such as:
  - Stilling Basin
  - Outlet Sediment Traps
  - Grass Swales
  - Check Dams
  - Bioretention Cells
  - Enhanced Detention Pond (See image below)
    - * Prevent Short Flow Paths
    - * Extended Dry Detention
    - * Retention Ponds/Wet Ponds
    - * Sediment Forebays
    - * Meandering Low Flow Channels
    - * Micropools
    - * Marshes
    - * Plunge Pools
    - * Pond Buffers (25 feet minimum)
    - * Rip-rap pilot channels
- ▶ Design for a minimum number of discharge locations to the stream and choose an alignment through the SPZ which will

result in minimal clearing of existing vegetation.

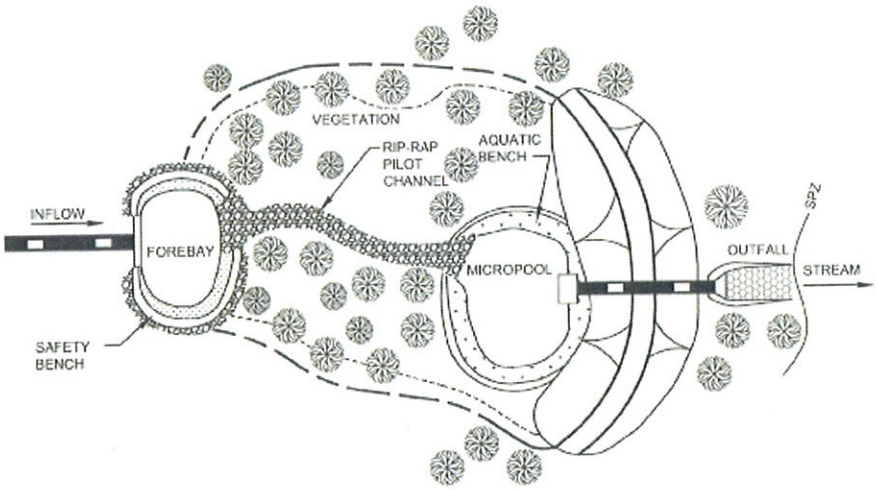
- Design for minimal amounts excavation and no filling in the SPZ.
- Convert flow to a velocity that is non-erosive at the 10-year design storm before the flow enters the stream. Possible practices to achieve velocity reduction include:
  - RipRap Aprons
  - Level Spreaders
  - Check Dams
  - Outlet Sediment Traps
- Angle the discharge into the direction of flow of the receiving water to provide a more natural confluence if possible.
- Design to minimize the long-term impact in the SPZ and the receiving stream.
- Implement erosion and sediment controls that meet or exceed the requirements set forth in UDC Chapter 169 and 170 and the Arkansas Department of Environmental Quality.
- Discharges must be managed during construction as well and may use an approved temporary method different from the permanent post-construction method used.
- Once construction is started, carry out and complete project without delay.
- Design in accordance with and obtain all required local, state, and federal permits.
- Design in accordance with the City's *Drainage Criteria Manual.*
- Periodic corrective action to restore a non-erosive velocity of flow or to restore stability of the conveyance shall be taken as necessary to impede the formation of erosion gullies.

level spreader

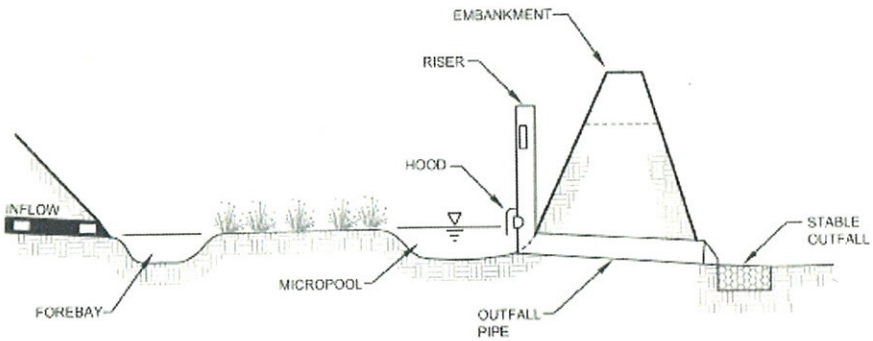
meandering low-flow channel

check dams slow water flow in swale

Example of Enhanced Dry Detention Pond



PLAN VIEW



PROFILE

enhanced dry detention in residential neighborhood

BMPs for Sediment Removal and Velocity Reduction prior to disharge to the Streamside Buffer

BMP	Function	Applicability	Limitations
Grassed Swales	Sediment Removal	Used after velocity reduction is achieved.	Small drainage areas, less than 5 acres.
Sediment Forebay	Sediment Removal	Used for pretreatment rather than as a standalone BMP.	No minimum or maximum drainage area. Depths may require removal of bedrock.
Meandering Low Flow Channel	Sediment and other pollutant removal	Used after velocity reduction is achieved.	Requires a wider space than a linear channel.
Riprap Apron	Sediment Removal; Velocity Reduction	Used at the end of an outlet pipe or channel.	Can be used at most outlets where the flow speed is high. Not aesthetic.
Check Dam	Sediment Removal; Velocity Reduction	Used within a drainage ditch, swale, or channel. May use with steep slopes.	Should only be used in channels with a drainage area of 10 acres or less.
Outlet sediment traps	Sediment Removal; Velocity Reduction	Used at the end of an outlet pipe or channel	No minimum or maximum drainage area. Depths may require removal of bedrock.
Level Spreader	Velocity Reduction	Used at the end of an outlet pipe or channel to disperse flow uniformly across a slope.	Maximum flow of 30 cfs and maximum slope of 10%.

- **Vegetative cover is extremely important in controlling erosion.** It performs these functions:
  - Shields the soil surface from the impact of falling rain
  - Holds soil particles in place
  - Helps to maintain the soil's capacity to absorb water
  - Slows the velocity of runoff

stormwater diffusion with plant materials

Notes:
(1) BMPs shall be selected and designed following approved technical design guidelines.
(2) For technical and design guidelines contact the City of Fayetteville Engineering Division at (479) 575-8206.
(3) Additional methods of achieving the above criteria may be approved by the City Engineer.
(4) BMPs may be used in combination to achieve flow velocity reduction and sediment removal.
(5) Plantings downstream of the flow diffusion device must be adequate to prevent erosion and shall be specified in the design plan.
(6) Reestablishment of disturbed vegetation must be accomplished as soon as practicable, but in no case longer than 14 days.

MITIGATION PRACTICES FOR APPROVED VARIANCES

Ordinance requirements:

- If the Planning Commission has granted a variance for a reduction in the width of the Streamside Protection Zones, it may require mitigation through installation of structural BMPs. Removal efficiencies sited on the Environmental Protection Agency National Menu of Stormwater Best Management Practices may be used to select suitable structural BMPs or combinations of structural BMPs. Examples of possible BMPs for consideration include wet ponds, wetlands, infiltration trenches, and bioretention. Structural BMPs selected for mitigation shall be approved by the City Engineer.

LOW IMPACT DEVELOPMENT

The use of Low Impact Development principles throughout the development is encouraged to reduce the total volume of runoff contributed by the development. Reference the UDC Chapter 179 Low Impact Development Code.

168.12 Streamside Protection Zones

(A) *Streamside Best Management Practices Manual.* The City of Fayetteville's Streamside Best Management Practices Manual, which may be administratively changed by the City Engineer, shall be used in support of this chapter to explain specific objectives and principles.

(B) *Applicability.* This ordinance shall apply to all land within a Streamside Protection Zone as defined by this section, except for as provided below:

(1) Undeveloped lots created by a lot split, concurrent, or final plat application, which was submitted or approved prior to the effective date of this ordinance, are exempt from the requirements of this section for the following time periods:

(a) 24 months from the effective date of this ordinance for lots less than one half (½) acre;

(b) 18 months from the effective date of this ordinance for lots greater than one half (1/2) acre but less than 1 acre; or

(c) 12 months from the effective date of this ordinance for lots greater than one (1) acre.

(2) A preliminary plat which was submitted or approved prior to the effective date of this ordinance shall be exempt from the requirements of this section, provided the time periods listed herein shall be in force from the date of final plat approval.

(3) A use and/or activity permitted by an unexpired building permit, which was approved prior to the effective date of this ordinance, is exempt from this ordinance.

(C) *Establishment of Designated Surface Waters.* The Streamside Protection Zone shall apply to all surface waters meeting any one of the following criteria:

(1) All surface waters identified on the adopted Streamside Protection Zone map, including any pond, lake or reservoir located within the natural drainage way of said surface water; or

(2) Any surface water where a floodway has been established by the Federal Emergency Management Agency (FEMA).

(D) *Streamside Protection Zone Requirements.* The Streamside Protection Zones shall be established as follows:

(1) *Zone 1: Waterside Zone.* The Waterside Zone shall extend a minimum of 25 feet landward from the top of bank in each direction, measured horizontally on a line perpendicular to the top of bank and includes the surface water.

(a) *Steep slope.* Slope shall be calculated at the upstream and downstream property lines for every property. Properties with more than 100 feet of stream frontage shall require additional slope calculations at 100 foot increments, beginning at the upstream property line and ending at the downstream property line. When slope calculations are equal to or greater than 15%, the width of the Waterside Zone shall be extended by an additional 20 feet at that point. The boundary width determined at each designated slope measurement point shall be connected by a continuous line to form the boundary of the Waterside Zone (illustrations available in Best Management Practices Manual).

(2) *Zone 2: Management Zone.* The Management Zone shall begin at the outer edge of the Waterside Zone and extend landward 25 feet as measured horizontally on a line perpendicular to Zone 1. The combined width of Zones 1 and 2 shall be no less than 50 feet from the top of bank on all sides of the surface water.

(a) *Floodway.* Where the floodway extends beyond the edge of the Management Zone boundary, said boundary shall be adjusted so that the zone consists of the extent of the floodway as designated by the most recently adopted FEMA Flood Insurance Rate Map (FIRM).

(3) *Piped streams.* A streamside protection zone may not be required where the surface water has been previously enclosed in a pipe, culvert, or similarly enclosed conduit.

(4) *Daylighting.* Streams enclosed prior to the effective date of this ordinance and subsequently daylighted shall only require a 5-foot setback measured from the top of the established top of bank. Daylighted streams shall be maintained in a natural state by the property owner, who shall also be responsible for monitoring and controlling trash, litter and pollutants.

(E) *Regulated uses, structures and activities within the Streamside Protection Zone.*

(1) The following are permitted by right within the designated streamside zone, subject to the requirements of this section, the Flood Damage Prevention Code, and all applicable requirements of the City of Fayetteville. Where a use is not listed, but is similar to a permitted use and is in keeping with the purpose of the Streamside Protection Zones, the City Engineer may determine the use to be allowed. All other uses shall be prohibited.

(a) Zone 1: Waterside Zone.

(i) Open space uses that are primarily passive in character including: preserves, fishing areas and docks, parkland, and natural trails.

(ii) Streambank restoration or stabilization.

(iii) Water quality monitoring, education and scientific studies.

(iv) Revegetation and reforestation.

(b) The following may also be permitted in the Waterside Zone, provided the standards of the *Streamside Best Management Practices Manual* shall be followed.

(i) Paved trails or other impervious surfaces not exceeding 12 feet in width when there is no practical alternative.

(ii) Stream crossings, including driveways, roadways, trails, or railroads, provided they are designed and constructed to minimize the impact upon streamside areas, and result in minimal amounts of excavation and filling in accordance with required local, state, and federal permits.

(iii) Maintenance and upgrades of existing utility facilities

(iv)

(v) New utility facilities or easements when there is no practical alternative.

(v) Management of lawns

(vi) Removal of dead vegetation, pruning for reasons of public safety, removal of invasive species.

(vii) Application of any fertilizer, herbicide, pesticide, or insecticide shall be allowed only if their harmful effect on water quality is prevented by ensuring no over-application or misapplication occurs.

(c) Zone 2: Management Zone.

(i) All uses within the Waterside Zone, provided that compliance with the standards of the *Streamside Best Management Practices Manual* are not required but encouraged.

(ii) Accessory structures without a foundation and no larger than 150 square feet, including storage sheds, playground equipment, gazebos, decks, etc.

(iii) Active recreational uses.

(2) Establishment of the following uses/activities after the effective date of this ordinance shall be prohibited in both Streamside Protection Zones, except where necessary to allow an activity permitted by Section (E)(1).

(a) Grading, dredging, dumping, filling, or similar construction activities.

(b) Landfills, junkyards, salvage yards.

(c) Clearing of existing woody vegetation.

(d) Storage of hazardous materials or chemicals unless within waterproof containers and within a structure.

(e) Parking lots.

(f) Buildings and accessory structures with a building footprint larger than 150 square feet.

(g) Parking or storage of motor vehicles.

(h) Septic systems and/or lateral lines.

(i) New drainage ditches, roadside ditches, and stormwater conveyances.

(j) In-ground pools.

(k) Confined animal feedlots or kennels.

(l) Housing, grazing or other maintenance of livestock.

(m) Cultivation.

(n) Land application of biosolids.

(F) *Existing land use exemptions.* The following activities and structures are allowed to continue within the Streamside Protection Zone, provided that the provisions of the Flood Damage Prevention Code and all other applicable regulations shall be enforced.

(1) *Existing uses.* Existing uses shall be permitted to continue in their present state, but may not be enlarged, extended, or moved. A use or activity shall be existing if it is present and ongoing within the Streamside Protection Zone as of the effective date of this ordinance. Uses and activities cease to be existing under the following conditions:

(a) *Agricultural and animal husbandry activities.* The activities cease to be existing when the area on which they were conducted has been converted to a nonagricultural use or has lain idle for more than eighteen (18) consecutive months.

(b) *All other uses.* This ordinance shall apply when an existing use is converted to another use.

(2) *Existing principal structures.*

(a) *Reconstruction within existing footprint.* Existing principal structures may be redeveloped or reconstructed within the footprint of any principal structure existing on January 1, 2011.

(b) *Minor alterations.* Minor alterations or additions to an existing structure, such as an awning or deck, shall also be permitted, provided the modifications do not extend more than ten (10) feet further toward the surface water than the original foundation of the principal structure, and do not extend into the Waterside Zone.

(c) *Berm to prevent flooding.* If a principal structure has suffered flooding from a stream, the owner may construct a berm to protect the principal structure if approved by the City Engineer as to the berm's location, size and composition. Revegetation of the disturbed area and berm shall be in accordance with the Best Management Practices Manual.

(3) *Emergencies.* Actions taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms, or other hazards.

(G) *Determination of No Practical Alternative.* An applicant desiring to establish an allowable use that requires a "no practical alternative" determination shall submit a written request for such determination to the City Engineer. The City Engineer shall make a finding of fact as to whether the following requirements have been met in support of a "no practical alternative" determination within ten (10) business days of receiving the request.

(1) The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality.

(2) The use cannot practically be reduced in size or density, reconfigured, relocated, or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality.

(H) *Development Application Procedures.*

(1) All persons required to submit a development application, pursuant to any section of the City's Unified Development Code, shall also show the location and type of surface water, the top of bank, Zone 1: Waterside Zone and Zone 2: Management Zone boundaries, and slope, when any portion of the property being developed falls within the Streamside Protection Zone.

(2) An applicant may request that the City's Floodplain Administrator perform a site visit to view conditions on site with the applicant to assist in making a determination of top of bank location and widths of the Waterside Zone and Management Zone.

(3) A final determination of any boundary shall be made by the City Engineer or designated representative, where there is question as to its location or width.

(I) *Streamside protection measures and construction.*

(1) Prior to any land clearing or soil disturbing activity, the Streamside Protection Zone boundaries shall be clearly delineated on site by the applicant, and such delineation shall be maintained throughout construction activities.

(2) A site inspection followed by periodic inspections during construction will be conducted by the City Engineer or designated representative to ensure compliance with the Streamside Protection Zone ordinance.

(3) Streamside protection zones shall be protected from construction activity. To prevent impacts, construction vehicular access is prohibited in the Streamside Protection Zone except at permitted crossings. Storage of construction vehicles, materials, debris, spoils or equipment is prohibited in the Streamside Protection Zone. Before commencing any construction activity, the applicant shall install silt fencing on the site at the outer edge of the Streamside Protection Zone. The City Engineer may require other protective measures based upon the individual characteristics of the site and the proposed construction methods. If the required barriers surrounding the Streamside Protection Zone are not adequately maintained during construction, the City Engineer shall prescribe remedial measures, and may issue a stop work order in accordance with §153.07. All remedial measures shall be completed within the specified amount of time and shall be considered prior to granting final plat approval or issuing a certificate of occupancy.

(J) *Diffuse flow requirements.* Diffuse flow of runoff shall be maintained in the Streamside Protection Zone by dispersing concentrated flow prior to its entry into the Streamside Protection Zone as follows:

(1) Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters the Streamside Protection Zone; and

(2) Annual corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies.

(2) Annual corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of

ADM 09-3480: Administrative Item (STREAMSIDE PROTECTION ORDINANCE): Submitted by the CITY OF FAYETTEVILLE STRATEGIC PLANNING AND INTERNAL CONSULTING DEPARTMENT. The request is to amend the Unified Development Code to adopt a Streamside Protection Ordinance with an associated map and a Best Management Practices Manual.

Karen Minkel, Director Strategic Planning, gave the staff report.

Public Comment:

Dave Kingston was a representative of an undeveloped commercial subdivision at the I-540/Wedington intersection. He discussed that he feels like this ordinance would constitute a legal taking of the property.

Don Nibert discussed that he was in favor of the concept. His property would be affected. He discussed that he thinks existing properties should have more flexibility.

Kenneth Harvey, 8521 Goose Creek Road, discussed that there are 12 homes on Goose Creek. He discussed that the 50 feet of property is his property and that he doesn't want anyone taking his land. It is his property and he will continue to use it as he has in the past.

Bob Caulk, president of Fayetteville Natural Heritage, discussed green infrastructure and that the FNHA supports the ordinance. He discussed some potential changes or issues with the ordinance including that the ordinance won't function for wildlife habitat or flood attenuation. He discussed that the biggest problem is that the buffer needs to be continuous. He discussed issues with existing commercial parking lots discharging directly into creeks. He discussed introducing a third buffer zone that would be voluntary. This is a zone would be up to 300 feet wide and credits would be provided to property owners for participating which would reduce stormwater fees for following BMPS, if and when a stormwater utility is established in Fayetteville.

Leif Kimburton discussed that he lives along Town Branch. His discussed increased flooding at his home. He will have to build some type of flood barrier and that this ordinance would present problems with that.

Julia Sampson, 210 W. South Street, discussed that this was short notice for property owners to respond. She discussed gardening on her property.

Kevin Nelm, 1207 E. Elm, also mentioned that this was short notice for property owners and requested that the open forum be provided again. He discussed street run-off and that this ordinance penalizes property owners for street run-off. He also discussed that a 12-foot concrete path is permitted for city trails but not a patio. He believes the 50-foot zone is arbitrary, and also that he thinks this should apply only to new development.

Fran Alexander discussed that revegetation with native species is better than non-native species. She discussed that water and sediment travels across property lines.

Justin Jackson, 1283 Elm Street feels that this is a little rushed. This would control over two-thirds of his property. This is better on a case-by-case basis.

Brenda English, discussed that she wants to keep her land. She discussed that the city can pay her what its worth. She doesn't want to have to sell her home.

Ryan Mayhen discussed that this would take 50 feet of his land. He doesn't think this will be fair. Will this re-zone his property?

Aubrey Shepherd discussed that the worst damage to the stream is the City. He discussed issues with Town Branch and he is trying to protect people down stream. He discussed flooding and public education.

Tisha Yarbrough discussed that she purchased a commercial housing 10 years ago. She is concerned with things they need to do to fix their property.

No more public comment was presented.

Commissioner Lack asked about the location of the top of bank.

Minkel discussed the method for identifying the top of bank.

Commissioner Lack asked about disagreements between property owner and the City in determining the ordinance.

Minkel discussed that appeals may be made to City Council.

Kit Williams, City Attorney, discussed concerns regarding this ordinance being a taking. There will be many more public hearings and the City is interested in working with the public. We will look at all the issues to make sure we're not making unbuildable lots. He discussed the definition of taking and other regulations such as zoning and grading ordinances

Commissioner Lack asked about correcting current conditions.

Sarah Wrede, Floodplain Administrator, discussed that any improvements to correct current conditions will need to be verified that they won't exacerbate current conditions.

Williams discussed that we need to allow people to protect their homes from flooding.

Commissioner Lack asked about gardening.
Minkel discussed the allowances and requirements for gardening in both zones, and that they probably need to clarify that topic.

Commissioner Lack asked about a paved path versus a patio.

Fulcher discussed that a property owner could install a 12-foot wide patio.

Commissioner Chesser discussed that the City may be giving ourselves the ability to build trails.

Minkel discussed the effects of water flowing over a trail.

Williams discussed that the issue with a 12-foot trail versus a patio is a concern.

Commissioner Chesser asked about variances.

Fulcher responded that bulk and area variances still go to the Board of Adjustment and that variance of the actual streamside ordinance.

Commissioner Chesser asked about fences.

Fulcher discussed that fences can be replaced.

Commissioner Cabe asked about the BMP manual.

Minkel discussed the BMP manual and the trails and utilities are listed in the manual.

Commissioner Cabe discussed that there are no other towns in Arkansas with this type of ordinance and that water quality is a huge issue. He discussed that this ordinance is needed.

Commissioner Earnest discussed that the primary purpose is pollutant reduction. He stated a quote from the Beaver Water Authority that, "I'll treat whatever you put in Beaver Lake, but that I'm not sure you can pay for it…"

Commissioner Chesser asked about rain gardens being in the BMP manual.

Commissioner Lack discussed that there will be many more meetings. We feel like we need to administer to protect the watershed.

Motion:
Commissioner Chesser made a motion to table the item. **Commissioner Cabe** seconded the motion. **Upon roll call the motion to table passed with a vote of 8-0-0**

There being no further business, the meeting was adjourned at 8:00 PM.

Old Business:

ADM 09-3480: Administrative Item (STREAMSIDE PROTECTION ORDINANCE): Submitted by the CITY OF FAYETTEVILLE STRATEGIC PLANNING AND INTERNAL CONSULTING DEPARTMENT. The request is to amend the Unified Development Code to adopt a Streamside Protection Ordinance with an associated map and a Best Management Practices Manual.

Karen Minkel, Strategic Planning Director, gave the staff report.

Public Comment:

Halley Hoggatt asked how the 1,300 affected properties would make a difference when there are thousands of properties contributing pollution. He also stated that the trail exemption was unfair and wanted to know how this was different than an easement that would be purchased. He also wanted the other cities to get on board too.

Margaret Henderson asked if the ordinance was a restriction on her property or a taking of the property.

No more public comment was presented.

Commissioner Lack responded that the ordinance was adding restrictions.

Kit Williams, City Attorney, gave background on the 100 acre standard and stated that existing uses and structures are grandfathered in and can be rebuilt. He stated that easements are purchased because we get rights to access and construct on someone's property. However, the streamside regulations are similar to a setback that is restricted, but is private property.

Commissioner Chesser asked for clarification between gardening and cultivation.

Jesse Fulcher, Current Planner, stated that cultivation is associated with crops and commercial operations.

Commissioner Chesser asked for clarification on the 12' wide impervious area.

Fulcher stated clarified that there are two sections in the ordinance where a private property owner could construct small impervious areas.

Chris Brown, City Engineer, stated that sheet flow velocity will increase as the impervious width increases, potentially resulting in erosion.

Commissioner Winston asked how staff tracks a cease of use.

Fulcher stated that there is a policy already in place for reviewing such cases.

Commissioner Honchell asked if staff had approached the affected property owners about a voluntary buffer; about how much of a difference Fayetteville is going to make in improving water quality; about parks maintenance; and if there had been any complains from Beaver Water District about water quality.

Minkel gave a brief history of the agreement between the City of Fayetteville and Beaver Water District, the Geosyntech study and the nutrient reduction plan. She also stated that prevention is much less expensive than water treatment on the back-end, and that the City will have to abide by the same rules as private property owners.

Commissioner Hoskins asked about how much water went into each watershed.

Minkel stated that approximately 40% of the water went into Beaver Lake, but that the water was going to end up being someone's drinking water, regardless of the watershed.

Dave Jurgens, Director of Utilities, stated that a streamside buffer is one of the best ways to protect water quality and is much more cost effective than water treatment.

Commissioner Earnest stated that this ordinance is important and that the variance section will hep.

Commissioner Chesser stated that he supports the ordinance and that someone needs to go first.

Commissioner Bunch asked if the ordinance would apply to undeveloped lots and if it would show up on the title.

Minkel stated that the ordinance will apply to undeveloped lots.

Williams stated that the buffer restriction will not show up on a title.

Commissioner Hoskins stated that he agreed with the intent of the ordinance, but was not comfortable with the way it is written.

Commissioner Honchell asked what the leading pollutant was in the Illinois River.

Jurgens stated that was unsure of the leading pollutant.

Motion:

Commissioner Earnest made a motion to forward the item to City Council. **Commissioner Cabe** seconded the motion. **Upon roll call the motion passed with a vote of 7-2-0 with Commissioners Hoskins and Honchell voting 'no'.**

New Business:

South School St. in January 2004 Adjacent to Tanglewood Branch - a Protected Stream Under the Proposed Streamside Protection Ordinance

Land was Cleared Right Up To and Into Tanglewood Branch

Added at the Feb. 3rd, 2011 CC mtg.

City Clerk - STREAMSIDE ORDINANCE

From: City Clerk
To: Aldermen
Date: 2/3/2011 1:15 PM
Subject: STREAMSIDE ORDINANCE
CC: greg@tecelectric.com

Just a note to encourage the council members to give a serious look at the new Streamside Ordinance Proposal. We all need to do everything we can within our communities to limit pollution and sediment from runoff.

I look forward to seeing what the city of Fayetteville decides with regard to this issue and am proud that you are considering being proactive in protecting our rivers and streams.

Sincerely

Greg Watts – President, Arkansas Rivers Association.
greg@arkansasrivers.org
870-275-5332

From: Jo Ann Kvamme <jkvamme@uark.edu>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/4/2011 1:05 PM
Subject: Stream protection Please sent to City Council Members

Dear Mayor Jordan and Fayetteville City Council,

As you make decisions regarding Streamside protection please remember your choices will impact not only people today but into the future. Clean streams
are an natural resource that is owned not by individuals but by the community as a whole. I would hope that our responsibility to our community, neighbors, and children would demand our protection of this resource.

When people speak of property rights this should be replaced with property owner responsibility. For Fayetteville to remain the vibrant, eco-friendly, community we have become we must all step up to the role of stewards of our resources.

I would like to applaud the efforts thus far in laying out a plan to protect our natural resource and the Best Practices manual to give concrete direction.

While no one wants to be told what they must do, I hope through education and community spirit we can work to provide what is best for the community, resources and the individual land owners. It has been stated repeatedly to keep our streams clean is less expensive than having to deal with pollutants after the fact. Please stay proactive! Thus, protecting our streams for our children and our community in the future.

Jo Ann Kvamme

Greetings Sir or Madam Councilmember,

I would like to write in support of Fayetteville's Streamside Protection Ordinance. I am strongly in support of this ordinance for the following reasons:

1. In terms of sediment loading to a waterbody, there is no more efficient way to keep sediment out of a river than preserving the streamside buffer. Building stormwater infrastructure to address sediment only transfers problems downstream. Restoring a damaged streambank is costly, resource-intensive, and may still result in more sedimentation to the stream than if the bank was preserved in the first place.
2. In terms of cost to the city, this is one of the least expensive alternatives to address sedimentation, flooding, and loading of many other pollutants to local rivers. There is no retrofitting or upgrading of stormwater infrastructure. Streambank and buffer restoration can cost up to $250 per linear foot.
3. This ordinance may address impairment issues to both the Illinois and White Rivers. The West Fork and Upper White are both designated as impaired by ADEQ and Illinois River also has sedimentation issues. As the largest municipality in both watersheds with the highest population density, the city of Fayetteville can potentially reduce its overall sedimentation impact and subsequently improve water quality.
4. I would strongly encourage you to investigate if the citizen's against the ordinance will actually be affected by it's passage. Have you received comment from constituents who will actually be impacted by the ordinance? With every public comment, please check the residence, ward, and the location of the residence on the protected streams map. In full disclosure, my residence will not be affected.

Thank you very much for your time and attention,
Nicole Hardiman
Ward 1
2163 East Revere Place
Fayetteville, AR 72701

Handed Out at the City Council Meeting 2/3/2011

SIERRA CLUB
FOUNDED 1892

February 3, 2011

Dear Mayor Jordan and Fayetteville City Council Members,

The Arkansas Sierra Club is a statewide environmental organization comprising approximately 2,000 members, many who live in Fatetteville. In the past we have participated in the public discussion of many environmental matters in Fayetteville including the organization of the City's recycling and solid waste programs, the tree and landscaping ordinance, the trail system, the Wilson Springs issue and many more. We now wish to show our support for the Streamside Preservation Ordinance coming before the Fayetteville City Council for approval. The Sierra Club supports the efforts of the City of Fayetteville to adopt a strong, science-based streamside protection ordinance that will protect and improve water quality in our creeks, in the Illinois River and the West Fork of the White River, reduce stormwater runoff and pollutant discharges, ensure groundwater recharge, beautify the city, and improve the quality of life for all its residents. Protecting the region's rivers, streams and aquifers is everyone's responsibility, and we applaud the City Council for demonstrating leadership in this policy area and keeping Fayetteville on the leading edge of municipal governance. The proposed ordinance before the City Council is the result of many hours of collaborative work by city professional staff and volunteer experts from a variety of scientific and technical disciplines.

This ordinance will also protect landowers' property rights by reducing pollution, flooding and blight, in turn benefitting us all with higher property values and ensuring that Fayetteville continues to be among the most desirable and attractive places to live and work in America. The Sierra Club urges the adoption of this ordinance without any weakening amendments. Thank you for your work on this issue.

Sincerely,

Tom McKinney

Tom McKinney
Conservation Chair
Arkansas Sierra Club
479-839-8571

From: "Filipek, Steve" <sfilipek@agfc.state.ar.us>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/9/2011 4:25 PM
Subject: Streamside Protection Ordinance

Please forward this to Mayor Jordan and all the City Council members.

I strongly support the Streamside Protection Ordinance and encourage you all to think of the future of Fayetteville and support this ordinance as well. Scientifically, economically and logically, it's the right thing to do.

Thank you for your consideration of this request,

Steve Filipek

From: Jed Hollan <jphollan@aol.com>
To: "city_clerk@ci.fayetteville.ar.us" <city_clerk@ci.fayetteville.ar.us>
Date: 2/10/2011 12:02 PM
Subject: Streamside Protection Ordinance

Please include me in the swelling ranks of those in favor of the captioned ordinance.
Jed Hollan
Founding president Trout Unlimited
Heber Springs AR

Sent from my iPhone

From: fsharp@pgtc.com <fsharp@pgtc.com>
To: <city_clerk@CI.FAYETTEVILLE.AR.US>
Date: 2/10/2011 2:34 PM
Subject: Distribution of this e-mail to City Council Members

Dear City Clerk:
I would appreciate your forwarding this e-mail to the Mayor and members of the City Council.
Thank you,
Frank Sharp

Dear Mayor and Members of the Council:

I would appreciate your supporting the Streamside Protection ordinance. As one that grew up with a hand-dug,totally inadequate, water well, I learned early on to appreciate the value of water. Later, running a USDA Government inspected food business for many years (the Ozark Mountain Smokehouse) our grant of inspection depended upon a supply of safe, abundent, affordable water. This is even more important for the large food prodcessing companies upon which the economy of this area depends.

Let's protect our Beaver Lake treasure!

Frank Sharp
2062 S. Smokehouse Trail
Fayetteville, AR 72701
479-957-4069

City Clerk - Streamside protection ordinance

From: Nancy Varvil <nvarvil@yahoo.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/4/2011 8:33 PM
Subject: Streamside protection ordinance

To the members of the Fayetteville City Council

I have had property that backs up to Hamestring Creek in West Fayetteville for more then ten years. Apparently the streamsides closer to the source of the creek are not protected because each time it rains the creek level rises much like a gully washer and the sides of the creek behind my property are recarved. All kinds of debris is left in the bushes and trees along the banks after the stream subsides. The water that runs through the creek must be filled with sediment and may also contain runoff from other people's lawns and driveways and pet waste. I know that everyone who lives along that creek would rather have a cleaner creek that doesn't change levels so precipitously and where children could play without fear of being washed away.

The streamsides also serve as corridors for wildlife and plants. Each species must have a certain size habitat in order to survive. Each time we reduce the size of a habitat, we risk causing the extinction of some of the life forms in that habitat thus reducing the diversity needed to keep a healthy food chain for all of us.

The ordinance does not impose changes on current uses/treatments, only on future owners. And future owners will benefit form our taking better care of one of the natural features on their property. I urge the city council to adopt the Streamside Protection Ordinance so that it will apply to my streamside property and all streamside properties in Fayetteville.

Nancy Varvil
479 871 7023
Property is at 1824 Pine Cone, 72704.

City Clerk - Attn: City Council Members

From: Stephanie Shepherd <stephlshep@gmail.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/6/2011 8:18 PM
Subject: Attn: City Council Members

Please Forward to all City Council Members.

Dear City Council Members,

I am writing in support of the proposed Streamside Protection ordinance (ADM 09-3480). As a resident of Fayetteville and a scientist that studies streams, I am thrilled our city is taking a proactive approach to preserve the headwaters of the Illinois and White Rivers. Not only will streamside protection zones improve our water quality, but it will also preserve the beauty of our neighborhoods and protect individual's property.

Phosphorus - as identified by the Nutrient Reduction Plan - and other pollutants such as excessive sediment can be greatly reduced by riparian buffers. Improving and protecting our water quality can reduce the cost of providing clean drinking water, while improving stream habitat. Also, having clean healthy streams improves our quality of life as a community. Considering our investment as a community in the new trail system that parallels Mud Creek and Skull Creek; protecting our streams is even more important.

Furthermore, the initial cost to current land owners is minimal in light of the potential economic benefits over time, especially considering many existing structures will be exempt from regulation. Preserving and protecting the aesthetic beauty of our neighborhoods actually increases property values. Regulating development and promoting appropriate vegetation on stream banks decreases both erosion (loss of land) and flood impacts.

Finally, I feel the ordinance is well thought out and written to meet the needs of our community. Please vote to approve the Streamside Protection ordinance.

Sincerely,

Stephanie L. Shepherd, Ph.D.
857 W. Fairview St.
Fayetteville, AR 72701

From: shelley buonaiuto <goodhelp@cybermesa.com>
To: <city_clerk@ci.fayetteville.ar.us>, <ward1_pos1@ci.fayetteville.ar.us>, ...
Date: 2/4/2011 10:29 PM
Subject: streamside protection ordinance

Dear Councilors,

We moved to Fayetteville four years ago from NM, where one learns a great regard for the scarce water. When we found a house here on Clear Creek, we vowed to do everything we could to safeguard its health. We live in the county, and so are not officially required to follow the ordinance, but we're grateful for the work that has been done to provide homeowners with a list of best management practices and we will carefully follow them. We have had an organic garden in the so-called 100 year flood plain of the creek, over 50 feet away, but it has been flooded 1-3 times every year so we have to move it to higher ground. Since not following best management practices would contribute to flooding, it seems that the land near creeks can't be made to function than other as nature intended in any case.

No one can claim the water as their own. It may pass through land that we may temporarily consider it our right to make use of, but it's our responsibility to safeguard it for the present and for our descendants, as vital for the existence of life in the entire interdependent ecosystem, the loss of any part of which would be disastrous for all of it, for its beauty, for the serenity that no other place can provide as well, and for the joy and fun of playing in the water with children and grandchildren.

Please pass the Streamside Protection Ordinance.

Thank you,
Shelley and Michael Buonaiuto

City Clerk - Streamside Protection Ordinance

From: Judith Matthews <jmattdan@swbell.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/5/2011 2:27 PM
Subject: Streamside Protection Ordinance

Please forward to all city council members

As a longtime resident of Fayetteville, I wish to register my support of the Streamside Protection Ordinance and strongly urge you to vote to pass this legislation. This sort of protection for our waterways is just good common sense. It is overdue. Our city prides itself on being a "Fayetteville in Bloom" and now providing walkways and bike trails from one end of town to the other. Surely clean streams are an equally important part of the overall vision of a wonderful place to live.

Doing our part to keep clean the waterways downstream should also be a prominent consideration.

For the entire 34 years that I have lived in this area there has been an ongoing contention with Oklahoma over the water quality of the Illinois River. I would be proud if Fayetteville was not contributing to the problem.

I believe that the ordinance, as I have read it, is quite reasonable, and should not be a serious infringement on personal property rights. There is an overreaching principle of the greater good involved here, in a time when everyone is talking about protecting our natural resources.

Let Fayetteville walk the talk.

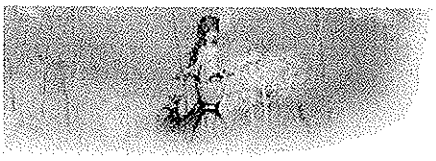
Thank you for taking the time to read this letter.

Judith Matthews

311 Adams St.

City Clerk - Support of the Streamside Protection Ordinance

From: Coral Arroyo <c.arroyobaez@yahoo.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/11/2011 11:12 AM
Subject: Support of the Streamside Protection Ordinance



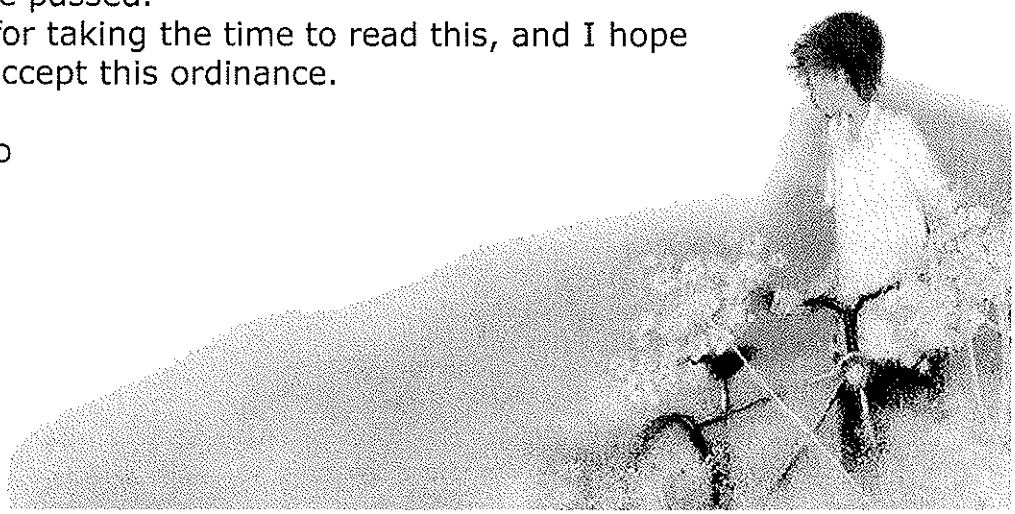
Please forward this message to all city council members and to Mayor Jordan.

Hi, my name is Coral Arroyo, and I am a senior at Fayetteville High School, and I am Co-President of our Green Team.

I read about the Streamside Protection Ordinance and I would love for it to be passed. I strongly urge you all to accept this ordinance because it provides a natural, eco-friendly solution that will help maintain our creeks. Fayetteville will be one step closer to becoming a "greener" city if this ordinance passes. Along with the rest of Fayetteville High's Green team, I would like for this ordinance to be passed.

Thank you for taking the time to read this, and I hope you chose to accept this ordinance.

Sincerely,
Coral Arroyo



City Clerk - Fwd: streamside ordinance

From: City Clerk
To: Aldermen
Date: 2/11/2011 2:42 PM
Subject: Fwd: streamside ordinance
CC: Minkel, Karen

I strongly support the proposed streamside protection ordinance which has been designed to protect probably the most necessary and valuable resource we have -- our water. We need to keep our water clean and keep it under control to minimize flooding. This ordinance will do that and at the same time it will accommodate individual concerns that landowners may have by "grandfathering in" conditions that may already exist on their property. These streamside buffers not only protect our water supply, they also protect our wildlife by providing habitat and a corridor for movement. There was a concern voiced by some that the ordinance would reduce the value of their land but in my mind and I think in the minds of many realtors, land with trees and natural vegetation is actually more valuable on the market than land without.

This ordinance is actually looking to our future to make sure that our vital resources are in good condition for years to come. As council members, I hope that you will put this ordinance in place. It will be good for the people of Fayetteville and it will be a good example for other communities to follow.

Also, thanks goes to Karen Minkel and the planning department who did the research and put this well thought out ordinance proposal together.

Sincerely,

Pete Heinzelmann
pete7hz@gmail.com

February 9, 2010

Dear Mayor Jordan and Members of the Fayetteville City Council,

I live on the banks of the Farmington Branch of Goose Creek which starts in Fayetteville.

Since I moved to this property in 1998, I have seen the deterioration of the stream bank due to upstream development and cattle grazing erosion. This stream used to be lined on both sides with trees- Sycamore and Locusts on my neighbor's side, Sycamore and Oaks on mine.

Today, the banks are badly undercut due to torrential floods and many of the trees that did line the banks have fallen. While this ordinance won't stop the deluge of rains, it may slow the flow of water. Additionally, this flow often now stops in the summer leaving pools of stagnant, silty water. From time to time I have walked this stream, trashbags in hand to do my citizen cleanup of this stream. And naturally, with more development, more trash is gathered.

This ordinance makes good sense to all of us who own property along waterways. It calls upon us to be good stewards for the feature many of us were attracted to that piece of earth in the first place- the water. Protecting our waterways makes good sense and it takes all of us citizens working together. The ordinance includes provisions for exceptions should a property owner need this. I think this is reasonable accommodation.

Please support the Stream Side Ordinance.

Sincerely,

Karen Takemoto
278 Wolfe Lane
Farmington, AR
479-601-7496

City Clerk - stream ordinance

From: Annee Littell <anneelittell@yahoo.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/12/2011 4:02 PM
Subject: stream ordinance

I want all council people (but especially those from Ward 2 where I live) and Mayor Jordan that I support the streamside ordinance. I understand the frustration of a few home owners who can't do exactly as they might want, but I think that the quality of our precious streams here in Fayetteville are way more important and that this ordinance will help protect them. Please forward this to council people and the mayor for me. Thanks. Annee Littell, 517 E. Johnson St. Fay 72701

City Clerk - streamside ordinance

From: "Eugenia donovan" <gdonovan29@sbcglobal.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/14/2011 9:51 AM
Subject: streamside ordinance

City Clerk: Please forward this email to the Council Members and Mayor Jordan:

Please do everything you can to get the Streamside Ordinance a part of Fayetteville"s law. It is so obviously the right thing to do to protect the area's water, not to mention the beauty of our lovely Fayetteville.

Thank you,

Genie Donovan
1923 E. Joyce Blvd
Fayetteville

Dawn Farver
4040 N Foxborow Drive
Fayetteville AR 72703
dfarver@uark.edu
479.575.0114

14 February 2011

RE: Why I support the Fayetteville Streamside Protection Ordinance

Dear Fayetteville City Council Members,

I am a water resources engineer. I am also a member of the Fayetteville community. I have spent my time as a graduate student studying the impacts that humans have on surface water. My husband and I moved here seven years ago thinking we'd be here temporarily while I was in graduate school...but we fell in love with the area and here we are.

As a child, I spent many spring and summer days playing in creeks, catching crawdads, looking under rocks and chasing salamanders. I can only hope that my daughter will have the same opportunity as she grows up. Around the country, our waterways and our sources of drinking water are in danger. I'm thrilled that Fayetteville is actively trying to protect these waterways for the health of our community and for the future of our residents. Studies have shown that the health of people in a community is directly related to the health of the stream systems in that community.

Small streams like the ones running through many back yards are the ones that can most benefit from an ordinance like this. These headwater (top of the watershed) streams have historically been abused...channelized, ditched, lined with concrete, even run underground in pipes and yet they're some of the most important in the stream network. Headwater streams are to a river system like the capillaries in our bodies are to our blood system. They are where much of the magic of life happens. In our bodies, it's where our cells get nutrients and oxygen to sustain our larger organ systems. Likewise, small streams are where natural drainage interacts most intimately with the surrounding landscape. Some folks believe that polluting or destabilizing the banks of one small stream here or there won't affect us, but just as with the capillaries in our bodies, the cumulative effects of degrading the function of those streams can be catastrophic to the whole water system.

It is a privilege to live on a stream and to have such a beautiful, natural feature as a part of one's landscape; with that privilege comes added responsibility. All of our actions on the land impact stream systems. But the greatest impacts are felt within the riparian zone and banks bordering the streams, ultimately impacting the community's water quality and supply and wildlife habitat. The Fayetteville streamside ordinance will benefit everyone in our community by protecting the water resources we all need and enjoy.

What do I want? I want clean, safe, affordable drinking water that continues to come directly out of my tap. I want my daughter to know what a natural stream looks like and get to grow up playing in creeks like I did — not concrete ditches. I want more communities to take the step Fayetteville has, recognizing the importance of this issue. We have the chance to be on the leading edge of something great for all of

the citizens of our city as well as for other communities in our area because water knows no political boundaries.

Please vote for this ordinance and continue the Fayetteville tradition of doing what's right for the environment and the community, and being on the cutting edge of protecting our natural resources.

Thank you for your time. Please feel free to contact me if you have any questions.

Regards,

Dawn Farver

From: "Adella Gray" <adellag@cox.net>
To: "'City Clerk'" <city_clerk@ci.fayetteville.ar.us>
Date: 2/14/2011 12:09 PM
Subject: FW: Overreach in streambank ordinance proposal

Sondra, please forward to all council members as well as Karen Minkel..
Thanks,
Adella

-----Original Message-----
From: gklinga [mailto:gklinga@uark.edu]
Sent: Monday, February 14, 2011 11:49 AM
To: adellag@cox.net
Subject: Overreach in streambank ordinance proposal

Feb. 14, 2011

Dear Councilwoman Gray:

I am writing you as my Fayetteville City Council representative concerning the pending streamside ordinance before the Council. In short, I am opposed to the ordinance as currently written. It strikes me as an overreach by the City to impose a 50 foot setback on streambanks. Taking research done for agricultural production (especially as it relates to heavy application of poultry waste applied to pastures) and extrapolating it onto half acre city lots seems to be unsound in both reasoning and practicality. My specific concerns are:

1. The way I read the ordinance all gardening activities (other than mowing) are prohibited. My reading finds little real difference between the first 25 foot and second 25 foot zones as it relates to gardening. I would be a lot less uncomfortable about this overreaching legislation if at least a statement under permitted activities would include as allowable ?Normal gardening activities?.

2. As I read the ordinance, application for a building permit will trigger the establishment of the streamside site boundary. It seems to me that the City is setting itself up for a situation where most homeowners will knowingly or unknowingly be in violation of the ordinance. Being as application for building permits is a relatively uncommon event while maintaining your property in a traditionally managed (and generally expected) manner is ongoing each year, most creek side property owners will be in violation of the 50 foot
setback. Ordinances that cannot be realistically enforced make all of us less respectful of all such ordinances.

3. The city currently has a requirement in its building code application for a 25 foot setback for ?periodic and live streams?. This requirement does not have the long list of prohibited activities but does address basic streamside construction activities.

Thanks for your attention. I encourage you to vote against this ordinance.

Gerald Klingaman

City Clerk - Please forward this to Council and Mayor

From: "Geoff Oelsner" <greenwaters@cox.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/14/2011 11:02 AM
Subject: Please forward this to Council and Mayor

Dear Council Members and Mayor Jordan,

We support the Streamside Protection Ordinance as an essential way to reduce non-point source loadings of total phosphorus in the Beaver Lake Watershed and utimately in all the City's waterways. We applaud this proposed ordinance as a specific, proactive protective measure, in a time when it is crucial to reduce group
and water and air pollution by every means possible. Please vote in support of it.

Thank you,

Geoffrey & Leslie Oelsner
1451 N. Canterbury Rd.
Fayetteville, AR 72701

From: Tom Dureka <tdureka@gmail.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/14/2011 1:15 PM
Subject: Streamside Protection Ordinance Comments--Please forward to City Council and Mayor

To the Honorable Mayor and City Council members of Fayetteville:

I am a resident of Fayetteville, AR, and I am urging the City Council to support and pass the proposed Streamside Protection Ordinance.

I came to this community in 2010 after living for 25 years in central Texas, one county downstream from Austin. Surface contamination of groundwater supplies has long been a contentious issue there as Austin's drinking water comes mainly from the rapid recharge of aquifers in karst topography, which mere days later enters the Colorado River and water-supply lakes. This is quite similar to the hydrological regime responsible for Fayetteville's water.

Certain property and developer-rights factions in Texas often argue that their immediate or proposed business concerns trump current and long-term public safety and the health of the environment. Please do not let similar short-term interests thwart the very reasonable public policies that can be set in place by this ordinance in this community.

I can not stress enough the importance of passing a strong ordinance to protect the growth plans and inescapable population increase in and around Fayetteville. Vegetative buffers are proven to slow bank erosion and trap excess phosphates, biocides and toxic automotive chemicals that are otherwise very costly for municipal water treatment plants to remove from drinking water.

In central Texas, I co-founded and directed a four-county land trust(Pines and Prairies Land Trust, www.pplt.org) from 1989-2009. In addition to writing six conservation easements for 1100 acres of agricultural land, I also spearheaded the acquisition and restoration of 60 acres on two miles of Colorado River shoreline in Bastrop County. I am quite familiar with the impacts of unregulated growth on riparian health, including sedimentation through vegetation removal and aggregate mining, as well as contamination through nutrient-loading, parking lot runoff, poorly operated wastewater treatment facilities and broken septic systems. I appreciate your openness in considering assisting potentially-affected landowners with conservation easements and other such options.

From the vantage point of a city or a county, economic development must look far beyond the next quarter. This will require your courage and foresight to set policies that reach into the next generations, those of our children and grandchildren who will inherit whichever lands and waters our current generation sees fit to protect. You as policy makers will seldom have so clear an opportunity to vote for the future of the people of this community.

I would be pleased to answer any questions you may have about my position on this issue at my email address: <tdureka@gmail.com>.
Thank you for your attention.

Sincerely,

Tom Dureka
19 W. Pike St.
Fayetteville, AR 72701

City Clerk - Attn: City Council Members

From: Lawanna Banning <onysue@sbcglobal.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/14/2011 10:12 PM
Subject: Attn: City Council Members

Please forward to all city council members.

Dear City Council Members,

I am writing in support of the streamside ordinance that is now being considered. I am an educator at Lake Fayetteville Environmental Study Center. Our center serves over 4500 local students each year. One of our main topics of study is water quality.

Every day, I describe to my students the damage done to the water by non-pointsource pollution, especially fertilizers and sediment. I take 10-year-olds to the creek and I have to explain to them why the creek is green and slimy. They always ask, "How can we fix it?". My answer is that it is complicated and takes a lot of cooperation and leadership to make a difference. I firmly believe that this streamside ordinance is a great way for the city council to show this leadership to begin the process of improving the water quality in our local streams. This, in turn, will improve the quality of life for our residents, protect our property from damage and degradation, and lower costs related to water treatment and flood and erosion control.

Along with being an educator who deals with water quality each day, I am also one of those streamside residents who would be directly affected by the new ordinance. I would be very happy to see that my neighborhood stream was protected from flooding and erosion and from damage by pollution. I believe this would enhance the beauty of my neighborhood, as well as help maintain the value of my property.

I hope the council will vote to approve the ordinance.

Sincerely,
Lawanna Banning

From: smacrae <smacrae@uark.edu>
To: <city_clerk@ci.fayetteville.ar.us>
CC: <smacrae@uark.edu>
Date: 2/15/2011 12:53 AM
Subject: IMPORTANT: streamside protection ordinance

To Fayetteville City Clerk:
Would you please forward my message to the Fay. council members and to Mayor Jordan. Thank you.
I probably will not be able to attend the Tuesday Feb. 15 meeting and thus wish to express my view in this email.

I fully endorse the proposed ordinance to protect our streams, pathways, drinking water, and wildlife habitat from pollution. This pioneer effort is definitely wise public policy based on science. This is an INVESTMENT in public welfare for all of us. I am a property owner who believes that I do NOT have the right to do just ANYTHING with my property. Rather I consider that I am a STEWARD responsible for public good. I am happy to comply with sensible and useful ordinances.
I hope that other property owners will join me in judging that the proposed policy IS in our own interest.
The ecosystem is a seamless web, and we must have the knowledge and the desire to be a partner with nature and our community.
I urge the city council to approve this ordinance. Thank you.

Suzanne H.MacRae, 517 Fallin Avenue, Fayetteville

City Clerk - Re: Streamside Ordinance

From: Barbara Fitzpatrick <bfitz_1951@yahoo.com>
To: City Clerk <city_clerk@ci.fayetteville.ar.us>
Date: 2/15/2011 2:10 PM
Subject: Re: Streamside Ordinance

Thank you. I have a stream running about 200 feet behind my house and do my personal best to not do anything harmful to it, but I'm only one person and that stream runs all the way from the ridge to the Illinois River. I'd like a little help in keeping it clean :) Thanks again, bf

--- On **Tue, 2/15/11, City Clerk** ***<city_clerk@ci.fayetteville.ar.us>*** wrote:

From: City Clerk <city_clerk@ci.fayetteville.ar.us>
Subject: Re: Streamside Ordinance
To: "Barbara Fitzpatrick" <bfitz_1951@yahoo.com>
Date: Tuesday, February 15, 2011, 12:08 PM

Thank you for your email. It has been forwarded to the Mayor and the City Council. Have a great day!

Office of the City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479)575-8323
city_clerk@ci.fayetteville.ar.us

TDD (Telecommunications Device for the Deaf): (479) 521-1316

>>> Barbara Fitzpatrick <bfitz_1951@yahoo.com> 2/15/2011 8:16 AM >>>
Dear City Clerk - Please pass this email on to the Mayor and the Council. Thanks, bf

Regarding the Streamside Ordinance - to use a few old sayings, "an ounce of prevention is worth a pound of cure" and "one stitch in time saves nine" - pass this ordinance, please, if for no further reason than it is a whole lot less expensive of tax dollars to prevent pollution problems than to clean them up after the fact. If the ones doing the polluting had to do the cleaning, they wouldn't pollute. Since polluters get a pass and the taxpayer gets the clean-up bill without such regulation, I as a taxpayer want the regulation.

Barbara Fitzpatrick
resident of Ward 2

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City Clerk - Streamside Protection Ordinance

From: "Carol Gregory" <clgpa@arkansas.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/15/2011 11:41 AM
Subject: Streamside Protection Ordinance

Dear City Clerk,
I wish to object to the streamside protection ordinance to the extent that it prevents mowing and weed-eating along streams. I do not object to banning pesticides and herbicides and fertilizers, although monitoring and enforcement would seem to be problematic. As someone who lives along a stream and has lived on river/lake front property in the past, I know the hazards involved with allowing streams to become overgrown in Arkansas. In short, we have an abundance of poisonous snakes in Arkansas, and keeping the grass cut and stream banks weed whacked is the best way to keep them from inhabiting yard space, where they would encounter humans. In addition, making it illegal to cut grass and weeds along the stream bank makes it impossible to access the stream. I do not see how restricting an owner's access to his own property is anything other than a taking of that owner's property. Also, ordinarily access to a stream or river has traditionally enhanced the value of real estate. The ordinance which you propose would convert a property owner's asset and make it into a liability upon resale, if the owner can no longer maintain his property and protect himself and his family from poisonous snakes.
Please forward my objections to the city counsel members before tonight's city counsel meeting.
Thank you,
Carol Gregory
479-530-3456
2748 S. Hunt Lane
Fayetteville, AR 72701

City Clerk - I support the proposed ordinance to protect our waterways

From: "Cynthia VanBibber" <cvanbib@att.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/15/2011 9:47 AM
Subject: I support the proposed ordinance to protect our waterways

I support the proposed ordinance to protect our waterways. Most particularly enforcing the current setbacks and protections we have. We must acknowledge what is truly public. Our water is that.

Cynthia VanBibber

City Clerk - Support Riparian Ordinance

From: D Neely <dgn.edensgreen@gmail.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/15/2011 9:08 AM
Subject: Support Riparian Ordinance

Dear Mayor Jordan and City Council Members:

Census projections indicate that in the next 14 years the NW Arkansas populace will increase to over 800,000 and will exceed 1.2 million by 2050.

The Streamside Protection Ordinance provides an opportunity to **strategically emplace** land resource and water supply source stream safeguards **NOW** that will help guide property management practices and future development/land use changes to accommodate an ever expanding population in such a way as to minimize a broad spectrum of impacts and optimize quality of life and natural system functions.

A healthy environment and wise utilization of natural resources ensures economic viability and vitality.

Thank You for your time and consideration.

Sincerely, Dot Neely/Ward 1

--
"Insatiable Is Not Sustainable." Doug Brown/Author (2001)

City Clerk - City Council

From: <CopeCindi@aol.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/15/2011 8:36 AM
Subject: City Council

As a long time advocate of environmental issues, I strongly support the Streamside Ordinance. A few simple facts:

1. While working with 5 Fayetteville schools to become "Litter Free Zones" through Keep Arkansas Beautiful, ONE cigarette butt in 2 gallons of water becomes a toxic solution within 24 hours killing 80% of aquatic life. Think of all the cigarette butts after an event like Bikes, Blues and BBQ that go into the storm sewers and into the streams.

2. Pet waste, livestock waste washes into our streams. They can carry toxins.

3. Pesticide, herbicide also flows into our waterways. When you see 'cide' at the end of a word, it means to KILL. Do we want our children playing in toxic waters?

4. Riparian Buffers help to protect our water from these toxins. A wonderful example is what Sandi Formica did at Gulley Park with the repair to the creek dramatically improving the water quality.

5. It is LESS EXPENSIVE to prevent this problem rather than correcting it later.

I am a resident of Ward 3 and will watch carefully the vote. Vote in favor of the Streamside Ordinance.

Cindi Cope
521-0934

From: Sonja and Toni <toni.menninger@sbcglobal.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/15/2011 12:30 PM
Subject: Message in support of the Streamside Protection Ordinance - please forward to City Council and Mayor

February 15, 2011

Dear Mayor and City Council members,

we are writing to encourage you to pass the Streamside Protection Ordinance. We are Fayetteville residents of five years and property owners living close to Tanglewood Branch. Like many Fayetteville citizens, we try to do our part to protect our watershed and ecosystems resources. We deliberately minimized our home footprint (about 1000 sqft). About 90% of the property is vegetated, including native trees. We do not use artificial fertilizer or herbicides, we collect some of the rainwater and rarely use city water for irrigation. We support the principles of low-impact development and the goals of the Fayetteville City Plan 2025, which calls for the creation of an "enduring green network" (goal 5).

The Streamside Protection Ordinance is a logical step, and a step in the right direction, for the city to take. It does not place an undue burden on property owners. On the contrary, we are confident that it will save our community money in the long run as well as helping to protect and improve the quality of life of our city's current and future residents.

Sincerely,

Toni Menninger
Dr. Sonja Hausmann
301 S West Av, Fayetteville AR

City Clerk - Attn: City Council Members

From: Lawanna Banning <onysue@sbcglobal.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/14/2011 10:12 PM
Subject: Attn: City Council Members

Please forward to all city council members.

Dear City Council Members,

I am writing in support of the streamside ordinance that is now being considered. I am an educator at Lake Fayetteville Environmental Study Center. Our center serves over 4500 local students each year. One of our main topics of study is water quality.

Every day, I describe to my students the damage done to the water by non-pointsource pollution, especially fertilizers and sediment. I take 10-year-olds to the creek and I have to explain to them why the creek is green and slimy. They always ask, "How can we fix it?". My answer is that it is complicated and takes a lot of cooperation and leadership to make a difference. I firmly believe that this streamside ordinance is a great way for the city council to show this leadership to begin the process of improving the water quality in our local streams. This, in turn, will improve the quality of life for our residents, protect our property from damage and degradation, and lower costs related to water treatment and flood and erosion control.

Along with being an educator who deals with water quality each day, I am also one of those streamside residents who would be directly affected by the new ordinance. I would be very happy to see that my neighborhood stream was protected from flooding and erosion and from damage by pollution. I believe this would enhance the beauty of my neighborhood, as well as help maintain the value of my property.

I hope the council will vote to approve the ordinance.

Sincerely,
Lawanna Banning

City Clerk - Streamside Protection Ordinance

From: Donna Kisling <donnakisling@msn.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/15/2011 1:28 PM
Subject: Streamside Protection Ordinance

I am in favor of the Streamside Protection Ordinance and ask that the City Council members and Mayor Jordan vote in favor of this issue. We need to not only protect our streams and drinking water but keep Northwest Arkansas healthy and beautiful with tree plantings.
Please forward this e-mail as needed.
Thank you,
Donna Kisling

City Clerk - Streamside thoughts -support

From: Sarah Lewis <sarahelainelewis@gmail.com>
To: Sondra Smith <city_clerk@ci.fayetteville.ar.us>
Date: 2/15/2011 1:47 PM
Subject: Streamside thoughts -support

Please forward to the Council and the Mayor for Mr. Thomas.

--- On **Mon, 2/14/11, Michael H. Thomas** ***<mhtcommu2@sbcglobal.net>*** wrote:

From: Michael H. Thomas
<mhtcommu2@sbcglobal.net>
Subject: Streamside thoughts
To: sarahhelainlewis@gmail.com
Date: Monday, February 14, 2011, 11:24 AM

Sarah: I have an emotional attachment to the Streamside issue currently under review.
As one of the founding members of *The Botanical Garden of the Ozarks*, we were seriously concerned about runoff of chemicals and other materials into the lake-fed stream running through the garden. I encourage the Fayetteville City Council to be very supportive of any protective measures advanced.
Thank you. Michael H. Thomas

Michael H. Thomas
Valley View Drive
Ward 4
Fayetteville, AR
Email..479-443-6695

City Clerk - Streamside Protection Ordinance

From: joanna pollock <ggg73@hotmail.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/15/2011 4:31 PM
Subject: Streamside Protection Ordinance

Please forward this to the City Council Members and our fabulous Mayor Jordan:

I am a Fayetteville resident and a property owner with my spouse, Chad Pollock. We support this ordinance and believe it is what is needed to protect clean, safe water. Property ownership is a privilege that comes with responsibility. It is not a license to do whatever anyone wants without consideration for the greater good. This is a fair ordinance that is not extreme, but is well reasoned. I also believe that people who do not reside in the city of Fayetteville should not be allowed to speak to our city council at the microphone without permission from the Mayor. They can practice their freedom of speech according to our US constitution, but their opinion should not have weight in matters of our city governance.

Joanna Pollock
243 Baxter Lane
Fayetteville, Arkansas
72701
708.828.5695 (cell #)

City Clerk - Streamside Protection Ordinance

From: Bettie Lu Lancaster <bettielulancaster@gmail.com>
To: <city_clerk@ci.fayetteville.ar.us>, <ward3_pos1@ci.fayetteville.ar.us>, <ward3_pos2@ci.fayetteville.ar.us>
Date: 2/15/2011 7:34 PM
Subject: Streamside Protection Ordinance

To the Mayor and the City Council:
Please vote FOR the Streamside Protection Ordinance.
I live on Mud Creek, which is well buffered behind my home. I hope the people upstream from me will keep a vegetation buffer, so I can continue to enjoy this stream.
This ordinance will not only protect our streams, but the filtering the vegetation provides will LOWER our TAXES, because less treatment will be needed to remove pollutants from our drinking water.
Bettie Lu Lancaster
1913 E. Overland Drive
Fayetteville, AR 72703

February 16, 2011

16834 Lake Sequoyah Rd.

Fayetteville, AR 72701

City of Fayetteville, Arkansas

113 W. Mountain St.

Fayetteville, AR 72701

To the Ward 1 Alderwomen,

Dear Brenda Theil and Adella Gray,

I'm contacting you in reference to the **Streamside Protection Ordinance** the city council is discussing at the moment. I am so excited to live in a city that values the environment and the preservation of the environment--it really sets us apart in a time when economic growth seems to be valued above all other things. Even when times are hard, there is no excuse for neglecting our precious natural resources.

Last year, my husband and I moved to the shores of Lake Fayetteville, where we enjoy views of the lake and our property abuts the city park. Lake Fayetteville, as you know, is an artificial lake that is really an enlargement of the White River. It's hard to communicate how wonderful this public park is—the wildlife is thriving and abundant and the city services are always in evidence—we have lovely trails that are well maintained and new picnic tables last year!

It is so sad to see that some people feel the park and the lake are good places to dump their garbage, but the city pays for picking up that trash by hand twice a year, I believe. **It is unthinkable that we would allow trashing our streams as a matter of policy. Clearing natural vegetation next to the river is damaging to the ecosystem, to say nothing of cement/artificial drains. The Streamside Protection Ordinance would protect the natural beauty here that is becoming all too rare.**

Long after the economy has recovered and you have both completed your public service, for which we members of Ward 1 are very grateful, you will have a beautiful legacy in the Streamside Protection Ordinance: that the natural beauty of our lakes and streams will be a gift to our children and yours.

Sincerely,

Christine Sheppard

Lake Fayetteville, Ward 1 resident

Kit Read at the City Council Meeting 2/15/2011 - Streamside

PRESENTATION TO CITY COUNCIL AND PUBLIC

Several speakers at the last City Council meeting questioned the legality and constitutionality of the proposed Streamside Protection Ordinance. I believe this proposed ordinance is clearly within the statutory power of the City Council to enact.

For example, A.C.A. §14-54-702 states that "Municipal corporations shall have the power to ... prevent pollution of water or injury to waterworks." A "reservoir" (like Beaver Lake) is one type of "waterworks" that cities are authorized to protect. This ordinance attempts to protect our drinking water source, Beaver Lake, by reducing by 75% the amount of sediment (which carries phosphorous) into our streams that flow into Beaver Lake and the Illinois River. The Beaver Water District's spokesman spoke to the City Council in favor of the Streamside Protection Ordinance because it would protect Beaver Lake as our water source. Thus, A.C.A. §14-54-702 clearly supports our efforts to protect this reservoir.

This statute even gives the City Council the ability to go **five miles beyond our city limits to prevent pollution or injury to any stream or source of water.**

> "(b) For the purpose of establishing and supplying waterworks, any municipal corporation may go beyond its territorial limits. Its jurisdiction to prevent or punish any pollution or injury to the stream or source of water, or to the waterworks, shall extend five (5) miles beyond the corporate limits." A.C.A. §14-54-702(b).

The Arkansas Supreme Court has interpreted this statute as providing a municipality with the power and duty to protect the comfort and well-being of its citizens by furnishing pure water. *Bourland v. City of Fort Smith*, 190 Ark. 289, 78 S.W. 2d 383, 385 (1935).

The City Council Also has considerable discretion under its "police power" to regulate activities within and near its city limits.

> "This court long ago recognized that the varied uses and conflicts of city life required that much must be left to the discretion of city authorities." *City of Little Rock v. Linn*, 245 Ark. 260, 270, 432 S.W. 2d 455, 462 (1968)

> "**The legislative power includes discretion to determine the interests of the public as well as the means necessary to protect those interests.** Within constitutional limits, the legislative branch is the sole judge of the laws that should be enacted for the protection and welfare of the people and when and how the police power of the State is to be exercised." *City of Lowell v. M & N Mobile Home Park*, 323 Ark. 332, 335, 916 S.W. 2d 95, 97 (1996) (emphasis added).

The Arkansas Supreme Court has held that the "**mere possibility of a public harm is sufficient basis for the municipality to regulate under its police power.**" *Phillips v. Town of Oak Grove*, 333 Ark. 183, 191, 968 S.W. 2d 600, 604 (1998).

It is up to the good judgment of the City Council to determine whether protection of streams and drinking water requires some streamside protection zones which would restrict certain soil disturbing construction or other activities from occurring. After considering all the evidence and statements presented to them, if the City Council determines that public necessity requires such regulations, the City Council has statutory power to enact such reasonable regulations.

CONSTITUTIONAL ISSUES

Some speakers at the last City Council meeting also claimed that the proposed regulations would result in a constitutional "taking" of the property owners' land such that an inverse condemnation had occurred requiring the City pay for the land within the streamside protection zones. I do not believe the proposed regulations would be deemed a constitutional taking.

We have been challenged before over regulations that a landowner alleged constituted an inverse condemnation of his property. Mr. Richard Berry, as owner of the Thunder Valley Raceway, sued the City for $500,000.00 over this issue in 2003. Mr. Berry lost. The City paid nothing on this half million dollar inverse condemnation claim.

Justice Oliver Wendell Holmes stated in a 1922 Supreme Court case, *Pennsylvania Coal v. Mahon:*

> "(T)he general rule at least is that while property may be regulated to a certain extent, if regulation goes too far, it will be recognized as a taking." 260 U.S. 393 (1922)

This statement was reaffirmed in 1987 by Chief Justice Rehnquist in *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304, 316 (1987). The Supreme Court also held in that case that if a property owner proves his property has been "taken" by land use regulation, the property owner may collect monetary damages to compensate for the "taking."

The key issue is always **when a regulation has gone "too far"** so that a city would be exposed to liability. Prior to Fayetteville's first zoning in 1951, property owners could use their property basically, as they chose. The 1951 zoning placed many new restrictions on how the property could be used, but no constitutional takings challenges were made to my knowledge. Again, in 1970, the Fayetteville City Government reconsidered the zoning throughout Fayetteville and made significant zoning changes without the express agreement of all affected property owners. Some "down zoned" property owners attempted to regain their previous zonings politically, but no constitutional takings challenges in Court were made to my knowledge. No suit was forthcoming when residential density in flood plains was reduced by city ordinance in the 90's from four or more houses per acre to one house per acre.

In *Agins v. City of Tiburon*, 447 U.S. 255 (1980), a zoning ordinance limited development on a five acre parcel to five houses. The Supreme Court held:

> "(t)he application of a general zoning law to particular property effects a taking if the ordinance does not substantially advance legitimate state interests or denies an owner economically viable use of his land." Id. at 260.

The Supreme Court held that the open space policies of Tiburon was a legitimate state interest and did not deprive the owner of an economically viable use of his property. The property owner's "takings" claim was denied.

In a regulatory takings case involving pollution control costs estimated by the owner to be $500,000 to $1,000,000, the Arkansas Supreme Court rejected a takings claim holding that "the company has not shown compliance with the regulation would be commensurate to a taking of its property." *J.W. Black Lumber v. Arkansas Dept. of Pollution Control and Ecology*, 290 Ark. 170, 717 S.W. 2d 807, 811.

> "The mere fact that a partial use of one's property is burdened by regulation does not amount to a taking. In *Goldblatt v. Town of Hempstead,* N.W., 369 U.S. 590, (1962), the court said: There is no set formula to determine where regulation ends and taking begins. Although a comparison of values

> before and after is relevant … it is by no means conclusive, see *Hadacheck v. Sebastian*, 239 U.S. 394 where a diminution in value from $800,000 to $60,000 was upheld." *Id.* at 810-811 (citations omitted)

The most recent holding by the United States Supreme Court in this area was the Lake Tahoe development moratorium case. *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Commission*, 535 U.S. (2002).

The Supreme Court held that the years long moratorium on development of private land within the Lake Tahoe basin while the regional planning commission formulated development restrictions to protect Lake Tahoe from degradation did NOT constitute a constitutional taking requiring compensation.

The Supreme Court held that "a governmental regulation … that bans certain private uses of a portion of an owner's property … does not constitute a categorical taking." *Id.* Thus the *Penn Central* analysis would be necessary to determine the likelihood of a takings claim to be successful in the Streamside Protection Ordinance.

The first prong of a test is:

(1) Interference/reduction with the owner's reasonable investment backed expectations of how the property could be used;

The Streamside Protection Ordinance does not affect any ongoing activity or any existing building on the property. Like all of our zoning ordinances and development ordinances, the Streamside Protection Ordinance could have some affect upon **new development** within the streamside protection zones. However, a landowner/investor whose property could be affected can obtain a building permit before this ordinance is effective and thus accomplish any "reasonable investment based expectations of how the property could be used in the near future."

(2) Economic impact of the regulation upon the property's value;

The variance procedures within this ordinance with appeal rights to the City Council should prevent the regulation from having enough adverse economic impact on any property owner's parcel to constitute a taking. If and when a variance appeal reaches the City Council, you will need to closely analyze any proven economic hardship upon the landowner resulting from the Streamside Protection ordinance in your decision to grant or deny such variance. This should protect the City from a constitutional takings claim.

(3) Character/importance of the governmental interest in the regulation;

The *Lake Tahoe* case decided by the United States Supreme Court against landowners/developers related to the same water quality issues that the Streamside Protection Ordinance is designed to protect.

The Arkansas Supreme Court has interpreted state law to provide a power for a city council to protect the comfort and well-being of its citizens by furnishing them pure and clean water. *Bourland v. City of Fort Smith*, supra. The Beaver Water District has requested this Streamside Protection Ordinance from Fayetteville to help preserve the quality and purity of our Beaver Lake water supply. It would be hard to envision a stronger governmental interest than the preservation of a clean and pure water supply for our citizens, businesses, and industries.

CONCLUSION

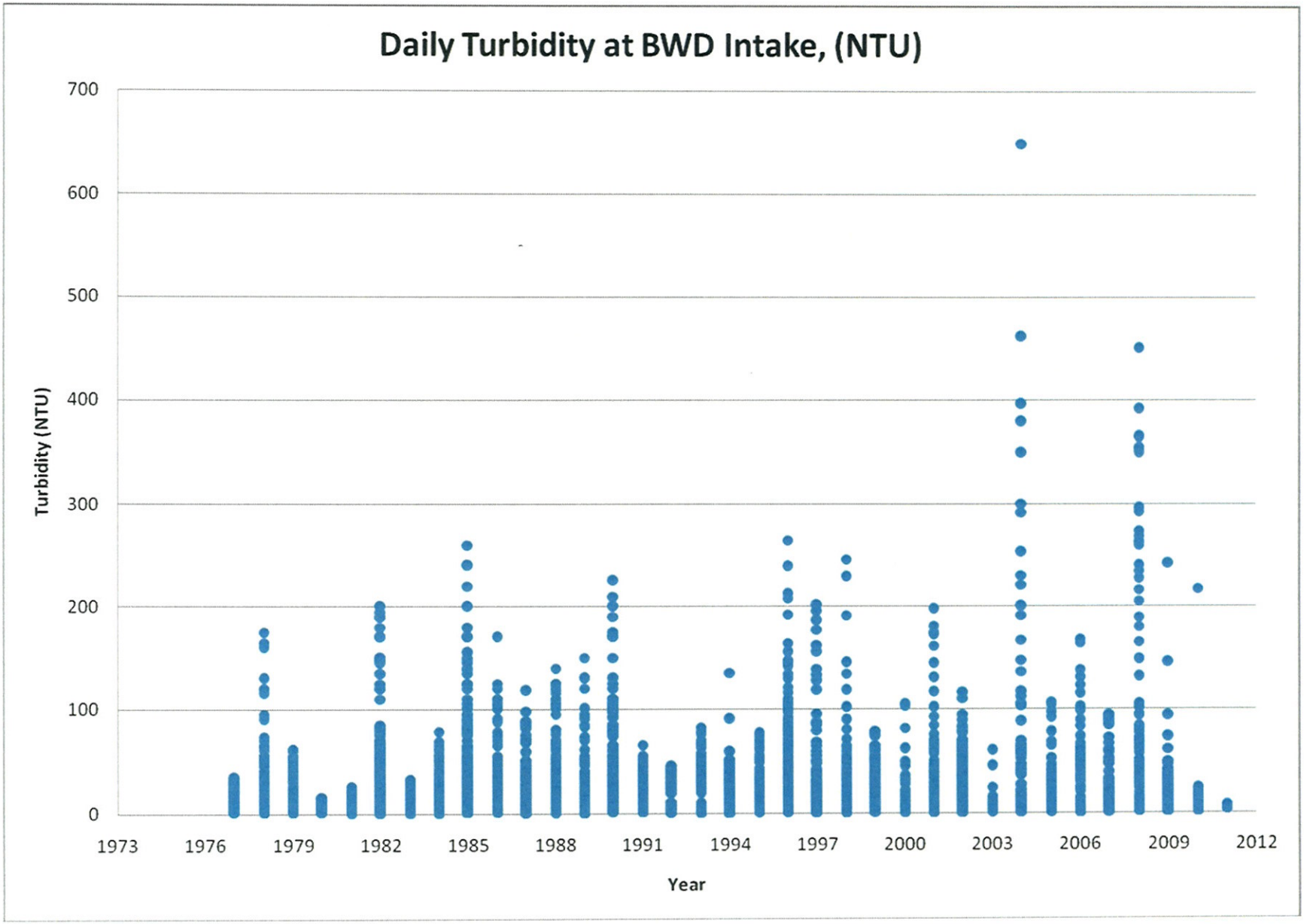
The City Council has clear statutory authority to enact the Streamside Protection Ordinance. The reasonable regulations, exemptions, and variances within this ordinance should prevent it from constitutionally taking anyone's property.

Streamside Ordinance
Handed out at the City Council
meeting 2/15/2011

04.08.2004

3007

Handed Out at the City Council Meeting
2-15-2011 Streamside



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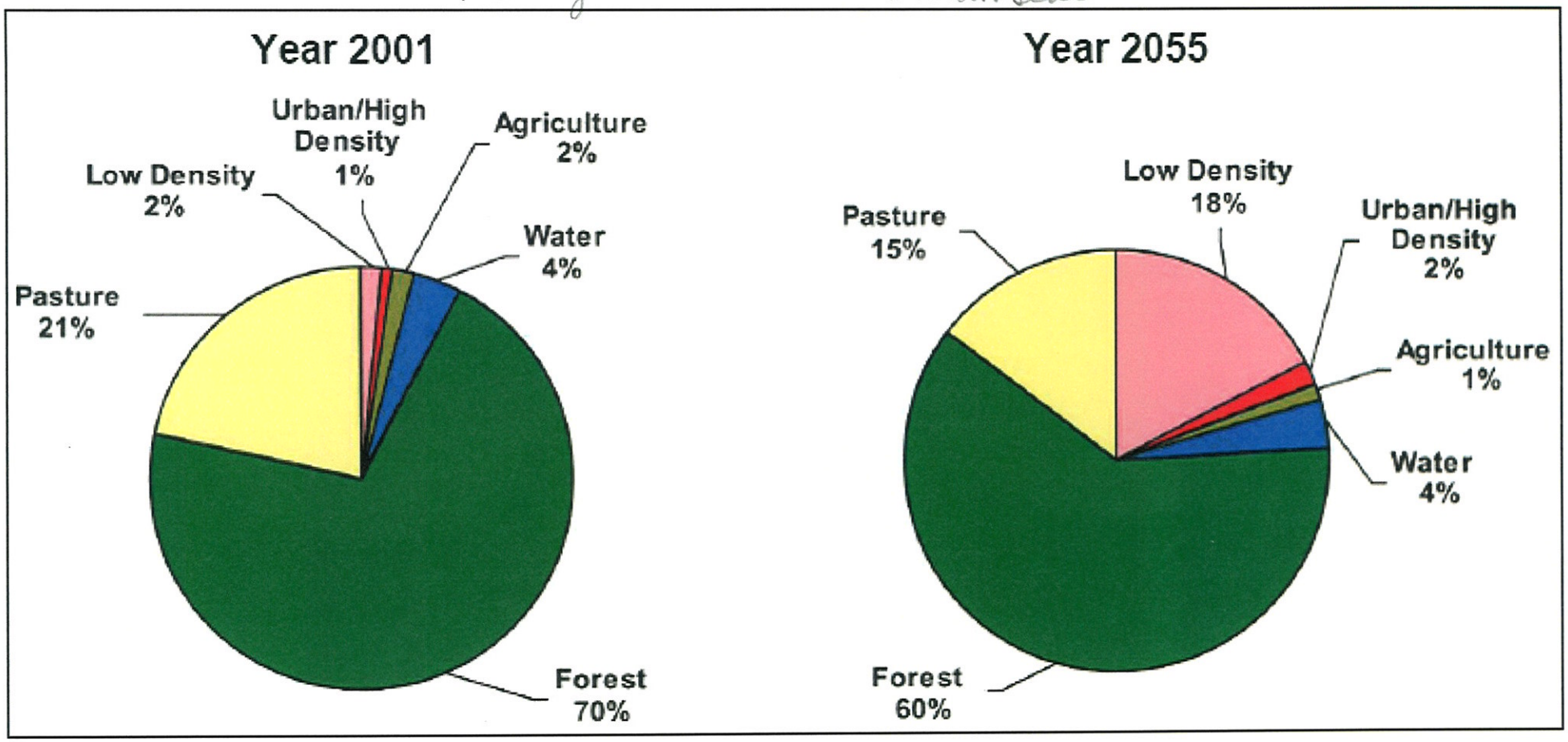

Comparison of Year 2001 and Year 2055 Projected Land Uses in the Beaver Lake Watershed

From the Beaver Lake Watershed Protection Strategy Prepared for the Northwest Arkansas Council by Tetra Tech (Sept. 2009)

UNIVERSITY OF ARKANSAS
DIVISION OF AGRICULTURE

Agriculture and Natural Resources

Handed out at the City Council 2/15/2011 Streamside

FSA5026

Riparian Buffers: Functions and Values

Kyle Cunningham
Forestry Instructor

Hal Liechty
Professor of Forest Ecology and Hydrology

Chris Stuhlinger
UA System Forest Manager

Water quality is an ever-growing concern in Arkansas. This concern has been demonstrated by the designation of nutrient surplus areas within Arkansas by Legislative Act 1061 of 2003. Nutrient levels in these areas are such that continued application of fertilizer or nutrients could negatively impact waters in Arkansas. Stormwater runoff from agricultural fields and urban areas can deposit significant quantities of sediment and nutrients into drainages, streams and rivers. These pollutants can have significant impacts on aquatic organisms. A method for reducing pollutant deposition to these waterbodies is the implementation of riparian buffers. Riparian buffers can take on various forms, depending on the goals for the buffer. This fact sheet discusses the different functions and values of riparian buffers and their importance to water quality and beyond.

What Are Riparian Buffers?

A riparian area is the land adjacent to a stream, river or other waterbody (Figure 1). This land could be naturally vegetated, utilized for agriculture or developed for urban use. These land areas affect and are affected by the stream or waterbodies. In areas where vegetation has not been significantly disturbed, riparian areas help to maintain high water quality and healthy aquatic communities.

Riparian buffers are strips of vegetation established next to waterways in managed landscapes and are designed to capture runoff, nutrients and sediment and to restore a more natural aquatic environment. Riparian buffers typically range in width from 30 to 300 feet from stream banks. The vegetation utilized may include grasses, shrubs and/or a variety of trees. Each vegetation type performs unique functions in the system. These functions directly and indirectly generate different types of value.

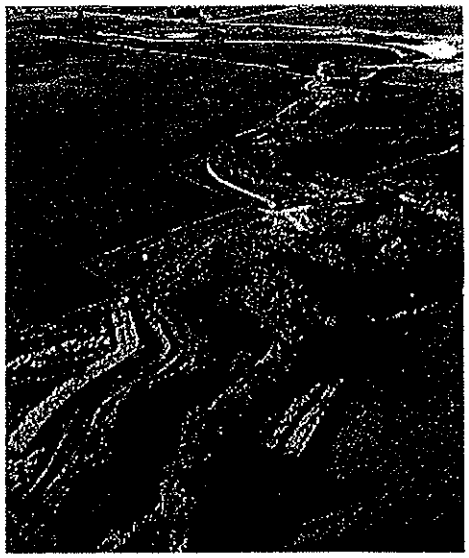

Figure 1. A riparian buffer.
Photo by USDA NRCS

Advantages of Riparian Buffers

- ✓ *Reduced stormwater runoff*
- ✓ *Reduced sediment and nutrient runoff*
- ✓ *Improved water quality*
- ✓ *Ecological benefits*
- ✓ *Economic benefits*
- ✓ *Multiple-use benefits*
  - *Timber production*
  - *Wildlife habitat*
  - *Aesthetics*
  - *Recreation*
  - *Social value*

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What Is the Purpose and Function of Riparian Buffers?

Riparian buffers provide several important ecosystem services. These services can be classified into two broad categories. The first category relates to their ability to limit or reduce the environmental impact of management practices in upland portions of the landscape on water quality and aquatic organisms. The term buffer can be defined as "something that serves to separate two items" or "to lessen the shock." Thus, riparian buffers separate aquatic ecosystems from managed lands and maintain water quality by acting as filters to lessen the amount of pollutants entering streams from the managed areas. The second category relates to a much wider array of riparian functions. In Arkansas the dominant vegetation in natural riparian areas is usually trees. Thus, forested buffers also provide wildlife habitat, stream temperature moderation, stream bank stabilization, and food and habitat for aquatic organisms. A more detailed explanation of these categories is below.

Buffering and Filtering

Sediment and Pollutant Removal. One of the primary purposes of riparian buffers is to reduce the amount of sediment, chemicals and other pollutants entering streams and waterbodies. Water draining from croplands, pastures, managed forests or even urban developments can contain sediment, fertilizer, pesticides and other pollutants (Figure 2). Riparian buffers intercept and filter these materials in several ways. Vegetation, such as grass or dead foliage and branches from trees on the soil surface, reduces the velocity of surface runoff as it enters the buffer. Sediment and particulates contained in runoff are deposited in the buffer rather than in a stream as this runoff velocity is reduced. The reduction of velocity also allows the surface water to better infiltrate the soil, carrying pollutants and chemicals below the soil surface. Roots of vegetation in the buffers absorb excessive nutrients and other chemicals contained in the subsurface water. Trees and grasses utilize the excess nutrients (nutrients which originate from fertilizer applications or livestock operations outside the buffer) to grow. These nutrients, especially in trees, can be stored in biomass for many decades. In addition, microbial organisms in the soil degrade chemicals and pesticides, reducing the potential for these materials to enter streams. Anaerobic soil microbes (organisms that live in wet soils) can convert excessive nitrogen from fertilizer to a gas which is dissipated to the atmosphere rather than entering streams. Where fertilizer or pesticides are applied by aircraft, buffer edges clearly delineate the boundaries of a field or managed forested stand from that of the stream or waterbody. Thus, direct application of agrochemicals to the stream can be avoided. All of these attributes help to maintain or improve water quality within the landscape.

Figure 2. Unprotected waterways are vulnerable to degradation.

Riparian Ecosystem Services

Aquatic Habitat. Since riparian vegetation occurs at the edge of streams or waterbodies, it is a source of food and structural habitat for aquatic organisms. Foliage and branches that fall into the stream provide a source of food to benthic invertebrates (small organisms without backbones that live in streams and lakes). Many of these organisms have specialized features that allow them to shred the tissues of this vegetation for consumption. In small streams and headwaters, these invertebrates are at the bottom of the aquatic food chain. Restoration of this vegetation to stream banks ultimately increases the productivity of streams. Large woody debris (LWD) such as fallen trees and limbs provide structural habitat for aquatic communities in the waterbodies. LWD provides a location for benthic invertebrates to cling to, reduces stream velocity and thereby provides resting areas for fish. It helps to add diversity to streambed habitat.

Bank Stability and Erosion Protection. Vegetation and especially tree buffers stabilize the banks of streams and reduce the ability of streams to erode banks. Roots of trees and other vegetation bind the soil together. Vegetation is especially important in securing point bars that are typically formed by streams or rivers. Reduction of bank erosion maintains the stream's depth and width. Canopies of both grass and trees as well as the forest floor in forested buffers intercept precipitation and shield the soil surface from erosion. Raindrops that hit the ground without striking vegetation contain more energy than do those that drip off vegetation. These raindrops more frequently detach and erode soil particles. Buffers reduce erosion and ensure that soil located in riparian areas does not become a source of sediment in streams.

Alteration of Stream Climate. Trees in buffers help to reduce stream temperatures (Figure 3). Studies have indicated that clearing of trees around streams can increase maximum summer water temperatures by 7° to 21°F. Retention of forested strips along streams, even when trees outside this strip are removed, can limit these increases to less than 2°F. Reductions in temperatures are important for maintaining high levels of dissolved oxygen in water, since cooler water can hold higher concentrations of O_2 than warm water. This is important for survival and growth of fish species that require higher levels of dissolved oxygen. For example,

Figure 3. Trees can be very beneficial to the stream climate.

growth of juvenile smallmouth bass has been found to decrease with water temperatures above 86°F. Wind speed and humidity are also altered by riparian vegetation. Removal of forested riparian vegetation leads to an increase in wind speed and reduction of humidity which may have negative impact on aquatic and riparian communities. Therefore, it is recommended that managed forests include streamside management zones (SMZs) that reduce management activity in strips of existing forested areas adjacent to streams. Establishing forested riparian buffers in agricultural or urban areas can have positive impacts on aquatic and riparian communities by moderating the water temperatures and climate.

Figure 4. Riparian buffers greatly improve wildlife habitat.

Photo by U.S. Fish and Wildlife Service

Wildlife Habitat. Riparian areas are important habitat for a number of wildlife species (Figure 4). Since these areas are transitional zones that can be flooded or extremely dry at other periods of the year, they frequently are home to a diverse community of mammals, amphibians, birds and reptiles. In managed forest landscapes, riparian buffers are often a refuge for cavity-dwelling wildlife, such as flying squirrels, when upland forests are harvested. Riparian areas and buffers can also provide travel corridors for terrestrial wildlife, linking different habitats or portions of an animal's territory.

How Do Riparian Buffers Increase Property Value?

One might ask, "How can the removal of land from production increase the value of a property?" Fact is, there are many added values that are generated when riparian buffers are constructed on a property. These values may include timber, wildlife, recreation, aesthetics, social, economic, environmental and others. Depending on the goals for a buffer and the particular buffer type implemented, riparian buffers may achieve one or all of the aforementioned values.

Timber Value

Often there is a misconception that land put aside for riparian buffers is no longer productive and therefore does not generate an economic return. This notion could not be farther from the truth. Portions of riparian buffers that include a forested component may be managed for timber production and are often more productive than drier upland forests (Figure 5).

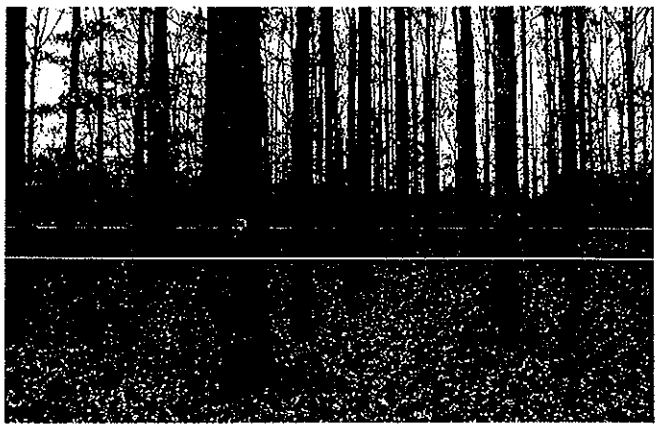

Figure 5. Riparian forest buffers can be managed for timber production.

Managing the timber in a buffer serves two purposes: (1) it allows the landowner to produce a commodity for economic gain, and (2) it aids in sustaining a vigorous, growing forest that optimizes nutrient uptake. Using a forested riparian buffer provides both economic and environmental benefits.

Non-Traditional Economic Values

Buffers may provide other economic benefits including potential biofuel feedstocks from grasses (such as switchgrass), carbon sequestration contracts, hunting leases, alternative agricultural products (fruits) and others.

Wildlife Value

Many landowners are very interested in increasing wildlife habitat on their property, often for the purposes of generating revenue. As stated earlier, riparian buffers can facilitate this role effectively. First, buffers can be designed to include vegetation structure and types that focus on providing food or other forms of habitat for a particular species (such as quail). Secondly, buffers can be designed to provide diversity in habitat structure that is critical for many game and non-game species (such as songbirds). Improving wildlife habitat increases recreational opportunities, revenue potential and property value.

Recreational Value

Riparian buffers greatly impact recreational opportunities for a property. The most obvious area of potential impact would be in urban areas where forested riparian buffers can be established to provide a park-like atmosphere for local residents to utilize. Often these "urban buffers" contain walking or biking trails to increase recreational opportunities. Other buffer types, on agricultural lands, could provide different types of recreational opportunities such as hunting or wildlife viewing.

Aesthetic Value

Riparian buffers of any type will increase the aesthetic value of a property. In agricultural areas, buffers can provide a break in the terrain. Alternately, in urban areas buffers can be used to create park-like areas or simply natural areas that separate urban structures. Also, different types of vegetation may be utilized that provide aesthetic quality, such as planting flowering tree species including dogwood, redbud or others. The aesthetic potential of buffers should never be underrated. Increased real estate values are frequently associated with forest and trees in urban areas. In this case, aesthetic value can frequently translate into long-term increased property values.

Social Value

The social value of riparian buffers could potentially provide the greatest benefit of all buffer attributes. In urban areas, the values of riparian buffers are obvious in that they assist in increasing the livability of urban areas such as subdivisions or commercial zones. In agricultural areas – particularly in nutrient surplus areas – the mere act of implementing riparian buffers could ease conflicting views toward agricultural practices and impacts on water quality, which could provide the largest overall social benefit.

Riparian buffers provide an excellent opportunity to provide multiple environmental, ecological and social benefits while assisting landowners in creating multiple-use opportunities for their lands. Establishing riparian buffers is currently a voluntary practice that has the potential to reduce pressures for increased regulation on land management methods for Arkansans. Landowners should examine how establishing riparian buffers on their property could enhance value and improve the livability for their families and their respective communities.

For additional information, see fact sheet FSA5027, *Riparian Buffers: Types and Establishment Methods*.

Printed by University of Arkansas Cooperative Extension Service Printing Services.

KYLE CUNNINGHAM is forestry instructor with the University of Arkansas Division of Agriculture in Little Rock. **DR. HAL LIECHTY** is professor of forest ecology and hydrology at the School of Forest Resources at the University of Arkansas at Monticello. **CHRIS STUHLINGER** is UA System forest manager at the Arkansas Forest Resources Center, University of Arkansas at Monticello.

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NO Changes

City Council Agenda Session 2/22/2011

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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
March 1, 2011

A meeting of the Fayetteville City Council will be held on March 1, 2011 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. **Animal Shelter Whitepaper** - Yolanda Fields, Community Services Director and Justine Middleton, Animal Services Superintendent

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

1. **Quarterly Financial Report** – Paul Becker, Finance Director

Agenda Additions:

A. Consent:

1. Approval of the February 8, 2011 Special City Council meeting and the February 15, 2011 City Council meeting minutes.

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

3. **Bid #10-56 Upchurch Electrical Supply Company:** A resolution awarding Bid #10-56 and authorizing the purchase of twenty-five (25) LED light fixtures and poles from Upchurch Electrical Supply Company in the total amount of $49,981.88 for installation on Frisco Trail between Maple Street and Spring Street.

4. **Bid #11-21 Phelps Construction Co., Inc.:** A resolution awarding Bid #11-21 and authorizing a contract with Phelps Construction Co., Inc. in the amount of $26,220.00 for the purchase of rock for the Niokaska Stream Restoration.

5. **Arkansas Department of Parks and Tourism Wildlife Observation Trail Grant:** A resolution authorizing application for an Arkansas Department of Parks and Tourism Wildlife Observation Trail Grant in the amount of $100,000.00 for nature trail improvements at Lake Fayetteville.

6. **Bale Chevrolet of Little Rock:** A resolution authorizing the purchase of six (6) 2011 police package Chevrolet Tahoes from Bale Chevrolet of Little Rock, pursuant to a state procurement contract, in the total amount of $200,250.00, for use by the Police Department.

B. Unfinished Business:

1. **Amend Title XV: ADM 09-3480 (Streamside Protection):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 155: Appeals, Chapter 156: Variances, and Chapter 168: Flood Damage Prevention Code in order to establish Streamside Protection Zones and adopt a Protected Streams map and Best Management Practices Manual. *This ordinance was left on the First Reading at the February 3, 2011 City Council meeting. This ordinance was left on the Second Reading at the February 15, 2011 City Council meeting.*

   Left on the Second Reading

C. New Business: None

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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

Pre Agenda Meeting 2-16-11

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

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Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
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moved to 3/15/11 CC mtg.

7. **Amend Resolution No. 05-07:** A resolution amending Resolution No. 05-07 to reduce the payment guarantee required of Meadows Enterprises, Inc. for the Dead Horse Mountain Road Bridge from $36,668.92 to $7,703.00.

B. Unfinished Business:

1. **Amend Title XV: ADM 09-3480 (Streamside Protection):** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 155: Appeals, Chapter 156: Variances, and Chapter 168: Flood Damage Prevention Code in order to establish Streamside Protection Zones and adopt a Protected Streams map and Best Management Practices Manual. *This ordinance was left on the First Reading at the February 3, 2011 City Council meeting. This ordinance was left on the Second Reading at the February 15, 2011 City Council meeting.*

   Left on the Second Reading

C. New Business:

1. **None**

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

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